

1 Parents bring this due process action on behalf of Student, claiming that
2 Respondent violated the Individuals with Disabilities Education Act (IDEA), alleging
3 procedural and substantive errors. The law governing these proceedings is the IDEA
4 found at 20 United States Code (U.S.C.) §§ 1400-1482 (as re-authorized and amended
5 in 2004),³ and its implementing regulations, 34 Code of Federal Regulations (C.F.R.) Part
6 300, as well as the Arizona Special Education statutes, Arizona Revised Statutes
7 (A.R.S.) §§ 15-761 through 15-774, and implementing rules, Arizona Administrative Code
8 (A.A.C.) R7-2-401 through R7-2-406.

9 **PROCEDURAL HISTORY**

10 The due process complaint notice (Complaint) and request for an expedited
11 hearing in this matter was filed with the Arizona Department of Education (Department) on
12 November 3, 2025. An expedited due process hearing was conducted on December 1,
13 2025 and December 2, 2026. The parties presented testimony, Exhibits, and some
14 argument at formal evidentiary hearing sessions convened on both days.

15 ***Exhibits***

16 The parties provided pre-marked proposed Exhibits. After the hearing convened
17 on December 1, 2025, Petitioners' Exhibits 1 through 8, 1the parties stipulated to the,
18 15, 17, 18, 20, and 22 through 25 were admitted. Respondent's Exhibits A through M
19 were also admitted.

20 ***Issues for Hearing***

21 Through the Complaint, Petitioners raised the following issues for a due process
22 hearing:

- 23 1. Whether creating and posting the video online partially shown in Exhibits M(a),
24 (b), and (c), (hereinafter "a Video" or "the Video") online was a manifestation of Student's
25 disability.
- 26 2. Whether the Manifestation Determination Review (MDR) team failed to
27 review all relevant information, and
- 28 3. Whether the MDR team focused its analysis on the impact of Student's

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³ By Public Law 108-446, known as the "Individuals with Disabilities Education Improvement Act of 2004,"
IDEA 2004 became effective on July 1, 2005.

1 behavior rather than whether Student's behavior was a manifestation of Student's
2 disability.

3 ***Requested Remedies***

4 As remedies, Petitioners requested:

- 5 1. An Order that the behavior at issue in the disciplinary incident was a
6 manifestation of Student's disabilities;
- 7 2. An Order that Student be allowed to return to his Level [REDACTED] at
8 Mountain View High School or any other high school in Respondent;
- 9 3. An Order that Respondent conduct a functional behavior assessment
10 (FBA) and develop a behavior intervention plan (BIP) for Student;
- 11 4. An Order that Parent/Student are the prevailing party.
- 12 5. In due process matters, remedies are only considered regarding proven
13 IDEA violations and all remedies must be related to a resolution of a proven IDEA
14 violation.

15 _____
16 The Administrative Law Judge has considered the entire hearing record including
17 the testimony and the admitted Exhibits,⁴ and now makes the following Findings of Fact,
18 Conclusions of Law, and Decision finding that Petitioners have failed to demonstrate
19 that Respondent violated the IDEA through the allegations set forth in the Complaint.

20 **FINDINGS OF FACT**

- 21 1. Student was diagnosed with [REDACTED] at the age of
22 4.⁵ Student has attended schools within Respondent since the age of 4. ⁶
- 23 2. Student was diagnosed with [REDACTED]
24 [REDACTED] during his fifth-grade school year.⁷
- 25 3. Student has been enrolled at Mountain View High School (Mountain View)
26 since his ninth grade.

27 _____
28 ⁴ The Administrative Law Judge has read and considered each page of each admitted Exhibit, even if not
29 mentioned in this Decision. The Administrative Law Judge has also considered the testimony of every
30 witness, even if the witness is not specifically mentioned in this Decision. The review of the hearing
record in relation to the only appropriate due process complaint notice, the documentation, the testimony.

⁵ See Transcript (Tr.) I at 15 (Parent's Testimony).

⁶ See Tr. I at 15 (Parent's Testimony)..

⁷ See Tr. I at 15 (Parent's Testimony)..

1 4. Student is eligible for IDEA special education services under the category
2 of ██████████⁸

3 5. Student's primary diagnosis is ████████.

4 6. Student has received behavioral therapy "off and on" for the last 10 years,
5 except for a short break during COVID.⁹

6 7. Student has never had formal discipline.¹⁰

7 8. At the start of the 2025-2026 school year, Student was enrolled at
8 Mountain View High School (Mountain View), a school within Respondent. Student was
9 ██████████ old in the ██████████ grade at the time.

10 9. McCraley has been the principal at Mountain View for four years.¹¹
11 McCraley has known Student for four years. McCraley had worked in school
12 administration for 11 years. McCraley has a background in special education.
13 McCraley was the principal during Student's first and second years. McCraley was a
14 part of Student's IEP team last spring.¹² Student has taken the required courses to
15 obtain a traditional high school diploma. Student's courses are aligned with grade-level
16 educational and Department of Education standards. Student earns primarily grades of
17 an "A" and "B".¹³

18 10. Hurt has worked for Mountain View as a Speech and Language
19 Pathologist since 2012.¹⁴ Hurt provided speech and pathology services to Student since
20 his ninth-grade year. During Student's ninth grade year, Hurt saw Student every day
21 during third period. Hurt worked with Student on pragmatic language skills and problem-
22 solving. During Student's sophomore year, Hurt worked on pragmatic language skills
23 and problem-solving in a group setting. Hurt has worked with many students who were
24 diagnosed with ████████ in her career.¹⁵

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27 ⁸ See Exhibit (Ex.) 6.

28 ⁹ See Tr. I at 15 (Parent's Testimony).

29 ¹⁰ See Tr. I at 189 (McCraley's Testimony).

30 ¹¹ See Tr. I at 165-211 ((McCraley's Testimony).

¹² See Tr. I at 197 (McCraley's Testimony).

¹³ See id.

¹⁴ See Tr. II at 255-295 (Hurt's Testimony).

¹⁵ See id.

1 11. The Social Studies Teacher teaches students at Mountain View who
2 receive special education.¹⁶ The Social Studies Teacher has been a teacher on and off
3 for approximately 13 or 14 Years. The Social Studies Teacher has been teaching at
4 Mountain View High School for approximately 14 years. Student was in the Social
5 Studies Teacher's World Studies class when Student was a [REDACTED]. During the
6 2025-2026 school year, Student was in the Social Studies Teacher's U.S. history class.
7 Both classes are social studies. The Social Studies Teacher had Student in his class
8 almost every day the prior year.¹⁷

9 12. Kacer has been Respondent Associate Director of ESS for six years.
10 ¹⁸Prior to her position as the Associate Director of ESS, Kacer worked for seven years
11 as the Assistant Principal at Marana High School. Before Kacer became a principal, she
12 was a high school teacher and a special education teacher for eight years. Before Kacer
13 worked as a special education teacher in high school, she worked as a special
14 education teacher at a middle school for five years.

