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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

█ Student, by and through Parents █
█
Petitioners,
v.
Dysart Unified School District
Respondent.

No. 26C-DP-015-ADE

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARING: Held October 20, 2025, at 9:00 a.m., followed by review of the official record received November 07, 2025, and review of closing arguments received on November 14, 2025.

APPEARANCES: █ appeared on behalf of █ (“Student”) (collectively as “Petitioners”). Attorneys Jennifer MacLennan, Esq., Brittany Reed, Esq., and John Butzer, Esq. of GUST ROSENFELD, PLC appeared on behalf of Dysart Unified School District (“Respondent”).

WITNESSES:
Melody Fryberger – **Dir. of SpeEd Programs – Buckeye Unified Sch. Dist.**
Dr. Corey Montaña – **Dir. of Exceptional Student Services**
Paige Akin – **ESS Coordinator**
Shara Rose – **ESS Coordinator**, and
█ – **Parent**

OBSERVERS:
Nicole Robinson
Leigh Ives

ADMINISTRATIVE LAW JUDGE: Jenna Clark.

HEARING RECORD: Certified Court Reporter Michele Kaley (CCR No. 50512), GRIFFIN GROUP INTERNATIONAL, recorded the proceedings as the official record of the hearing.¹

EXHIBITS ADMITTED INTO EVIDENCE: The September 04, 2025, NOTICE OF HEARING, September 02, 2025, Special Education Due Process Complaint (“COMPLAINT”), September 23, 2025, Amended Special Education Due Process Complaint (“AMENDED COMPLAINT”), September 05, 2025, PreHEARING ORDER, Petitioners Exhibits 3, 18, and 20,

¹ The parties stipulated that the court reporter’s transcript would be the official record of the proceedings, which were timely received on November 14, 2025. The transcript is comprised of pages 1-283.

1 Respondent Exhibits A-O, and the parties' CLOSING ARGUMENTS received November 14,
2025,² were admitted into the evidentiary record.

2 Petitioners bring this due process action on behalf of Student, alleging that
3 Respondent violated the Individuals with Disabilities Education Act ("IDEA"), constituting
4 both procedural and substantive errors.

5 The law governing these proceedings is the IDEA found at 20 United States Code
6 ("U.S.C.") §§ 1400-1482 (as re-authorized and amended in 2004),³ and its implementing
7 regulations, 34 Code of Federal Regulations ("C.F.R.") Part 300, as well as the Arizona
8 Special Education statutes, Arizona Revised Statutes ("ARIZ. REV. STAT.") §§ 15-761
9 through 15-774, and implementing rules, Arizona Administrative Code ("ARIZ. ADMIN.
10 CODE") R7-2-401 through R7-2-406.

11 **PROCEDURAL HISTORY**

12 On or about September 02, 2025, Petitioners filed their COMPLAINT with the Arizona
13 Department of Education ("Department") that alleged four (4) violations of the IDEA
14 against Respondent. On September 04, 2025, the Department issued a NOTICE OF
15 HEARING setting the matter for hearing at 9:00 a.m. on October 20, 2025, before the Office
16 of Administrative Hearings ("OAH"), an independent state agency.⁴

17 On September 05, 2025, OAH issued a PREHEARING ORDER SETTING PREHEARING
18 DATES AND PREHEARING CONFERENCE which provided teleconference information for a
19 prehearing conference scheduled at 11:00 a.m. on October 06, 2025. Correspondence
20 was not returned as undeliverable to either party.

21 On September 23, 2025, Petitioner submitted an AMENDED COMPLAINT to
22 supplement the original filing and "add additional violations that occurred after the
23 [COMPLAINT] was filed, which arise out of the same placement dispute."⁵

24 _____
25 ² On October 21, 2025, OAH issued an ORDER HOLDING RECORD Open which specifically instructed the
26 parties to submit Closing Arguments totaling no more than ten (10) pages. Correspondence was not returned
27 as undeliverable to either party. On November 14, 2025, Petitioners submitted a fourteen (14) page Closing
28 Argument. Only the first ten (10) pages of Petitioners' Closing Argument was reviewed by the Tribunal.

29 ³ By Public Law 108-446, known as the "Individuals with Disabilities Education Improvement Act of 2004,"
30 IDEA 2004 became effective on July 01, 2005.

⁴ On September 22, 2025, Petitioners submitted a MOTION FOR LEAVE TO AMEND DUE PROCESS COMPLAINT
to OAH, which was granted. In a MINUTE ENTRY dated September 23, 2025, Petitioners were given until
September 29, 2025, to submit an AMENDED COMPLAINT. On September 23, 2025, Petitioners submitted
their AMENDED COMPLAINT to OAH that alleged four (4) violations of the IDEA against Respondent, but did
not include any amended or additional remedy requests.

⁵ See AMENDED COMPLAINT.

1 On October 01, 2025, Respondent submitted its Response to the COMPLAINT and
2 AMENDED COMPLAINT.

3 On October 06, 2025, although afforded a brief grace period, Petitioners failed to
4 appear for the prehearing conference. Respondent was present. No request to continue
5 or appear via alternative means prior to the start of the scheduled telephonic prehearing
6 conference was received by or on behalf of Petitioners.

7 On October 08, 2025, per Petitioners' request, an ORDER GRANTING 2ND
8 PREHEARING CONFERENCE was issued that provided teleconference information for a
9 second prehearing conference scheduled at 2:00 p.m. on October 10, 2025.

10 By that same date, Respondent filed a NOTICE OF UNITES STATES DISTRICT COURT
11 FILING AND PARTIAL MOTION TO DISMISS, which provided notice that on or about September
12 17, 2025, Petitioners filed an action before the District of Arizona in Case No. CV25-
13 03407-PHX-JZB, seeking for injunctive relief regarding "Stay Put" placement for Student
14 during the pendency of the above-captioned matter,⁶ and requested that the Tribunal
15 dismiss all complaint allegations concerning the issue of Stay Put because the issue was
16 going to be addressed by District Court.

17 During the second telephonic prehearing conference on October 10, 2025, the
18 parties agreed that the [amended] issues for hearing were as follows:

- 19 (1) Respondent's alleged refusal to honor Stay Put provisions in violation of 34
20 C.F.R. § 300.518 and 20 USC § 1415(j);
- 21 (2) Respondent's alleged failure to provide comparable services upon transfer in
22 violation of 34 C.F.R. § 300.323(e);
- 23 (3) Denial of a Free Appropriate Public Education ("FAPE")/Least Restrictive
24 Environment ("LRE") in violation of 34 C.F.R. §§ 300.114-.116, and
- 25 (4) Respondent's alleged refusal to consider Independent Educational Evaluation
26 ("IEE") or conduct a data evaluation in violation of 34 C.F.R. §§ 300.304-.306 and
27 300.502.