15 13. Currently, Kacer oversees monthly behavior programs within Respondent.
16 Kacer manages the student movement and works in the area of placements. Kacer
17 ensures that FAPE is provided to students. Kacer oversees homebound services. Kacer
18 recently participated in an MDR at Gladden Farms where the student had a firearm. If
19 there are cases that can result in considerable discipline, Kacer is usually present.

20 14. During the summer of 2025, Student created a Video that was
21 approximately 34 minutes wherein Hurt and two other staff members were shot in the
22 head.¹⁹ The video showed Mountain View and Tortolita Middle School burning, along
23 with a news anchor reporting that buildings in Tucson were on fire. There were twenty-
24 one students in the Video who were all shot. Student appeared in the video. Student
25 identified his parents as child abusers in the Video. Student made references to bullies
26 and haters in the Video.²⁰

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28 ¹⁶ See Tr. II at 300-314 (Testimony of The Social Studies Teacher).

29 ¹⁷ See id.

30 ¹⁸ See Tr. II at 317 – 359 (Kacer's Testimony).

¹⁹ See Ex. H at MUSD126.

²⁰ See id.

1 15. On August 3, 2025, the day before the first school day at Mountain View
2 High, Student released the Video on YouTube.com. ²¹

3 16. At the time that Student released the Video, Parent was out of the country.
4 ²² However, Parent receives alerts when Student makes posts on YouTube.com. After
5 receiving an alert that Student had posted the Video, Parent watched one the Video for
6 approximately 10 minutes. Parent was mortified and called her husband, telling him to
7 take the videos down from the website. ²³

8 17. Student told multiple students at Mountain View, “Look for my video,” or
9 “My video is coming up.”²⁴ Student referred to the video as banned. ²⁵

10 18. On August 10, 2025, Mountain View received an anonymous tip with a
11 parent school expressing concerns about the Video created by Student. McCraley
12 shared the concerns with Parent. Parent told McCraley that she had taken the Video
13 down. Mountain View received three clips of Video from the reporting parent the
14 following day.

15 19. On August 11, 2025, Mountain View held a conference with Parents and
16 Student. Parents, Student, McCraley, the school’s resource officer, Deputy Palmer, and
17 Hurt were present. ²⁶ Mountain View sought to ensure through the conference it had
18 accurate information and to allow Parents to share information related to the Video and
19 its posting. Hurt was present to redirect or clarify any of the questions that were asked.
20 Parents told McCraley that they would bring the entire video to the conference but they
21 failed to do so. McCraley stated at hearing that Student was provided with due process
22 at the conference.

23 20. During the conference, Student told Deputy Palmer that he still has
24 memories or reminders of the bullying incident when he was forced to say the “N” word
25 and the “F” word. ²⁷ Parent explained that Student created step-by-step instructions for
26 creating the Video. Student told Deputy Palmer during the conference when asked if he

27 ²¹ See Tr. I at 90-91 (Parent’s Testimony).

28 ²² See Tr. I at 91 (Parent’s Testimony).

29 ²³ See id.

30 ²⁴ See Tr. I at 181-182 (McCraley’s testimony).

²⁵ See id.

²⁶ See Ex. H.

²⁷ See Tr. I at 152-153 (Parent’s testimony).

1 made any social media posts connected to the Video, “I let people know to watch my
2 video and what will happen if they made fun of me.”²⁸

3 21. Deputy Palmer conducted a threat assessment to determine whether the
4 campus was secure and the level of threat posed to the school. and Deputy Palmer
5 thereafter arrested the student in the meeting.

6 22. On August 11, 2025, Mountain View suspended Student.

7 23. On August 15, 2025 Respondent conducted an MDR to determine
8 whether Student’s disability caused him to create the Video and post it online.

9 24. The MDR team consisted of Parents, McCraley, Kacer, the Social Studies
10 Teacher, Clinch, Student’s Core English teacher, Teresa Walters: the building school
11 psychologist, Student’s Summit teacher and Case Manager, Jaymie Hall: the building
12 psychologist, Student’s American sign language instructor, Student’s Math teacher the
13 current year, and Michael Vivens: the supervisor for Student’s private ABA therapist.²⁹

14 25. Because McCraley was the suspending principal, Kacer facilitated the
15 MDR.³⁰ Principal McCraley did not have any expectation about whether the team would
16 find that the conduct was a manifestation of the Student’s disability. No team member
17 was pressured to make a specific decision. The suspending administrator does not give
18 input in the MDR, does not engage in discussion, and only presents facts. The
19 suspending administrator does not cast a vote.³¹

20 26. Respondent concluded that Parent consented to proceeding with the MDR
21 in the absence of Hurt. At the MDR, Parent stated, “I’m [REDACTED] I’m the mom but I
22 do have a question you read who is a part of IEP team who is the most familiar with
23 him, so that would be Miss Jill, she’s the most familiar with him for the last two years.”³²
24 McCraley replied, “So let me address that directly. That was a conversation. What’s
25 interesting about Jill Hurt’s position is that she was also identified as the victim in the
26 video and because of that we want to make sure that the manifestation is as neutral as
27 possible and so it is not appropriate for her as a victim to also be a part of this and we

28 ²⁸ See Ex. H at 103.

29 ²⁹ See Ex. H.

30 ³⁰ See Tr. I at 190 (McCraley’s testimony).

31 ³¹ See Tr. I at 190-193 190 (McCraley’s testimony).

32 ³² See Ex. H at MUSD116.

1 want everyone at this table to be as neutral as possible when we're making a decision
2 like that." Parent responded, "Okay." ³³

3 27. Principal McCraley did not believe that the student's conduct was a
4 manifestation of his disability.³⁴ McCraley determined that the video was posted
5 intentionally to scare people, and the video was done precisely as Student intended.
6 McCraley considered the timing, the level of technology, the amount of time, and the
7 commitment to a timeline for releasing the video on the first day of school, when almost
8 2,000 students returned. ³⁵

9 28. McCraley determined that the posting of the violent video was an isolated
10 incident with no similar other behavioral incident.³⁶

11 29. McCraley was present for Student's 2025 IEP. At that time, Parents nor
12 any other member expressed concerns about maladaptive behavior. ³⁷ The MDR team
13 determined that Student's disability did not cause him to create and release the video
14 online. ³⁸

15 30. McCraley considered that during the meeting, Deputy Palmer used a
16 scripted protocol called CSTAG to question Student during the conference on August
17 11, 2025. ³⁹ The questions are presented conversationally. Both the Pima County
18 Sheriff's Department and the school use the script. Student said, "I didn't mean to hurt
19 them, I mean scare them." In response to questions, Student responded that he was
20 anxious and worried that the students might have nightmares.⁴⁰

21 31. McCraley is informed if Student engages in threatening and initiating
22 behavior. ⁴¹ McCraley does not consider Student to be a student who has engaged in
23 extensive problematic conduct on campus. McCraley acknowledged at hearing that at
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26 ³³ See Id.

27 ³⁴ See Tr. I at 194-198 (McCraley's testimony).

28 ³⁵ See id.

29 ³⁶ See Tr. I at 196 (McCraley's testimony).

30 ³⁷ See Tr. I at 194-198 (McCraley's testimony).

³⁸ See Ex. H and Tr. I at 194-198 (McCraley's testimony).