28 To that end, Respondent clarified that its MOTION TO DISMISS was solely related to Issue
29 #2, and Petitioners clarified that their federal petition was solely filed to compel immediate
30 enforcement of Stay Put provisions contained in 20 U.S.C. § 1415(j) – not to litigate the

⁶ In an Order dated October 02, 2025, US Magistrate Judge John Z. Boyle placed Respondent on notice that it had until on or about October 21, 2025, to file a reply in Case No. CV25-03407-PHX-JZB.

1 issue of whether the District's September 05, 2025, Prior Written Notice was lawfully
2 issued.

3 On October 10, 2025, OAH issued an ORDER denying Respondent's MOTION TO
4 DISMISS on the grounds that Petitioners' District Court action did not provide any inherent
5 notice that such removes or otherwise replaces OAH's jurisdiction to hear all issues plead
6 in Petitioners' AMENDED COMPLAINT, and that both parties argued facts could not be
7 independently derived off-record.⁷ Parties were further advised that the matter remained
8 scheduled for hearing at 9:00 a.m. on October 20, 2025.

9 CLAIMS AT HEARING

10 Based on a review of the COMPLAINT and AMENDED COMPLAINT the Administrative
11 Law Judge ("ALJ") determined the following issues were raised for determination at the
12 due process hearing:

13 (1) **Respondent's alleged refusal to honor Stay Put provisions in violation of**
14 **34 C.F.R. § 300.518 & 20 USC § 1415(j).** Specifically, Petitioners allege that the
15 District unilaterally issued a PWN on September 05, 2025, that attempted to move
16 Student from a Level C program, PHASE (i.e. Positive Engagement, High
17 Expectations, Achievement, Student Centered, and Effective Communication), on
18 the Countryside Elementary School ("Countryside"), to a structured teaching
19 classroom ("STC") on the Countryside campus, without Parent's consent, during
20 the pendency of the underlying proceeding.

21 (2) **Respondent's alleged failure to provide comparable services upon**
22 **transfer in violation of 34 C.F.R. § 300.323(e).** Specifically, Petitioners allege
23 that the District's September 05, 2025, PWN did not maintain services and
24 placement outlined in an Individualized Education Program ("IEP") for Student
25 implemented by his prior Local Educational Agency ("LEA") from another school
26 district.

27 (3) **Denial of FAPE/LRE in violation of 34 C.F.R. §§ 300.114-.116.** Specifically,
28 Petitioners allege that the District failed to provide supplementary aids and

29 ⁷ Notably, OAH did not receive any correspondence regarding Case No. CV25-03407-PHX-JZB that
30 ordered 26C-DP-015-ADE to be stayed or otherwise prohibited the issuance of this ADMINISTRATIVE LAW
JUDGE DECISION by December 09, 2025.

1 services to Student in PHASE, and instead attempted to impose a more restrictive
2 classroom setting by placing him in STC.

3 (4) **Respondent’s alleged refusal to consider IEE or conduct a data**
4 **evaluation in violation of 34 C.F.R. §§ 300.304-306 & 300.502.** Specifically,
5 Petitioners allege that the District knew or should have known that an IEE was
6 being drafted for Student prior to the issuance of the September 05, 2025, PWN,
7 but that the District nonetheless failed to wait and review any of the information
8 contained therein prior issuing the PWN.

9 **ORIGINAL REQUESTED REMEDIES**

- 10 • Immediate provision of comparable public-school services in the District consistent
11 with Student’s last implemented placement, until a new IEP is developed.
12 • An order that the District convene an IEP team meeting without delay to consider
13 general education with supplementary aids and services before more restrictive
14 options.
15 • An order that the District cease conditioning school access on enrollment at the
16 Autism Center for Exceptional Students (“ACES”), a Level D private day school.
17 • An order requiring the District to train staff on Stay-Put protections and comparable
18 services obligations.
19 • Any compensatory education deemed appropriate for the time Student has been
20 denied access to his LEA.

21 The Tribunal has reviewed the entire hearing record, including witness testimony
22 and admitted exhibits, considered the parties Closing Arguments, and now makes the
23 following Findings of Fact, Conclusions of Law, and Ruling finding that Petitioners have
24 failed to demonstrate that Respondent substantively violated the IDEA through the
25 allegation(s) set forth in the COMPLAINT and AMENDED COMPLAINT. Petitioners’ requested
26 remedies are denied. The credible and material evidence of record is as follows:

27 **FINDINGS OF FACT**

28 **BACKGROUND**

29 1. Student [REDACTED] was first identified as eligible for special
30 education and related services by Buckeye Elementary School District (“Buckeye”) in or

1 around April 2023, during his [REDACTED] term, under the [REDACTED]
2 educational category.⁸ Student has been diagnosed with [REDACTED]
3 [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]
4 [REDACTED], and [REDACTED].⁹ Student
5 also suffers from [REDACTED], [REDACTED], [REDACTED]
6 and [REDACTED].¹⁰ Student [REDACTED] uses a [REDACTED] and uses
7 a [REDACTED].¹¹

8 2. Student has limited verbal ability, often using echolalia and gesturing.¹²
9 When frustrated, Student hits, scratches, pinches, kicks and/or tries to knock others
10 over.¹³ Student's physical reactions to peers are dependent on the number of students
11 within a setting.¹⁴ Student is also physically aggressive when working directly with staff,
12 trying to gain their attention, attempting to obtain a preferred item, or protesting an
13 unwanted task.¹⁵ Student will also use inappropriate language throughout the day,
14 including phrases such as "fuck" and "punk ass bitch."¹⁶

15 3. The Arizona Department of Economic Security ("DES") is a state agency
16 that provides statutorily regulated human service programs to the people of Arizona. The
17 Division of Developmental Disabilities ("DDD") is a division within DES that provides
18 support and services for developmentally disabled citizens. On March 12, 2024, DDD
19 drafted a Person-Centered Service Plan for Student.¹⁷ Goals through July 06, 2024,
20 include Student's ability to speak out and spell his first name and learn to say his correct
21 age, with 3 or less prompts and 50% accuracy, for twenty (20) minutes four (4) times per
22 week.¹⁸ No issues with vision or hearing were identified for Student.¹⁹

24 ⁸ See Respondent Exhibit A.