³⁹ See Tr. I at 183 (McCraley's testimony)..

⁴⁰ See Tr. I at 183-185 (McCraley's testimony)..

⁴¹ See Tr. I at 166-168 (McCraley's testimony).

1 times, Student has been supported through his IEP based on specific events and his
2 school has had to address Student regarding his use of social media.⁴²

3 32. McCraley believed that Student understood what was happening during
4 the conference on August 11, 2025.⁴³ McCraley considered that Hurt's role at the
5 meeting was to ensure the questions were understandable to Student and that the
6 student understood what was happening and answered them. Hurt did not need to
7 modify or jump in much during the meeting. All of Student's comments were appropriate
8 to the questions they were asked. Student did not seem confused. Student appeared to
9 be concerned about whether or not he would get in trouble. During the meeting, it
10 seemed that Student was angry with the people who made him make the video in the
11 [REDACTED] grade.⁴⁴

12 33. During the MDR, Vivens concluded during the ADR that Student's [REDACTED]
13 did not cause him to create the video.⁴⁵ Vivens stated that his [REDACTED] is substantially
14 related to his [REDACTED] but not directly related.⁴⁶

15 34. After the MDR, Respondent suspended Student for a year.

16 35. Clinch has been a school psychologist for Respondent for 10 years.⁴⁷

17 36. At an MDR, the school psychologist is responsible for reviewing any
18 previous evaluation data that's pertinent to the purpose of the meeting.⁴⁸ Clinch has
19 been in a meeting where the team concluded that the behavior was a result of the
20 student's disability.⁴⁹ Clinch never believed that he was required to cast a vote for a
21 specific finding.⁵⁰

22 37. Clinch did not come into the MDR with an opinion about whether Student's
23 conduct was a manifestation of his disability.⁵¹ Clinch reviewed the student's
24 evaluations and entered the meeting with an open mind regarding the parents' input and

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26 ⁴² See id.

⁴³ See Tr. I at 180-183 (McCraley's testimony)..

⁴⁴ See id.

⁴⁵ See Ex. H at 133-134.

⁴⁶ See id.

⁴⁷ See Tr. I at 212-232 (Clinch's testimony).

⁴⁸ See id at 213.

⁴⁹ See Tr. I at 214 (Clinch's testimony)..

⁵⁰ See id.

⁵¹ See Tr I. at 239 (Clinch's testimony)..

1 opinion. Clinch opined that Student's posting of the violence video was not a
2 manifestation of his disability. Clinch's opinion was based on the history of Student's
3 evaluations over 12 previous years: previous IEPs and METs, and Clinch's knowledge
4 about [REDACTED] and speech language impairments. Although speech language impairments
5 are not Clinch's specialty, Clinch knows about the communication difficulties related to
6 [REDACTED].⁵²

7 38. During the MDR meeting, Clinch heard the team members' input.⁵³ Clint
8 opined that there was no substantial and direct link between Student's [REDACTED] and the
9 creation and posting of the violent video. The length of the planning, the intentionality of
10 it, and the intention to create fear fall outside of [REDACTED]-directed behavior. It was goal-
11 directed – retaliation towards previous bullying. Clint opined that much of Student's
12 behaviors have been reactionary. The direct link is to something that occurred in the
13 moment.⁵⁴

14 39. As it relates to a past injustice or perceived injustice, perseverance adds
15 context for why Student was feeling a certain way, however, perseverance does not
16 lead to the creation of a threatening or intimidating video.⁵⁵ Student followed multiple
17 steps to achieve a result. Student made a plan and executed it. Because Student does
18 not catch on to social cues well does show a direct and substantial relationship. Student
19 understood that his conduct violated a social norm. Clinch saw Student have a
20 meltdown when faced with frustration in the moment. The ABA assessment does not
21 include concerns of aggressive or threatening, intimidating conduct.⁵⁶

22 40. A fixated interest in scary movies does not have a direct and substantial
23 relationship with creating the video.⁵⁷ Student has a perseveration which occurred with
24 him talking with family about past events and even talking to himself in his room but not
25 generating a violent and intimidating video. A lack of time awareness does not cause a
26 person to create violent and heinous conduct, nor does poor communication skills and
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28 ⁵² See Tr. I at 214-216 (Clinch's testimony).

⁵³ See Tr. I at 215-216 (Clinch's testimony).

⁵⁴ See Tr. I at 218 (Clinch's testimony).

⁵⁵ See Tr. I at 218 (Clinch's testimony).

⁵⁶ See Ex. 1.

⁵⁷ See Tr. I at 228-229 (Clinch's testimony).

1 limited situational awareness. The Vineyard Assessment says that Student sometimes
2 hates hurting or killing someone.⁵⁸

3 41. Hurt opined at hearing that Student presents with characteristics that are
4 typical of a person with [REDACTED].⁵⁹ Hurt believed that Student understood what was
5 happening in the conference on August 11, 2025, and responded appropriately. There
6 were some things that Hurt needed to explain in more detail. Hurt was not necessary to
7 translate or provide support to Student in a different language.⁶⁰

8 42. Hurt was aware that Student exhibited behaviors related to personal
9 space.⁶¹ Student would intrude someone's personal space in a group. Student might
10 tug on a backpack to get attention or tease other students or take pictures of someone
11 without their consent. Student might toss a water bottle at someone or squeeze water
12 on someone to get their attention or to be funny or to tease. Student exhibited these
13 behaviors during unstructured settings. Student exhibited behavior that was irritating to
14 his peers, but Student never behaved in a way that caused her to worry that someone
15 or Student was unsafe.⁶²

16 43. Student had an aide for his safety because Student needed support
17 getting from one place to another.⁶³ Student did not always arrive on time. Student
18 needed transition support to make sure that he could walk from Biology class to his
19 History class instead of talking to a peer. The IEP team was concerned that Student
20 might hide, and someone would have to go find him. There was never a concern that he
21 might hurt himself or someone else. Mountain View attempted to provide Student with
22 an aide his freshman year during lunch, but every lunch period, Student would hide from
23 the aid or try to get out of the eyesight of the aide and it became impossible to monitor
24 Student. Therefore, Student was able to walk around at lunch without aid support and
25 then he'd get into these peer interactions. Parent wanted Student's ABA therapist to

26 ⁵⁸ See id.

27 ⁵⁹ See Tr. II at 255-295 (Hurt's Testimony).

28 ⁶⁰ See id.

29 ⁶¹ See Tr. II at 255-295 (Hurt's Testimony).

30 ⁶² See id.

⁶³ See Tr. II at 255-295 (Hurt's Testimony).