25 ⁹ See Respondent Exhibits A-C and N.

26 ¹⁰ See Respondent Exhibit A.

27 ¹¹ See Respondent Exhibit F.

28 ¹² See Respondent Exhibit A.

29 ¹³ *Id.*

30 ¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Respondents Exhibit A and C.

¹⁸ *Id.*

¹⁹ *Id.*

1 4. On or about August 20, 2024, when Student was in Kindergarten, Student's
2 IEP team at Buckeye convened to draft his annual IEP. At that time, Student was assigned
3 to a Level C placement whereby he was in a general education classroom for less than
4 40% of the school day.²⁰

5 a. Student did not make any progress on his IEP goals from August 20, 2024,
6 through his IEP addendum date of December 16, 2024.²¹

7 5. On or about May 21, 2025, while Student was in [REDACTED], Student's
8 multidisciplinary evaluation team ("MET") at Buckeye convened to amend his IEP. At that
9 time, Student was found eligible for special education and related services under the
10 [REDACTED] categories.²² Student was also reassigned
11 to a Level D placement, known as the SOAR Program, where it was determined he would
12 be in a separate day school for greater than 50% of the school day.²³ The SOAR Program
13 is Buckeye's self-contained program for students with behavioral and emotional needs.²⁴
14 In the SOAR Program Student participated in a specialized cross categorical classroom,
15 whereby he received small group and individualized special education instruction in basic
16 reading, math, written language, and social-emotional goals.²⁵ Student also received
17 speech/language, occupational therapy, physical therapy, and special education
18 transportation services.²⁶

19 a. The MET specifically determined that his educational struggles appeared to
20 be due to his inability to build and maintain satisfactory interpersonal
21 relationships with peers and instructors, as well as inappropriate behaviors
22 he displayed under normal circumstances; including but not limited to,
23 kicking staff, pinching and hitting staff, throwing items around the classroom
24 and at staff, using profane language, and removing his clothing.²⁷

25
26
27 ²⁰ See Respondent Exhibit A.

²¹ *Id.*

²² See Respondent Exhibits B-C.

²³ See Respondent Exhibit B.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Respondent Exhibit F.

1 12. On August 22, 2025, the District accepted Student's transferring May 21,
2 2025, IEP from Buckeye.³⁵ At that time, Respondent issued a PWN to advise that it would
3 meet Student's needs at ACES in Peoria, Arizona.³⁶ By that same date, Parent partially
4 toured the ACES campus.³⁷ On August 25, 2025, Parent completed her tour of the
5 campus. Upon completion of the tour Parent was informed that Student would not have
6 the opportunity to interact with general education peers at ACES.

7 13. On August 27, 2025, Parent wrote to the District to formally object to its
8 adoption of Buckeye's May 21, 2025, IEP and proposed placement at ACES, and asked
9 that a PWN be issued.³⁸

10 14. On September 04, 2025, Parent wrote to the District to express her
11 intentions and understandings of Stay-Put pursuant to 34 C.F.R. § 300.518.³⁹ Per Parent,
12 Buckeye's January 23, 2025, IEP, which placed Student in the SOAR Program, was the
13 "last agreed upon" IEP, as she contended Buckeye's May 21, 2025, IEP was a "draft" and
14 "never implemented."⁴⁰

15 15. On September 05, 2025, the District issued a PWN to advise that it would
16 offer Student placement in PHASE at Countryside, as the result of Parent's COMPLAINT,
17 filed September 02, 2025.⁴¹

18 16. On or about September 08, 2025, Student commenced his [REDACTED] year
19 at Countryside.

20 17. On September 12, 2025, Parent submitted a formal IEP meeting request to
21 the District, whereby she asked that Student's IEP be revised to address transportation,
22 toileting, and after-school program concerns.⁴²

23 18. On September 15, 2025, the District issued a PWN to advise that Student's
24 service delivery location would be updated to STC, a structured teaching classroom, at
25

26 ³⁵ See Respondent Exhibit G.

27 ³⁶ *Id.*

28 ³⁷ *Id.*

29 ³⁸ See Petitioners Exhibit 3.

30 ³⁹ See Respondent Exhibit N.

⁴⁰ *Id.*

⁴¹ See Respondent Exhibit I.

⁴² *Id.*

1 Countryside.⁴³ STC was identified as meeting Student’s cognitive, academic, adaptive,
2 communication, and safety needs.⁴⁴

3 19. On September 17, 2025, notice was issued to Petitioners that an annual
4 IEP meeting would be held on September 26, 2025.⁴⁵ After she received the District’s
5 annual IEP notice, Parent replied and asked that concerns regarding Student’s
6 transportation, bathroom schedule, and after-school support “remain the focus” of the
7 September 26, 2025, IEP meeting.⁴⁶ Parent noted that she “did not consent” to the
8 September 26, 2025, meeting being designated as an “Annual IEP Meeting,” and argued
9 that Student’s IEP from Buckeye was “under dispute” and that an IEE was “in process.”
10 To that end, Parent noted that she did not agree to an annual review or creation of a new
11 IEP by the District.⁴⁷ The Dir. of Exceptional Student Services replied that the District
12 would hold the annal IEP meeting to address “any and all areas of need” and would
13 “absolutely address” transportation and bathroom scheduling concerns, but would not
14 address after-school program queries because those needed to be raised with
15 Community Education.⁴⁸

16 20. On September 18, 2025, Parent wrote to the District to clarify that her
17 planned September 26, 2025, IEP meeting attendance was not to be construed as her
18 “consent to finalize or implement a new IEP or placement.”⁴⁹ The Dir. of Exceptional
19 Student Services replied that the District was not proposing to change Student’s LRE or
20 level of specifically designed instruction at the IEP meeting, but that it intended to create
21 a its own IEP for Student and address Parent’s raised concerns.⁵⁰

22 21. On September 26, 2025, at Student’s annual IEP meeting, he was assigned
23 to a Level C placement whereby he was in a general education classroom for less than
24 40% of the school day.⁵¹ It was specifically noted that the District had two (2) programs
25 comparable to Buckeye’s SOAR Program, PHASE and STC. After reviewing existing

26 ⁴³ See Respondent Exhibit J.