1 provide services in the school. However, Respondent's policy did not allow for Student's
2 ABA therapist to provide services in the school. Student did not like the ABA therapist
3 being at his school. Student would try to get out of the sight of his ABA therapist and
4 hide from the therapist when she was trying to observe him at lunch. ⁶⁴

5 44. Hurt has observed Student get angry at students. Hurt has not seen
6 Student threaten other students. ⁶⁵ Hurt has observed Student break items. Student
7 might tell a peer to leave. If Student became upset at a peer, Student would tell the peer
8 to leave him alone, or to stop. Student might break a pencil or clench his fists. Student
9 might walk to a different area of the classroom and turn over a chair. However, by that
10 time the teacher would intervene and direct Student to calm down. ⁶⁶

11 45. At hearing, Hurt expressed that she had never seen the type of anger from
12 Student that she saw in the video. ⁶⁷ Student's level of emotion and anger was out of
13 character for Student. ⁶⁸

14 46. The Social Studies Teacher explained at hearing that social studies is a
15 part of the core curriculum for students with disabilities. ⁶⁹ Student performed well in the
16 Social Studies Teacher's class in the previous year. Student may have received a B or
17 an A. Student submitted all his work. Student participates in class and asks questions.
18 The Social Studies Teacher has worked with many students with [REDACTED]. The Social
19 Studies Teacher described Student as polite and nice. Student will hold the door for
20 other individuals in the class. Student has some friends and he has regular
21 conversations with them. ⁷⁰

22 47. The Social Studies Teacher has never seen Student threaten or intimidate
23 anyone. ⁷¹ The Social Studies Teacher has observed students become frustrated if the
24 content in a class was challenging. Student would stand up, remove himself and sit over
25 in a back chair and cool himself down. When Student was ready, he would come back

26 ⁶⁴ See Tr. II at 255-295 (Hurt's Testimony).

27 ⁶⁵ See Tr. II at 255-295 (Hurt's Testimony).

28 ⁶⁶ See id.

29 ⁶⁷ See Tr. II at 255-295 (Hurt's Testimony).

30 ⁶⁸ See id.

⁶⁹ See Tr. II at 300-314 (Testimony of The Social Studies Teacher).

⁷⁰ See id.

⁷¹ See Tr. II at 300-314 (Testimony of The Social Studies Teacher).

1 to the table and continue working to get the help that he needed without redirection from
2 the Social Studies Teacher. ⁷²

3 48. The Social Studies Teacher believes Student knows the difference
4 between right and wrong. ⁷³ The Social Studies Teacher was talking to students about
5 world studies. The Social Studies Teacher has talked with Student about empires and
6 people trying to conquer using force. During class, the Social Studies Teacher would
7 have conversations with Student about conquering others and killing. The Social
8 Studies Teacher would have class discussions about murder. Therefore, the Social
9 Studies Teacher believes that Student knows the difference between right and wrong.
10 Student has communicated with the Social Studies Teacher about things that he liked.
11 Student would tell the Social Studies Teacher what he ate for lunch or what he talked to
12 his friends about. The Social Studies Teacher was a part of the MDR team on August
13 15th. The Social Studies Teacher has been a member of the MB MDR team previously.

14 ⁷⁴

15 49. The Social Studies Teacher believes that he is free to express his true
16 opinion when he participates an MDR meeting. The Social Studies Teacher does not
17 feel pressured to make a specific finding.

18 50. During the MDR for Student, the Social Studies Teacher opined that the
19 video was not a manifestation of the student's disability due to its content, length, and
20 the time it took to create the video. The Social Studies Teacher stated in the MDR
21 meeting that he did not believe that the misconduct was part of Student's disability and
22 that it "went beyond" his disability. ⁷⁵

23 51. The Social Studies Teacher was previously a social media on-air radio
24 personality, and he had to make videos. ⁷⁶ The Social Studies Teacher is aware that
25 some of these videos take a long time, especially the editing, clipping, and cropping. It
26 took such a long time to make it. It would seem very premeditated and not a spur-of-the-

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⁷² See id.

28 ⁷³ See Tr. II at 300-314 (Testimony of The Social Studies Teacher).

29 ⁷⁴ See id.

30 ⁷⁵ See Ex. H at MUSD 131.

⁷⁶ See Tr. II at 300-314 (Testimony of The Social Studies Teacher).

1 moment decision. The Social Studies Teacher explained that a student with [REDACTED] has
2 anger issues or things that will disturb them. It's something that is a matter of a snap. It
3 just happens. In this case, students continuing to think about these sorts of things goes
4 beyond their disability. It is more of /a premeditated and not a spur-of-the-moment
5 situation. Students with [REDACTED] have a quick reaction to something that happens in the
6 moment or when they're frustrated. Creating this video was different. It seemed very
7 different. Students are scared. ⁷⁷

8 52. The Social Studies Teacher opined that the person who created the video
9 seemed furious, upset, and wanted people to perish from the world. ⁷⁸ The Social
10 Studies Teacher opined that Student's conduct went beyond his disability. The students
11 that [REDACTED] the Social Studies Teacher has worked with in the past usually respond to
12 something in the moment with aggression. In this case, it seemed to fester. The Social
13 Studies Teacher has seen students get upset and remove themselves from a situation.
14 Students are able to refocus and come back in approximately 10 to 15 minutes. ⁷⁹

15 53. The Social Studies Teacher has seen students get into disagreements,
16 but nothing has escalated into a fistfight. Just everyday disagreements. ⁸⁰ [REDACTED] The
17 Social Studies Teacher has seen students interact with his peers. If [REDACTED] The Social
18 Studies Teacher's opinion appeared, it did not appear that his socialization was that of a
19 two to three-year-old. It seemed more like he acted age-appropriately with his peers.
20 The student is not at the grade level where he should be. But [REDACTED] The Social Studies
21 Teacher does not consider Student to be someone who was of a young age, but maybe
22 a little younger than his peers. ⁸¹

23 54. Kacer did not know of Student before being asked to a part of the MDR
24 process. ⁸² Kacer participates in MDRs where there is a possibility of long discipline.
25 There are two options available if a student is facing discipline. The first option is
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28 ⁷⁷ See id.

29 ⁷⁸ See Tr. II at 300-314 (Testimony of The Social Studies Teacher).

30 ⁷⁹ See id.

⁸⁰ See Tr. II at 300-314 (Testimony of The Social Studies Teacher).

⁸¹ See id.

⁸² See Tr. II at 317 – 359 (Kacer's Testimony).

1 homebound services. The second option is a school for students who have been
2 suspended or expelled for an extended period.⁸³

3 55. Sierra has a program that specializes in students with [REDACTED].⁸⁴ Kacer
4 wanted Sierra to be an option if the manifestation went either way, because an IEP
5 would be needed. Sierra was a private placement. Kacer always attempts to obtain
6 approval in advance because she must obtain prior approval for tuition from
7 Respondent. Kacer has received prior approval for many private placements even
8 though the student was never placed in the school. Respondent is in constant
9 competition with other school districts that use the same programming so Kacer always
10 attempts to secure placement.⁸⁵

11 56. As it relates to Student, the incident occurred at the beginning of the
12 school year, and Kacer was concerned because this program moved sites from
13 Sunnyside into the Amphi School District.⁸⁶ They were going through a change in
14 directorship. Parents wanted the student placed at Sierra if the event that Respondent
15 found that Student's conduct was not a manifestation of his disability. Parents were
16 unhappy with the other two options. Parents did not want the student placed at ACE or
17 at homebound services. The parents wanted an in-person option if the student was
18 suspended. A special education student is still entitled to FAPE even during
19 suspension. If the team had determined that Student's violation of the student code of
20 conduct was a manifestation of his disability, Student would not have been suspended.
21 However, the law requires an IEP team to meet and review the student's supports,
22 goals, services, placement, and the student's least restrictive environment.⁸⁷

23 57. As it relates to Student, Kacer considered that even if the team found
24 Student's behavior to be a manifestation of his disability, Respondent would still
25 consider more restrictive setting.⁸⁸ However, at the time of the MDR, Kacer had not
26 made any determination as to whether or not Student's conduct was a manifestation of

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28 ⁸³ See id.