27 ⁴⁴ *Id.*

28 ⁴⁵ See Respondent Exhibits F and N.

29 ⁴⁶ *Id.*

30 ⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See Respondent Exhibit F.

1 data, it was determined that the SOAR Program was a combination of both PHASE and
2 STC, and that Student would be placed in PHASE initially.⁵² After fifteen (15) days of
3 enrollment, only five (5) of which Student was in attendance for, the IEP team determined
4 that Student's safety, cognitive, and communication needs could not be met in PHASE,
5 and that he would be better served in STC so that he could make progress towards his
6 1st grade goals and stay safe.⁵³

- 7 a. On Student's first day of class in PHASE, Parent was contacted regarding
8 concerns over Student's safety and behavior towards other children.
- 9 b. Between the first day of classes in the 2025-26 term, and the date of
10 Student's September 26, 2025, IEP meeting, Student attended the PHASE
11 program for three (3) days, attended the STC program for two (2) days, and
12 was absent ten (10) days.⁵⁴

13 Implementation was scheduled for October 03, 2025.⁵⁵

14 22. On September 26, 2025, after the IEP meeting, Parent's attending
15 behavioral health advocate from DDD issued electronic correspondence to the District to
16 express her opinion that the IEP meeting had been "unprofessional" because there had
17 been "no regard" for Parent's concerns, requests, or voice.⁵⁶ Shortly thereafter, Parent
18 replied all in the same thread of electronic correspondence to lodge her objection to the
19 IEP meeting, and accused the District of "attempting to develop new goals" and "diverting
20 away from issues" she specifically had requested to discuss during the meeting.⁵⁷ Parent
21 formally requested that another IEP meeting be scheduled solely to address her
22 concerns.⁵⁸

23 23. On September 29, 2025, Parent was provided with notice that the District
24 scheduled a meeting on October 02, 2025, per her request.⁵⁹ Parent replied shortly
25 thereafter that she was unable to attend, and asked that another date be selected.⁶⁰

26 ⁵² *Id.*
27 ⁵³ *Id.*
28 ⁵⁴ *Id.*
29 ⁵⁵ *Id.*
30 ⁵⁶ *Id.*
⁵⁷ *Id.*
⁵⁸ *Id.*
⁵⁹ *Id.*
⁶⁰ *Id.*

1 and punched her in the face. Student then began to climb atop classroom
2 cabinets. Three (3) additional paraprofessionals tried to assist, one of whom
3 was punched, hit, and scratched by Student and repeatedly called a
4 “fucking bitch.” Student was then briefly restrained.

5 b. On September 22, 2025, Student was restrained on two (2) occasions. At
6 1:10 p.m. Student began throwing toys after being told he was not allowed
7 to ride a scooter. Children were evacuated from the classroom, and Student
8 was given space to calm down. When the Assistant Principal modeled
9 clean-up, Student began to throw items at her, hit her, and curse at her.
10 Although the Assistant Principal backed away from Student, he continued
11 to advance towards her and throw things at her. Student was transferred to
12 a “cool down room” where he removed his clothing. Student was then briefly
13 restrained. Later that afternoon, at about 2:51 p.m., Student was redirected
14 away from toys he kept putting in his mouth. Frustrated, Student began to
15 throw other toys – hitting other children and staff. Assistant Principal
16 attempted to model clean-up again, but was met with more physical
17 aggression. Student was taken back to the cool down room, where he
18 removed his clothing again. Student was then briefly restrained.

19 c. On September 29, 2025, at 10:22 a.m. during carpet time, Student laid
20 down and began lightly kicking staff. He was redirected to sit up and sing
21 songs, which he did for a short while, but returned to lightly hitting staff.
22 Student began to crawl around the room and push staff. Children were
23 evacuated from the classroom. Student threw items and books, knocked
24 over a shelf, and tried to strike a staff member in the face. Student scratched
25 and pinched another staff member staff in her arms and legs, tore posters
26 off the wall, and broke classroom items. Student was taken to the cool down
27 room and briefly restrained.

28 d. On October 01, 2025, Student was restrained on two (2) occasions.⁶⁸ At
29 11:34 a.m., during class, Student was seated on carpet and advised that he
30

⁶⁸ See Respondent Exhibit N.

1 was not ready to learn. The teacher pulled up the calendar and told Student
2 to pick which activity he wanted to participate in. Using the pointer, Student
3 struck the big screen very hard, and then went around the classroom tipping
4 chairs over and throwing items. Student's attempts to hit staff were blocked.
5 Student removed his pants and underwear, and urinated on the floor. When
6 staff tried to put Student's clothes back on, he began to attack them. Student
7 scratched and dug his nails into a staff member's skin, and charged her.
8 Student repeatedly told staff members to "shut up" and call them "bitches."
9 Student was escorted to the calm down room and briefly restrained. At 2:15
10 p.m. Student attacked children and staff. Student was briefly restrained. In
11 total, children were evacuated five (5) times during the day. Teacher had
12 visible bleeding scratch marks.⁶⁹

13 **FURTHER CONSIDERATIONS**

14 27. Parent testified that she was under the presumption that Buckeye's May 21,
15 2025, IEP was a "draft" because Student had never attended the SOAR Program at
16 Buckeye.

17 28. Parent opined, based on a single day's observations and reference to the
18 District's website, that STC was more restrictive than PHASE because she believed that
19 the children in that program had lower cognition.

20 29. Parent did not understand why the District changed Student's goals to [REDACTED]
21 grade when he had not met those previously set for [REDACTED].

22 30. No supplementary aids were provided to Student during his time in PHASE.

23 31. Parent testified that the IEE commissioned by Buckeye has not been
24 completed.

25 32. During the September 26, 2025, IEP meeting, Parent refused to participate
26 on agenda items unrelated to requests she had made.

27 33. Parent admitted that since filing 26C-DP-015-ADE with the Department, she
28 had only sent Student to school once per week so that he can maintain access to the
29 District's after school care.

30

⁶⁹ See Respondent Exhibit L.

CLOSING ARGUMENTS

Respondent's Closing Argument

34. In closing, the District argued that it was bound by the last agreed upon IEP issued on May 21, 2025, by Buckeye, which is why it offered to place Student at ACES – it was commensurate with comparable services, but that once the underlying COMPLAINT was filed, Student was placed in PHASE. Respondent argued that it was challenging to implement Stay Put because Student was not attending classes when the COMPLAINT was filed, and the District did not have an identical program akin to SOAR. However, when Student last attended Buckeye, he was placed in a specialized classroom with access to general education peers for lunch and recess. Per Respondent, the District offered the same amount of service minutes, specialized instruction, related services, supplemental aids and services, and accommodations as outlined in Buckeye's December 16, 2024, IEP. Respondent argued that it was apparent after a few short days of attendance that Student was unable to identify that he repeatedly placed himself in harm's way by engaging with emotionally dysregulated children in class. To keep Student safe, the District changed the location of services offered, not placement. Respondent noted that Student's change in service delivery location from PHASE to SCT on the Countryside campus did not alter or otherwise effect (1) his level of access to non-disabled peers, (2) amount of specialized instructional service minutes received, (3) related services, (4) supplemental aids and/or services, or (5) any other provided accommodations. Respondent opined that the STC classroom better supported Student's cognitive and communication needs, as well as provided a more secure environment for him to learn.

35. Respondent argued that both Buckeye and the District opined that Student was academically and cognitively behind his peers, as a direct result of his [REDACTED], [REDACTED] and [REDACTED], and that his violent outbursts prevented him and other children from learning and created serious safety concerns. Both districts believed, based on available data and observations, that Student required more support in order to make progress on his goals, and that he also required a more restrictive environment to keep him safe. Per Respondent, ACES would be able to address Student's behaviors within the classroom without a need to evacuate other children or

1 disrupt his progress. Student's academic needs, adaptive needs, and communication
2 needs would be met at ACES with additional supports for his behaviors.

3 36. Respondent concluded by arguing that no evidence existed to corroborate
4 Petitioners' allegation that it failed to consider an IEE, when the record irrefutably
5 establishes that one was never provided to the District. In fact, the record reflects the IEE
6 has not yet been completed. Petitioners' belief that the District should have waited to
7 receive and review the IEE was unreasonable, and had Respondent adhered to
8 Petitioners' wish it would have been in violation of the IDEA. Respondent argued that it's
9 only obligation is to consider the information in an IEE, and that it already informed
10 Petitioners via a PWN that it would convene a meeting to review existing data upon receipt
11 of the IEE.

12 37. Ultimately, Respondent requested that the underlying COMPLAINT be
13 dismissed, including requested remedies, due to Petitioners' failure to sustain their
14 burden of proof that a one or more procedural and/or substantive due process violations
15 of the IDEA occurred.

16 Petitioners' Closing Argument

17 38. In closing, Petitioners opined that they had sustained their burden of proof
18 and asked for an Order in their favor, including requested remedies. Notably, Petitioners
19 improperly attempted to narrow the issues for hearing by arguing that the following were
20 plead in the AMENDED COMPLAINT, which they were not:

- 21 (1) [W]hether Dysart Unified School District violated IDEA's stay-put requirement
22 by unilaterally changing [Student's] educational placement after the due process
23 complaint was filed;
- 24 (2) [W]hether the District denied [REDACTED] a [FAPE] by changing his placement without
25 data, without specialized input, without attempting supplementary aids, and by
26 relying on staff who did not know him;
- 27 (3) [W]hether the District violated IDEA's procedural safeguards by introducing and
28 relying upon an IEP created after the due process filing—including using that out-
29 of-scope IEP as its primary justification for FAPE and placement—along with
30 presenting testimony from individuals who lacked knowledge of [REDACTED] and
testimony unrelated to the issues in this complaint; and
- (4) [W]hether the District unlawfully changed [Student's] placement without waiting
for or considering the ongoing [IEE].

1 39. Petitioners argued that Student’s relocation from PHASE to STC after the
2 COMPLAINT was filed constituted an unlawful change in placement, that the District’s
3 September 26, 2025, IEP for Student was impermissibly created and outside the scope
4 of hearing, that the Dir. of SpeEd Programs’ testimony as well as the testimony from
5 Respondent employees who did not know Student firsthand was inadmissible, the
6 District’s LRE determination was not based on an evaluation of then-existing data, and
7 that the District used anecdotal impressions and isolated observations of Student’s
8 cognition and behavioral incidents to inappropriately justify his removal from PHASE.

9 40. Per Petitioners, the record reflected that the District failed to draft a Behavior
10 Intervention Plan while Student was in PHASE, or prior to his entry thereto, and that he
11 was not subject to formal evaluation prior to the District’s determination to relocate him to
12 STC. Petitioners accused the District of relying on glimpses into Student’s dynamic
13 classroom conditions, and extrapolate broad conclusions about his abilities, needs, and
14 LRE instead of relying on actual behavioral metrics – rendering its determination
15 procedurally deficient and substantively unsupported.

16 **CONCLUSIONS OF LAW**

17 **APPLICABLE LAW**

18 1. Congress enacted the IDEA to ensure that all students with disabilities are
19 offered a FAPE that meets their individual needs.⁷⁰ The IDEA does not define the level of
20 education that must be provided, except that it must be “reasonably calculated to enable
21 the student to receive educational benefits.”⁷¹ Through the IDEA, Congress has sought
22 to ensure that all students with disabilities are offered a FAPE that meets their individual
23 needs.⁷² These needs include academic, social, health, emotional, communicative,
24 physical, and vocational needs.⁷³ To do this, school districts must identify and evaluate
25 all students within their geographical boundaries who may be in need of special education
26 and services. The IDEA sets forth requirements for the identification, assessment and
27 placement of students who need special education, and seeks to ensure that they receive

28 ⁷⁰ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996).

29 ⁷¹ *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 201 (1982)

30 ⁷² 20 U.S.C. §1400(d); 34 C.F.R. § 300.1.

⁷³ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996) (quoting H.R. Rep. No. 410, 1983 U.S.C.C.A.N. 2088, 2106).