⁸⁴ See Tr. II at 317 – 359 (Kacer's Testimony).

⁸⁵ See id.

⁸⁶ See Tr. II at 317 – 359 (Kacer's Testimony).

⁸⁷ See id.

⁸⁸ See Tr. II at 317 – 359 (Kacer's Testimony).

1 his disability. Kacer found another opening. However, prior to that time, Respondent
2 provided home-based services while looking for placement in a school. ⁸⁹

3 58. Kacer never feels pressure to find that a student's violation of the student
4 code of conduct was or was not a manifestation of the student's disability. ⁹⁰ Kacer does
5 not believe that she is required to agree with the majority of votes for either conclusion.
6 ⁹¹

7 59. Kacer concluded that Student's behavior was not a manifestation of [REDACTED]
8 disability. ⁹² Kacer has determined in the past that a student's behavior was a
9 manifestation of his or her disability. During the MDR involving Student, Kacer listened
10 to each team member's testimony. There were differences in opinion. One teacher
11 mentioned his own child, so she dismissed the teacher's opinion because it seemed to
12 focus on his own child. Kacer gave a significant amount of weight to the opinion of
13 Clinch and Vivens. Clinch expected the parents to defend their children. Kacer expected
14 Parents to defend Student. When forming her opinion, Kacer considered the timeline of
15 events that led to the creation and release of the video online. Kacer considered
16 whether Student has a recent triggering event when he created the video. Kacer had
17 difficulty finding a direct and substantial connection to an event that happened six
18 months or even a year prior. Kacer considered that a school was burned down that
19 Student no longer attends Tortolita Middle School. Kacer considered homicidal videos
20 of Student killing kids and his own family. ⁹³

21 60. Kacer did not find enough evidence from anyone that the behavior was
22 caused by [REDACTED] or that there was a direct and substantial connection. ⁹⁴ Kacer asked
23 Kacer believed that Parents made valid points, but the statements from Vivens and
24 Clinch caused her to conclude that Student's behavior was not a manifestation of his
25

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27 ⁸⁹ See id.

28 ⁹⁰ See Tr. II at 317 – 359 (Kacer's Testimony).

29 ⁹¹ See id.

30 ⁹² See Tr. II at 317 – 359 (Kacer's Testimony).

⁹³ See id.

⁹⁴ See Tr. II at 317 – 359 (Kacer's Testimony).

1 disability. Kacer reviewed the MET and the IEP. There was no indication that he had
2 engaged in similar behavior in the past.⁹⁵

3 61. Kacer considered that there were no concerns that Student was
4 aggressive or had made any threats prior to the creation and release of the video.⁹⁶
5 Kacer did not watch the video but only received a description of the content of the video.
6 Kacer considered that a significant amount of time was spent planning and
7 implementing the video. Kacer considered whether Student's disability had a direct and
8 substantial connection to making those videos and distributing those videos.⁹⁷

9 62. Kacer considered that if Student's behavior does not significantly and
10 adversely affect progress in the general education curriculum, the school would not
11 conduct a functional behavior assessment (FBA). The purpose of an FBA is to
12 determine how to address behaviors that are impacting the student's ability to progress
13 in the general educational curriculum. If there were concerns about a student being
14 threatening, aggressive, or intimidating, it should be in Section 4 of the MET. Kacer
15 oversees all students with behavioral issues within Respondent and does not know
16 Student.

17 63. Under the functional performance section of the student's IEP in Section
18 4, the box is left unchecked related a student whose behavior impedes his learning.
19 Kacer explained that during an IEP meeting, the parent has the opportunity to share any
20 information that they want the team to consider in developing the IEP. The student's IEP
21 shows that parents were happy with the student's current academic and behavioral
22 progress. Their only concern is students' lack of communication with them about their
23 assignments and class progress.

24 64. Kacer considered that if Parents had a concern about Student's behaviors
25 in April of 2025, it would be reflected in the IEP. Kacer is somewhat familiar with the
26 diagnostic criteria for [REDACTED] Kacer is aware that individuals with [REDACTED] have restrictive
27

28 _____
29 ⁹⁵ See id.

30 ⁹⁶ See Tr. II at 317 – 359 (Kacer's Testimony).

⁹⁷ See id.

1 interests. However, Kacer opined that the fact that a student who has a fixated interest
2 in making videos would make a video about homicides.

3 65. Parent stated at hearing, “There is not a single thing [Student] does or say
4 that I cannot tie back to his [REDACTED] and his behaviors.”⁹⁸ Parent believes that Student’s
5 [REDACTED] impacts his daily life “100 percent”.⁹⁹

6 66. The evidence presented at hearing showed that Parents have a technical
7 background and have worked with Student on programming. Student takes
8 programming classes every summer. Student is skilled in creating graphics and has
9 software that enables him to make video clips. Student works on videos for several
10 hours. Parent described it as an outlet for Student.

11 67. YouTube is students’ main stream of posting videos.

12 68. Student’s April 14, 2025, IEP shows that Student receives ADL Support
13 Services, 120 minutes per day, for five days a week, for safety monitoring.¹⁰⁰ The
14 safety monitoring support was added because Student lacked proper etiquette.¹⁰¹
15 Student has taken pictures and videos of other female students. Student has touched
16 the hair of other female students and has thrown objects.¹⁰² On one occasion, the
17 student was asked to go to the M building, and as he walked out, Student threw his
18 backpack against the wall causing the Chromebook inside of the backpack to break.¹⁰³

19 69. In July of 2024, Parent requested that Student’s ABA therapist be allowed
20 to come and provide services to Student at Mountain View. The request was submitted
21 to Hurt who approved the request.

22 70. Student’s ABA therapist did not begin providing services in January of
23 2025. The ABA therapist only provided services for two weeks because Respondent’s
24 policy did not allow the ABA therapist to provide services.

27

⁹⁸ Tr. I at 70-71.

28 ⁹⁹ See id.

29 ¹⁰⁰ See Ex. 6 at 18.

30 ¹⁰¹ See Tr at 76-77.

¹⁰² See id.

¹⁰³ See id.

1 71. From March of 2025, Student did not receive ABA therapy from his private
2 therapist because she took maternity leave, and Parent could not find any
3 replacements.¹⁰⁴

4 72. Student's 2025 IEP shows that Student desired to be a "You-Tuber.

5 73. Parent stated at hearing that when Student rejected or confused, he
6 reacts by copying and looking at them. Student also performs pranks. Parent believes
7 that this behavior is a sign of [REDACTED].¹⁰⁵ Parent alleged that the creation of the video was
8 an escalation of Student's interest in scary movies over the last two years.¹⁰⁶

9 74. Parent stated that Student created the video due to a lack of coping skills
10 with the bullying incident.