1 a free appropriate public education. The IDEA mandates that school districts provide a
2 “basic floor of opportunity.”⁷⁴

3 2. A FAPE consists of “personalized instruction with sufficient support services
4 to permit the child to benefit educationally from that instruction.”⁷⁵ The FAPE standard is
5 satisfied if the student’s IEP sets forth his or her individualized educational program that
6 is “reasonably calculated to enable the child to receive educational benefit.”⁷⁶ Therefore,
7 a school offers a FAPE by offering and implementing an IEP “reasonably calculated to
8 enable [a student] to make progress appropriate in light of [the student’s]
9 circumstances.”⁷⁷ The IDEA does not require that each student’s potential be
10 maximized.⁷⁸ A student receives a FAPE if a program of instruction “(1) addresses his
11 unique needs, (2) provides adequate support services so he can take advantage of the
12 educational opportunities and (3) is in accord with an individualized educational
13 program.”⁷⁹

14 3. Once a student is determined to be eligible for special education services,
15 a team composed of the student’s parents, teachers, and others formulate an IEP that,
16 generally, sets forth the student’s current levels of educational performance and sets
17 annual goals that the IEP team believes will enable the student to make progress in the
18 general education curriculum.⁸⁰ The IEP tells how the student will be educated, especially
19 with regard to the student’s needs that result from the student’s disability, and what
20 services will be provided to aid the student. The student’s parents have a right to
21 participate in the formulation of an IEP.⁸¹ The IEP team must consider the strengths of
22 the student, concerns of the parents, evaluation results, and the academic,
23

24 ⁷⁴ *Rowley*, 458 U.S. at 200.

25 ⁷⁵ *Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 204 (1982).

26 ⁷⁶ *Id.*, 485 U.S. at 207. In 2017, in *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ____, 137 S. Ct.
27 988, 2017 West Law 1234151 (March 22, 2017), the Supreme Court reiterated the *Rowley* standard, adding
28 that a school “must offer an IEP that is reasonably calculated to enable a child to make progress appropriate
29 in light of the child’s circumstances,” but the Court declined to elaborate on what “appropriate progress”
30 would look like case to case (*i.e.*, in light of a child’s circumstances).

⁷⁷ *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ____ (2017).

⁷⁸ *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 198 (1982).

⁷⁹ *Park v. Anaheim Union High Sch. Dist.*, 464 F.3d 1025, 1033 (9th Cir. 2006) (citing *Capistrano Unified
Sch. Dist. v. Wartenberg*, 59 F.3d 884, 893 (9th Cir. 1995)).

⁸⁰ 20 U.S.C. § 1414(d); 34 C.F.R. §§ 300.320 to 300.324.

⁸¹ 20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. §§ 300.321(a)(1).

1 developmental, and functional needs of the student.⁸² To foster full parent participation,
2 in addition to being a required member of the team making educational decisions about
3 the student, school districts are required to give parents written notice when proposing
4 any changes to the IEP,⁸³ and are required to give parents, at least once a year, a copy
5 of the parents' "procedural safeguards," informing them of their rights as parents of a
6 student with a disability.⁸⁴

7 4. The IEP team must consider the concerns of a student's parents when
8 developing an IEP.⁸⁵ In fact, the IDEA requires that parents be members of any group
9 that makes decisions about the educational placement of a student.⁸⁶

10 5. A parent who requests a due process hearing alleging non-compliance with
11 the IDEA must bear the burden of proving that claim.⁸⁷ The standard of proof is
12 "preponderance of the evidence," meaning evidence showing that a particular fact is "more
13 probable than not."⁸⁸

14 6. The IDEA's statute of limitations requires courts to bar claims made more
15 than two years after the parents "knew or should have known" about the actions forming
16 the basis of the complaints.⁸⁹

17 7. Statutes should be interpreted to provide a fair and sensible result.⁹⁰ "In
18 applying a statute its words are to be given their ordinary meaning unless the legislature
19
20

21 ⁸² 20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. §§ 300.324(a).

22 ⁸³ 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503.

23 ⁸⁴ 20 U.S.C. § 1415(d); 34 C.F.R. § 300.503. Safeguards may also be posted on the Internet.
20 U.S.C. § 1415(d)(B).

24 ⁸⁵ 20 U.S.C. § 1414(d)(3)(A)(ii); 34 C.F.R. §§ 300.324(a)(1)(ii).

25 ⁸⁶ 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.327 and 300.501(c)(1).

26 ⁸⁷ *Schaffer v. Weast*, 546 U.S. 49, 56 (2005).

27 ⁸⁸ *Concrete Pipe & Prods. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 622, 113 S. Ct. 2264, 2279
28 (1993) (quoting *In re Winship*, 397 U.S. 358, 371-72 (1970)); see also ARIZ. REV. STAT. § 41-1092.07(G)(2);
29 ARIZ. ADMIN. CODE R2-19-119(B)(1); *Culpepper v. State*, 187 Ariz. 431, 437, 930 P.2d 508, 514 (Ct. App.
30 1996); *In the Matter of the Appeal in Maricopa County Juvenile Action No. J-84984*, 138 Ariz. 282, 283, 674
P.2d 836, 837 (1983).

⁸⁹ 20 U.S.C. §1415(f)(3)(C); see also *Avila v. Spokane Sch. Dist. 81*, 852 F.3d 936, 937 (9th Cir. 2017); *J.K
and J.C. on behalf of themselves and K.K-R v. Missoula County Publ. Schools*, 713 F. App'x 666 (9th Cir.
2018).

⁹⁰ See *Gutierrez v. Industrial Commission of Arizona*, 226 Ariz. 395, 249 P.3d 1095 (2011)(citation omitted);
State v. McFall, 103 Ariz. 234, 238, 439 P.2d 805, 809 (1968) ("Courts will not place an absurd and
unreasonable construction on statutes.").

1 has offered its own definition of the words or it appears from the context that a special
2 meaning was intended.”⁹¹

3 8. The Tribunal is required to apply equitable principles when rendering
4 decisions.⁹² The application of equity entails offering a remedy to avoid an
5 unconscionable or unjust result.⁹³

6 9. This Tribunal’s determination of whether Student received a FAPE must be
7 based on substantive grounds.⁹⁴ A FAPE consists of “personalized instruction with
8 sufficient support services to permit the child to benefit educationally from that
9 instruction.”⁹⁵ Courts do not “substitute their own notions of sound educational policy for
10 those of the school authorities which they review.”⁹⁶ In addition, the appropriateness of
11 an offer of FAPE must be judged in light of the circumstances at the “snapshot in time”
12 when the IEP was developed, not with the benefit of hindsight.⁹⁷

13 10. Procedural violations in and of themselves do not necessarily deny a student
14 a FAPE. If a procedural violation is alleged and found, it must be determined whether the
15 procedural violation either (1) impeded the student’s right to a FAPE; (2) significantly
16 impeded the parents’ opportunity to participate in the decision-making process; or (3)
17 caused a deprivation of educational benefit.⁹⁸ If one of the three impediments listed has
18 occurred, the student has been denied a FAPE due to the procedural violation.

19 **ANALYSIS & DECISION**

20 11. Petitioners filed the COMPLAINT in this matter on September 02, 2025; and
21 AMENDED COMPLAINT on September 23, 2025, thus, the relevant period of time for the
22 issues at bar run during Student’s [REDACTED] academic term. Therefore, any actions or
23 inactions that occurred prior to September 02, 2023, are beyond the limitations period.
24

25
26 ⁹¹ *Mid Kansas Federal Savings and Loan Ass’n of Wichita v. Dynamic Development Corp.*, 167 Ariz. 122,
128, 804 P.2d 1310, 1316 (1991).

27 ⁹² *Seitz v. Industrial Commission of Arizona*, 184 Ariz. 599, 603 (Ariz. Ct. App., Div. 1, 1995).

28 ⁹³ *Sanders v. Folsom*, 104 Ariz. 283, 289, 451 P.2d 612 (Ariz. 1969)(quoting *Merrick v. Stephens*, 337
S.W.2d 713, 719 (Mo. App. 1960)).

29 ⁹⁴ 20 U.S.C. § 1415(f)(3)(E)(i); 34 C.F.R. § 300.513(a)(1).

30 ⁹⁵ *Rowley*, 458 U.S. at 203.

⁹⁶ *Id.* at 206.

⁹⁷ *J.W. v. Fresno Unified Sch. Dist.*, 626 F.3d 431, 439 (9th Cir. 2010).

⁹⁸ 20 U.S.C. § 1415(f)(3)(E)(ii); 34 C.F.R. §§ 300.513(a)(2).

1 12. To prevail in the case at bar, Petitioners must establish by a preponderance
2 of the evidence that Respondent procedurally and/or substantively violated the IDEA as
3 alleged in the COMPLAINT.

4 ***Claim #1 – Respondent’s alleged violation of Stay-Put***

- 5 a. 34 CFR § 300.9(a) provides that “consent” means that a parent has been
6 fully informed of all information relevant to the activity for which consent is
7 sought. Federal regulations do not define “informed consent.” Instead, 34
8 CFR § 300.300 only requires that an LEA make reasonable efforts to obtain
9 informed parental consent for an initial special education evaluation and
10 related services. Consent is not required for any such additional purposes.
- 11 b. 34 C.F.R. § 300.518(a) provides, in pertinent part, that during the pendency
12 of any administrative proceeding regarding a due process complaint, unless
13 the district or LEA and the parent(s) of the student agree otherwise, the
14 student involved in the complaint must remain in their current educational
15 placement.
- 16 c. 20 USC § 1415(j) provides, in pertinent part, that during the pendency of
17 proceedings, unless the district or LEA and the parent(s) of the student
18 otherwise agree, the student shall remain in the then-current educational
19 placement of the child.
- 20 d. On August 22, 2025, Student transferred to the District with an IEP from
21 Buckeye, created May 21, 2025, which identified his service delivery in a
22 Level D placement. On September 05, 2025, in response to the COMPLAINT,
23 the District agreed to a Level C placement for Student at Countryside, which
24 corresponded to Buckeye’s December 16, 2024, addendum IEP.
25 Consequently, Student attended the PHASE Program for three (3) days
26 from September 08, 2025, through September 15, 2025, after which time
27 he was moved to STC.
- 28 e. Change in placement and change in location are not synonymous. The key
29 difference is *what* services are being provided versus *where* said services
30 are being provided. A change in placement is a significant shift in a child’s
educational setting requiring IEP team review and parental consent,

1 whereas a change in location is a minor shift that does not materially alter
2 LRE or provided services/accommodations.

3 f. Interestingly, Petitioners argue that Buckeye's May 21, 2025, IEP was
4 invalidated as a result of Parent's IEE request, but also argue that Student's
5 Level C placement at Countryside and movement between the PHASE and
6 STC Programs on campus, nearly identical to Student's December 16,
7 2024, IEP addendum, constituted a change in placement. Petitioners
8 arguments are without merit.

9 g. Here, the District's change of classrooms, from PHASE to STC did not
10 constitute a change in placement, as such, Parent's consent was not
11 required. It is uncontroverted that Buckeye's Level C placement was a blend
12 of the District's PHASE and STC programs at Countryside, and that it was
13 understood that Student would be placed in PHASE pending review, which
14 could result in him being moved to STC. It is also clear from the record that
15 Student's specialized instruction, service minutes, accommodations, and
16 access to general education peers remained unchanged in STC.

17 h. Petitioners failed to sustain their burden of proof as to this allegation. No
18 procedural or substantive due process violation exists.

19 ***Claim #2 – Respondent's alleged failure to provide comparable service to Student***

20 i. 34 C.F.R. § 300.323(e) provides that if a student with a disability (who had
21 an IEP that was in effect in a previous public agency in the same State)
22 transfers to a new public agency in the same State, and enrolls in a new
23 school within the same school year, the new public agency (in consultation
24 with the parents) must provide FAPE to the child (including services
25 comparable to those described in the child's IEP from the previous public
26 agency), until the new public agency either adopts the child's IEP from the
27 previous public agency; or develops, adopts, and implements a new IEP.

28 j. 34 C.F.R. § 300.323(c)(2) provides that as soon as possible following
29 development of an IEP, special education and related services are made
30 available to the child in accordance with the child's IEP.

1 k. An IEP is a legally binding contract until changed or otherwise modified by
2 the IEP team.

3 l. As previously referenced, on August 22, 2025, the District accepted
4 Student's transfer and adopted his IEP from Buckeye, created May 21,
5 2025, which identified his service delivery in a Level D placement. At that
6 time, the District advised that it would meet Student's needs at ACES, and
7 later convene an IEP meeting to review Buckeye's IEE for Student once
8 received. Respondent's offered placement was in a private day school and
9 included services tantamount to those outlined in Buckeye's May 21, 2025,
10 IEP.

11 m. Petitioners' argument, that services were not near in likeness to those
12 outlined in Student's prior IEP, amended December 16, 2024, which
13 identified his service delivery in a Level C placement, are erroneous
14 because that IEP was not in effect when Student's transfer was accepted
15 by the District. It is clear from the record that prior to issuing the August 22,
16 2025, PWN, the District engaged with Buckeye to ensure that its offer at
17 ACES was a commensurate placement with comparable services from their
18 May 21, 2025, IEP, which is further supported by Parent's two (2) tours of
19 the campus. It is also clear from the record that the September 05, 2025,
20 PWN, issued after the COMPLAINT was filed, advised Parent that Student
21 would be placed in PHASE at Countryside with comparable services from
22 Buckeye's December 16, 2024, amended IEP.