11 75. During the hearing, Parent referenced Student talking in the video about
12 not being bullied and to ignore them. Parent stated that he made these statements to
13 cope.

14 76. Parent stated at hearing that during the meeting with Deputy Palmer,
15 following the release of the video, Student did not understand what he was being asked.

16 77. Parent alleged that during the MDR, Vivens said that [REDACTED] does not cause
17 aggression; it impairs understanding and coping.

18 78. Parent stated that Student did not understand how the video would be
19 perceived by other students because the definition of scare does not exist for Student.
20 ¹⁰⁷ However, Parent also stated that her understanding of Student's behavior when he
21 was making the video was that he was not trying to hurt anybody, but that he wanted to
22 scare kids the way that kids scared him.¹⁰⁸

23 79. Parent stated in Student's mind it was a causal. Student relives things in
24 his mind and lies in his bed forever thinking about it and talking out loud in his room.

25 80. Parent alleged that during the MDR, after [REDACTED] The Social Studies Teacher
26 observed the videos, he introduced himself and immediately expressed his fear that
27

28 ¹⁰⁴ See Tr. I. at 112 (Parent's Testimony) .

29 ¹⁰⁵ See Tr. I at 72 (Parent's Testimony).

30 ¹⁰⁶ See Tr. I at 94 (Parent's Testimony).

¹⁰⁷ See Tr. I at 95 (Parent's Testimony).

¹⁰⁸ See id at 94-95 (Parent's Testimony).

1 Student would return to the school. ■ The Social Studies Teacher believed that the
2 student created the video to stop the students from bullying him.

3 81. Parent stated during the hearing, "His ■ traits, I'm going to keep
4 pointing out perseveration on past humiliation, time distortion, not understanding what
5 today versus yesterday feel like, literal visual thinking, profound, profound social
6 communication deficits, humiliation and a powerful drive for peer acceptance directly
7 and substantially produce what he made and posted."

8 82. Parent stated at hearing that she begged for behavioral support for over a
9 year and then no recommendation was made.

10 83. Parent wanted Hurt to be present at the MDR because she knew about
11 Student's behaviors for the last two years. ¹⁰⁹ Parent has expressed that the team was
12 focused on the impact of Student returning to school rather than whether his actions
13 were caused by his disability, during the MDR meeting.

14 84. Parent believes that when Hurt would call her about Student's behavior,
15 she was frantic. ¹¹⁰ Student wants to be a part of the crowd. Student communicates
16 nonverbally and verbally. Student raises his eyebrows and pounds his fist in his hand
17 when looking at other/s. Student will stare at you, and it's like he is looking through you.

18 85. Parent stated that at the end of the conference with Deputy Palmer,
19 Student did not understand the concept of consequence. Parent noted that Student
20 knew what he did was wrong. Parent stated that Student believes it was a prank.

21 86. Parent stated that Student has never seen a real gun, but her husband
22 has a gun in a locked safe with no bullets. Student said that his father told him there
23 was a gun in the home.

24 87. When Parent asked Student why he created the Video, Student said it
25 was because he wanted to scare the other kids. Student has made other videos, but
26 never liked the video at issue. Student has never made a video where he shot people.
27 Parent was surprised by the violent nature of the Video. ¹¹¹

28
29 ¹⁰⁹ See Tr. I. at 147 -148 (Parent's Testimony).

¹¹⁰ See Tr. I at 148 (Parent's Testimony).

30 ¹¹¹ See Tr. I at 156-157 (Parent's Testimony).

1 88. The school began taking Student to the M Building to calm him down. The
2 student began associating the M Building with punishment.

3 89. Parent alleged that Student has no concept of punishment. However,
4 Parent failed to provide any specific examples that she observed.

5 90. Parent testified that Student was diagnosed with [REDACTED] in 2024.
6 Paren stated that Student sees a psychiatrist.

7 91. Parent explained that Mountain View was aware that Student was posting
8 a list of students that he expressed that he did not like on Instagram live.

9 92. Parent submitted into evidence the Vineland assessment conducted in
10 April 2025 (Ex. 1), the DDD person-centered planning document (Ex. 3), the
11 BehaviorCare ABA Assessment Report (Ex. 2), and other sample videos created by
12 [REDACTED]. However, these documents and videos were not submitted to the District prior
13 to or even at the MDR meeting.

14 93. Petitioners' Exhibit 4 is the DSM-5 which identifies two trait-related
15 diagnostic criteria for [REDACTED] along with three additional criteria that relates to onset of
16 symptoms, the level of impairment, and the lack of an intellectual disability that better
17 explains the symptoms. Those two traits or symptoms are (A) deficits in social
18 communication and social interaction and (B) restricted, repetitive patterns of behavior.

19 94. The testimony at hearing was consistent that Students struggles with
20 social communication and social interaction in ways that are very typical of people with
21 [REDACTED]: failure of normal back-and-forth conversation, difficulty in reading others, poor eye
22 contact, and trouble developing and maintain relationships. However, the Administrative
23 Law Judge finds that nothing in the DSM-5 suggests that individuals with [REDACTED] tend to
24 make intentional threats or engage communication that is explicitly planned to scare
25 others. There is nothing in the DSM-5 about seeking revenge or expressing a desire to
26 kill others.

27 95. Regarding the second criterion, Parent testified that Student's fixated
28 interest is making videos. However, the interest Parent described sounds very much like
29 the type of favorite pastime or particular interest that any person might have. Making
30 videos could be a way that Student prefers to send his pastime or a particular interest
of Student.

1 96. Petitioners presented a March 30, 2025 Vineland Assessment conducted
2 by Vivens. Vivens is the supervisor of Student's private Applied Behavioral Analyst
3 (ABA). therapist examined Student using the Vineland Assessment.¹¹² Parent agreed
4 on cross-examination that the Vineland Assessment did not show that Student exhibited
5 intimidating or threatening behavior.¹¹³

6 97. The Vineland assessment was not presented to Respondent prior to or
7 during the MDR. Vivens's summary of the exam using the Vineland Assessment
8 provided, in relevant part, as follows:¹¹⁴

9 School performance concerns:

10 [Student] exhibits several maladaptive behaviors that interfere with both his
11 social and academic functioning in the school setting. These behaviors, such as
12 taking unsolicited pictures of peers, throwing objects when denied access to
13 certain friend groups, and struggling to understand social situations, create a
14 disruptive learning environment and pose safety concerns for both [Student] and
15 his peers. Additionally, [Student] experiences difficulty forming an maintaining
16 friendships, leading to social isolation and limiting his participation in group
17 activities. These challenges are particularly evident during less structured times,
18 such as before, during, and after lunch, when social interactions are more
19 frequent.

18 **CONCLUSIONS OF LAW**

19 1. A parent who requests a due process hearing alleging non-compliance with
20 the IDEA must bear the burden of proving that claim.¹¹⁵ The standard of proof is
21 "preponderance of the evidence," meaning evidence showing that a particular fact is "more
22 probable than not."¹¹⁶ Therefore, Petitioner bears the burden of proving their claims and
23 complaints by a preponderance of evidence.