23 n. Due to the lack of data regarding the quantity or quality of services for the
24 five (5) days Student attended Countryside, the Tribunal is unable to
25 determine whether services were effectuated in line with Student's IEP.

26 o. Petitioners failed to sustain their burden of proof as to this allegation. No
27 procedural or substantive due process violation exists.

28 ***Claim #3 – Respondent's alleged failure to place Student in the Least Restrictive
29 Environment, constituting a failure to provide Student with FAPE***

30 p. 34 CFR § 300.39(a)(1) provides that special education means specially
designed instruction, at no cost to parent(s), to meet the unique needs of a

1 child with a disability. Per 34 CFR § 300.39(b)(3), “specially designed
2 instruction” means adapting the content, methodology, or delivery of
3 instruction to address the unique needs of the student that result from the
4 student’s disability, and ensure access of the student to the general
5 curriculum so that the student can meet the educational standards within
6 the jurisdiction of the LEA that apply to all students.

- 7 q. 34 C.F.R. § 300.101 provides, in pertinent part, that a FAPE must be
8 available to all children residing in the State between the ages of 3 and 21,
9 including children with disabilities. Each State must ensure that FAPE is
10 available to any individual child with a disability who needs special
11 education and related services, even though the child has not failed or been
12 retained in a course or grade, and is advancing from grade to grade.
- 13 r. 34 CFR § 300.513(a)(2) provides that substantive procedural due process
14 violations amounting to a denial of FAPE occur when a procedural
15 inadequacy impedes the student’s right to a FAPE, significantly impedes a
16 parent’s opportunity to participate in the decision-making process regarding
17 the provision of a FAPE to the student, and/or if the procedural inadequacy
18 caused a deprivation of educational benefit.
- 19 s. 34 C.F.R. § 300.114 provides that provides that an LEA must ensure that
20 removal of students with disabilities from the regular education environment
21 occurs only if the nature or severity of the disability is such that education
22 in regular classes with the use of supplementary aids and services cannot
23 be achieved satisfactorily.
- 24 t. 34 C.F.R. § 300.115 is inapplicable to this matter.
- 25 u. 34 C.F.R. § 300.116(c) provides that unless the IEP of a child with a
26 disability requires some other arrangement, the child is educated in the
27 school that he or she would attend if nondisabled
- 28 v. 34 C.F.R. § 300.116(d) provides that in selecting the LRE, consideration is
29 given to any potential harmful effect on the child or on the quality of services
30 that he or she needs.

- 1 w. LRE must not be conflated with placement. LRE is a legal principle that
2 requires students with disabilities to be educated alongside their non-
3 disabled peers, with additional support services as needed, unless the
4 severity of a disruption to either's educational experience outweighs the
5 intended benefit. Placement is the service delivery model and specific
6 setting where a disabled student receives their services.
- 7 x. It is undisputed that during Student's short time in PHASE, Countryside did
8 not provide him with any supplementary aids or services prior to moving him
9 to the STC service delivery location. Respondent's position, that Student
10 was a danger to himself and others in PHASE, though accurate, is not an
11 excusable or otherwise justifiable rationale to forego the LEA taking
12 necessary steps to ensure that a move to STC was the appropriate LRE for
13 Student.
- 14 y. However, because the record establishes that Student's LRE was in STC,
15 the LEA's failure to provide Student with supplementary aids or services in
16 PHASE was a procedural error, and not a substantive one. As such, it
17 cannot logically be argued that Student was denied FAPE.
- 18 z. Petitioners sustained their burden of proof as to this allegation, in part. A
19 procedural due process violation exists. A substantive due process
20 violation, however, does not exist as Student's right to FAPE was not
21 impeded, the District had authority over location of service delivery, and no
22 deprivation of educational benefit has been established.

23 ***Claim #4 – Respondent's alleged failure to consider the IEE***

- 24 aa. 34 C.F.R. §§ 300.304, 300.305, 300.306, and 300.502 are inapplicable to
25 this matter.
- 26 bb. Because the IEE that Parent requested from Buckeye has yet to be
27 delivered to the District, it cannot reasonably be held that Respondent failed
28 to consider something it never possessed or otherwise had the opportunity
29 to review. Parent knew, or should have known, that the District planned to
30 convene an IEP meeting to review data upon receipt of the IEE per the
September 30, 2025, PWN. Petitioners' argument that the District should

1 have waited to receive and review the IEE before issuing the September
2 30, 2025, IEP, is unfounded and unsupported by regulation or case law.
3 cc. Petitioners failed to sustain their burden of proof as to this allegation. No
4 procedural or substantive due process violation exists.

5 **RULING**

6 13. The credible and relevant evidence of record establishes a procedural due
7 process violation by the requisite evidentiary standard regarding Claim #3 only, which did
8 not result in a denial of FAPE.

9 Based on the foregoing,

10 **IT IS ORDERED** that Claim #3 is **granted**. Petitioners' corresponding request(s)
11 for relief are denied as moot, beyond the Tribunal's jurisdiction and/or inapplicable.

12 **IT IS FURTHER ORDERED** that Claims #1, #2, and #4, as well as all related
13 requested remedies, are **denied**.

14 **IT IS FURTHER ORDERED** that 26C-DP-015-ADE is **dismissed, with prejudice**.

15 Done this day, December 09, 2025.

16 **Office of Administrative Hearings**

17 /s/ Jenna Clark
18 Administrative Law Judge

19
20 **NOTICE OF RIGHT TO SEEK JUDICIAL REVIEW**

21 Pursuant to 20 U.S.C. § 1415(i)(1)(A), 34 C.F.R. §§ 300.514(b) and
22 300.516, and ARIZ. REV. STAT. § 15-766(E)(3), this DECISION AND ORDER is
23 the final decision at the administrative level. Furthermore, any party
24 aggrieved by the findings and decisions made herein has the right to bring
25 a civil action, with respect to the complaint presented, in any State court of
26 competent jurisdiction or in a district court of the United States. Pursuant to
27 ARIZ. REV. CODE R7-2-405(H)(8), any party may appeal the decision to a
28 court of competent jurisdiction within thirty-five (35) days of receipt of the
29 decision.

30 Transmitted by either mail, e-mail, or facsimile to:

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