24 2. This tribunal's determination of whether or not Student received a FAPE must
25 be based on substantive grounds.¹¹⁷ If a procedural violation is alleged and found, it must

26 ¹¹² See Ex. 1.

27 ¹¹³ See Tr I. at 152 (Parent's Testimony).

28 ¹¹⁴ See Ex. 1 at 2.

29 ¹¹⁵ *Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528 (2005).

30 ¹¹⁶ *Concrete Pipe & Prods. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 622, 113 S. Ct. 2264, 2279 (1993) quoting *In re Winship*, 397 U.S. 358, 371-372 (1970); see also *Culpepper v. State*, 187 Ariz. 431, 437, 930 P.2d 508, 514 (Ct. App. 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).

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

1 be determined whether the procedural violation either (1) impeded the child's right to a
2 FAPE; (2) significantly impeded the parents' opportunity to participate in the decision-
3 making process; or (3) caused a deprivation of educational benefit.¹¹⁸ If one of the three
4 impediments listed has occurred, the child has been denied a FAPE due to the procedural
5 violation.

6 FAPE

7 3. Through the IDEA, Congress has sought to ensure that all children with
8 disabilities are offered a FAPE that meets their individual needs.¹¹⁹ These needs include
9 academic, social, health, emotional, communicative, physical, and vocational needs.¹²⁰
10 To do this, school districts must identify and evaluate all children within their geographical
11 boundaries who may be in need of special education and services. The IDEA sets forth
12 requirements for the identification, assessment and placement of students who need
13 special education, and seeks to ensure that they receive a free appropriate public
14 education. A school offers a FAPE by offering and implementing an IEP "reasonably
15 calculated to enable [a student] to make progress appropriate in light of [the student's]
16 circumstances."¹²¹ FAPE does not require that each child's potential be maximized.¹²² A
17 child receives a FAPE if a program of instruction "(1) addresses his unique needs, (2)
18 provides adequate support services so he can take advantage of the educational
19 opportunities and (3) is in accord with an individualized educational program."¹²³

20 4. School personnel may remove a student with a disability who violates a
21 code of conduct from their current placement to an appropriate interim alternative
22 educational setting, another setting, or suspension, for not more than 10 school days.
23 See 20 U.S.C. § 1415(k)(1)(B). A disciplinary change of placement is defined as removal
24 of a student with disabilities from the student's current educational placement for either
25

26 _____
27 ¹¹⁸ 20 U.S.C. § 1415(f)(3)(E)(ii); 34 C.F.R. §§ 300.513(a)(2).

28 ¹¹⁹ 20 U.S.C. §1400(d); 34 C.F.R. § 300.1.

29 ¹²⁰ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996) (quoting H.R. Rep. No. 410, 1983
30 U.S.C.C.A.N. 2088, 2106).

¹²¹ *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ____ (2017).

¹²² *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 198 (1982).

¹²³ *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)).

1 more than 10 consecutive school days, or as a series of removals that constitute a pattern
2 of removal because:

- 3 • the series of removals total more than 10 school days in a school year,
- 4 • the student's behavior is substantially like the student's behavior in previous
5 incidents that resulted in the series of removals, and
- 6 • such additional factors as the length of each removal, the total amount of time
7 the student has been removed, and the proximity of the removals to one another.
8 See 34 C.F.R. § 300.536(a)(1) & (2).

9 5. When a decision has been made to change a student's placement because
10 of a violation of a student code of conduct, the school district, the parent, and relevant
11 members of the student's IEP team must review all relevant information in the student's
12 file to make a determination of whether the conduct in question was a manifestation of
13 the student's disability. See 20 U.S.C. § 1415(k)(1)(E)(i); 34 C.F.R. § 300.530(e)(2).

14 6. The manifestation determination review participants analyze the student's
15 behavior as demonstrated across settings and across times. All relevant information in
16 the student's file, including the IEP, any observations of teachers, and any relevant
17 information from the parents must be reviewed to determine if the conduct was caused
18 by, or had a direct and substantial relationship to the student's disability, or was the direct
19 result of the district's failure to implement the student's IEP. See 20 U.S.C. §
20 1415(k)(1)(E); 34 C.F.R. § 300.530(e); Assistance to States for the Education of Children
21 with Disabilities and Preschool Grants for Children with Disabilities, 71 Fed. Reg. 46540,
22 46720 (Aug. 14, 2006) (Comments on 2006 Regulations).

23 7. A manifestation determination review is not an IEP team meeting and
24 different rules apply to notice and attendance requirements. See 34 C.F.R. § 300.530
25 [discipline procedures].

26 8. Within 10 school days of any decision to change the placement of a child
27 with a disability because of a code of conduct violation, the school district, the parent, and
28 relevant members of the child's IEP team must convene a manifestation determination
29 review for the student and determine whether the behavior is a manifestation of their
30 disability. See 34 C.F.R. § 300.530(e). The relevant members of the student's IEP team
are determined by the parent and the school district. See 34 C.F.R. § 300.530(e)(1).

1 The school district, the parent, and the relevant members of the student’s IEP team must
2 review all relevant information in the student’s file, including the student’s IEP, any
3 teacher observations, and any relevant information provided by the parents, to determine:

- 4 • if the conduct in question was caused by, or had a direct and substantial
5 relationship to, the student’s disability, or
- 6 • if the conduct in question was the direct result of the school district’s failure to
7 implement the student’s IEP. See 20 U.S.C. § 1415(k)(1)(E)(i) & (ii); 34 C.F.R. §
8 300.530(e)(1)(i) & (ii).

9 9. The manifestation determination should analyze the child’s behavior as
10 demonstrated across settings and across times. (U.S. Department of Education, Office of
11 Special Education and Rehabilitative Services (OSERS), Analysis of Comments and
12 Changes to 2006 IDEA part B Regulations, 71 Fed. Reg. 46591, 46720 (Aug. 14, 2006)

13 10. When behavior is exceptional, volitional, and atypical of how a student’s
14 disability is known or expected to manifest, it is appropriate to find such behavior was *not*
15 caused by or directly and substantially related to the disability. *C.D. by Dougherty v.*
16 *Atascadero Unified Sch. Dist.*, Not Reported in Fed. Rptr., 2024 WL 1526748 (9th Cir.
17 2024) (affirming district court decision finding student’s assault of their teacher was not a
18 manifestation of disability known to cause difficulties with focus, attention, and
19 compliance). In *Doe v. Maher* (9th Cir. 1986) 793 F.2d 1470, fn. 8, (Maher) affd. sub.
20 nom. *Honig v. Doe* (1988) 484 U.S. 305 [98 L.Ed.2d 686], the Ninth Circuit discussed the
21 meaning of “conduct that is a manifestation of the child’s handicap.” The court explained:

22 As we use them, these phrases are terms intended to mean the same thing. They
23 refer to conduct that is caused by, or has a direct and substantial relationship to,
24 the child’s handicap. Put another way, a handicapped child’s conduct is covered
25 by this definition only if the handicap significantly impairs the child’s behavioral
26 controls ... it does not embrace conduct that bears only an attenuated relationship
27 to the child’s handicap ... If the child’s misbehavior is properly determined not to
28 be a manifestation of his handicap, the handicapped child can be expelled.
29 [Citations.] ... When a child’s misbehavior does not result from his handicapping
30 condition, there is simply no justification for exempting him from the rules, including
those regarding expulsion, applicable to other children ... To do otherwise would
amount to asserting that all acts of a handicapped child, both good and bad, are
fairly attributable to his handicap. We know that that is not so.

1 11. Petitioners must present persuasive evidence to demonstrate that the MDR
2 team would have decided other than they did had the excluded information been
3 presented. *Danny K. ex rel. Luana K. v. Dept. of Educ., Haw.*, Not Reported in F. Supp.
4 2d, 2011 WL 4527387 (D. Haw. Sept. 27, 2011) (finding that failure to discuss an
5 emotional behavioral assessment at MDR was not persuasive evidence that decision
6 would have changed had it been discussed).

7 12. When behavior is exceptional, volitional, and atypical of how a student's
8 disability is known or expected to manifest, it is appropriate to find such behavior was *not*
9 caused by or directly and substantially related to the disability. *C.D. by Dougherty v.*
10 *Atascadero Unified Sch. Dist.*, Not Reported in Fed. Rptr., 2024 WL 1526748 (9th Cir.
11 2024) (affirming district court decision finding student's assault of their teacher was not a
12 manifestation of disability known to cause difficulties with focus, attention, and
13 compliance).

14
15
16 **Whether the MDR team focused its analysis on the impact of Student's**
17 **behavior rather than whether Student's behavior was a manifestation of Student's**
18 **disability.**

19 13. While Student contended that the team focused on the impact of Student
20 returning to school in the meeting, the weight of the credible testimony established that
21 the team did not consider the impact of his return, but the school educational records and
22 professional education and training to determine whether Student's behavior was a
23 manifestation of his disability. All members of the team that testified at the hearing stated
24 that they considered the input of Parents. Petitioners have failed to establish by a
25 preponderance of the evidence that the MDR team focused its analysis on the impact of
26 Student's behavior rather than whether Student's behavior was a manifestation of
27 Student's disability.

28 **Whether the MDR team failed to review all relevant information.**

29 14. The preponderance of the evidence shows that Hurt was most familiar
30 than any other staff member with Student's behaviors and expression. However, Hurt

1 testified that she did not believe that Student’s behavior was a manifestation of his
2 disability. Furthermore, any procedural error that resulted from Hurt’s absence from the
3 MDR did not affect the teams’ decision that Student’s conduct was not a manifestation
4 of his [REDACTED]. McCraley properly allowed Hurt to choose not to participate to eliminate
5 perceived bias because Hurt was murdered in the video. Petitioners failed to establish
6 by a preponderance of the evidence that the MD team failed to review all relevant
7 information.

8 **Whether creating the Video was a manifestation of Student’s disability.**

9 15. In this case, the preponderance of the evidence does not show that
10 Student’s creation and posting of the Video online was caused by Student’s [REDACTED]
11 Although testimony was presented that Student was diagnosed with [REDACTED] the
12 petition did not include an allegation that Student’s [REDACTED] caused Student to
13 create and post the Video. Furthermore, while Parent testified that Student was
14 diagnosed with [REDACTED] Student provided no written or supporting evidence of
15 such a diagnosis.

16 16. Student failed to establish by a preponderance of the evidence that the
17 creation and posting of the video had a direct and substantial relationship to Student’s
18 [REDACTED]. There was no evidence that Student engaged in conduct at school that caused
19 others to feel physically intimidated or in danger. The record does not show that Student
20 threatened to hurt or kill people. Petitioner suggested that being on a list of “people I
21 dislike” might cause a student to feel intimidated, but no District witness agreed with this
22 characterization. Being on a list of “people I dislike” is nothing like being depicted in a
23 video being shot in the head and falling to the side. Similarly, throwing a backpack in
24 frustration – even when the act breaks the Chromebook inside the backpack – is
25 completely different than creating a video of shooting multiple people and burning school
26 buildings with screaming children inside. The behaviors that Student exhibited at school
27 were sometimes inappropriate and did not reflect social norms. But they were not
28 aggressive, threatening or intimidating.

29 17. It was undisputed that Student has fixations and perseverates on past
30 events. However, Student provided no written or testimonial evidence from a medical
professional to show that fixations and perseverating causes a an individual with [REDACTED] \to

1 threaten to kill others and destroy buildings. Student failed to establish that Student's
2 fixations, perseverating on past events, violation of boundaries concerning hair and the
3 belongings of others, significantly impaired his ability to refrain from creating a video that
4 shows him killing others and destroying buildings.

5 18. Parent's testimony regarding her son's lack of understanding carries little
6 weight as she provided contradicting testimony during the hearing regarding Student's
7 understanding of what it means to scare others. Parent asserted that Student did not
8 know the definition of scare while also stating that Student created the video because he
9 wanted to scare other children the way that they scare him.

10 19. Perseveration on past perceived injustices is not the same as seeking
11 revenge for those injustices. While Student may misread social cues and have difficulty
12 with perspective taking, this results in confusion, withdrawal, or social misperception, but
13 not targeted threats or well-planned hostile acts. Student's language delays, stuttering
14 and disfluency affect his ability to articulate ideas clearly and may lead to frustration, but
15 these delays do not produce intentionally violent behavior.

16 20. Furthermore, in making the Video, Student clearly communicated as he
17 intended. Student's distracted and off-task behavior profile did not cause him to engage
18 in the well-planned, time-consuming task of creating the Video and promoting its
19 upcoming release. The Video was purposeful communication that successfully conveyed
20 the desired message and intention. Student displayed an awareness of the intimidating
21 nature of the content and understood that what he did was wrong.

22 21. Accordingly, the Administrative Law Judge concludes that Respondent
23 properly determined that Student's conduct was not caused by his [REDACTED] as alleged by
24 Student in the due process complaint. Therefore, the complaint should be dismissed.

25 **CONCLUSION**

26 Because the evidentiary record does not demonstrate any violation of the
27 IDEA by Respondent and, therefore, no remedies would be fashioned, the Administrative
28 Law Judge does not address Petitioners' requested remedies. The Administrative Law
29 Judge concludes that Petitioners' Complaint shall be dismissed.
30

RULING

Based on the findings and conclusions above,

IT IS HEREBY ORDERED that Petitioners' Complaint is dismissed in its entirety.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to 20 U.S.C. § 1415(i) and A.R.S. § 15-766(E)(3), this Decision and Order is the final decision at the administrative level. Furthermore, any party aggrieved by the findings and decisions made herein has the right to bring a civil action, with respect to the complaint presented, in any State court of competent jurisdiction or in a district court of the United States. Pursuant to Arizona Administrative Code § R7-2-405(H) (8), any party may appeal the decision to a court of competent jurisdiction within thirty-five (35) days of receipt of the decision.

Done this day, January 3, 2026.

/s/ Velva Moses-Thompson
Administrative Law Judge

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