

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 [REDACTED] a Student, by and through Parents [REDACTED]
3 [REDACTED],
4 Petitioners,
5 v.
6 Chandler Unified School District,
7 Respondent.

No. 25C-DP-054-ADE

**ADMINISTRATIVE LAW JUDGE
DECISION**

8 **HEARING:** July 18, 2025, at 9:00 a.m., followed by review of the official record
9 captured July 18, 2025, and review of closing arguments received on August 25, 2025.

10 **APPEARANCES:** [REDACTED] appeared on behalf of [REDACTED]
11 (“Student”), [REDACTED] (jointly as “Parents,” collectively as “Petitioners”).
12 Attorney Jennifer MacLennan, Esq. of Gust Rosenfeld, PLC appeared on behalf of
13 Chandler Unified School District (“Respondent”).

14 **WITNESSES:**

- 15 Marisa Armendariz – **Psychologist M.A.**
- 16 Dr. Brian Sullivan – **Psychologist B.S.**
- 17 Briana Munoz – **Science Teacher**
- 18 Dr. Susan Armpriester – **Lead Psychologist S.A.**
- 19 Matthew Graham – **Special Education Teacher**
- 20 John Marciliones – **Special Education Chairperson, and**

21 **OBSERVERS:**

- 22 [REDACTED] – Parent [REDACTED]
- 23 [REDACTED] – Parent [REDACTED]
- 24 Kym Marshall

25 **ADMINISTRATIVE LAW JUDGE:** Jenna Clark.

26 **HEARING RECORD:**

27 Certified Court Reporter transcriptionist services waived. Audio captured via
28 Google Meet™ and held by the Office of Administrative Hearings (“OAH”).

29 **EXHIBITS ADMITTED INTO EVIDENCE:** The NOTICE OF HEARING, April 04, 2025,
30 Special Education Due Process Complaint (“COMPLAINT”), April 10, 2025, PreHEARING
ORDER, May 02, 2025, Petitioners Exhibits 1, 3-6, and 8-10, Respondent Exhibits A-M
and O-R, and May 27, 2025, ORDER GRANTING CONTINUANCE, and the parties’ CLOSING
ARGUMENTS were admitted into the evidentiary record.

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

4 The law governing these proceedings is the IDEA found at 20 United States Code
5 (“U.S.C.”) §§ 1400-1482 (as re-authorized and amended in 2004),¹ and its implementing
6 regulations, 34 Code of Federal Regulations (“C.F.R.”) Part 300, as well as the Arizona
7 Special Education statutes, Arizona Revised Statutes (“ARIZ. REV. STAT.”) §§ 15-761
8 through 15-774, and implementing rules, Arizona Administrative Code (“ARIZ. ADMIN.
9 CODE”) R7-2-401 through R7-2-406.

10 **PROCEDURAL HISTORY**

11 On or about April 04, 2025, Petitioners filed their COMPLAINT to the Arizona
12 Department of Education (“Department”) that alleged four (4) violations of the IDEA
13 against Respondent. On April 10, 2025, the Department issued a NOTICE OF HEARING
14 setting the matter for hearing at 9:00 a.m. on May 19, 2025, before OAH, an independent
15 state agency.²

16 On May 02, 2025, Petitioners submitted an amendment to COMPLAINT item 3. On
17 May 13, 2025, Respondent submitted a MOTION TO DISMISS Petitioners’ amended
18 complaint item. On May 16, 2025, Petitioners submitted a MOTION TO CONTINUE. On May
19 27, 2025, the Tribunal issued an ORDER GRANTING CONTINUANCE which reset the matter
20 for hearing on July 18, 2025, and also granted Respondent’s motion to strike COMPLAINT
21 item 3 in its entirety under the legal doctrine of *res judicata*.

22 **ISSUES AT HEARING**

23 Based on a review of the COMPLAINT, the Administrative Law Judge (“ALJ”)
24 determined the following issues were raised for determination at the due process hearing:

25 **(1) Failure to properly consider Independent Educational Evaluation (“IEE”)**
26 **under 34 C.F.R. § 300.502(c)(1).** Specifically, Petitioner alleges that Respondent
27 dismissed a report based on its disagreement with the IEE evaluator’s
28 interpretation rather than deficiency in methodology.

29 ¹ 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.

² On April 20, 2023, the matter was continued and set for a STATUS UPDATE on May 05, 2023, which was
extended through May 19, 2023.

1 (2) **Inadequate Prior Written Notice (“PWN”) under 34 C.F.R. § 300.503.**
2 Specifically, Petitioner alleges that the District’s March 03, 2025, PWN, issued after
3 its consideration of the IEE, failed to reference specific legal or methodological
4 grounds for rejecting the IEE. Petitioners contend that the District’s rationale was
5 vague and based on limited teacher commentary, and devoid of analytical
6 academic data.

7 (3) [Stricken]

8 (4) **Denial of FAPE under 34 C.F.R. § 300.101.** Specifically, Petitioner alleges
9 that the District failed to address Student’s Attention-Deficit Hyperactivity Disorder
10 (“ADHD”) diagnosis, including any adverse impact it had on Student’s ability to
11 access the general curriculum, and that the District denied supports aligned with
12 Student’s executive function related needs.

13 **REQUESTED REMEDIES**

- 14 • Reinstatement of OHI eligibility recognizing ADHD-related impairments and
15 qualifying Student for appropriate services.
- 16 • Revision of Individualized Education Program (“IEP”) goals and services targeting
17 Student’s organization, task initiation, time management, and sustained attention.
- 18 • Implementation of accommodations for Student including extended time, visual
19 schedules, task chunking, and frequent check-ins.
- 20 • A formal acknowledgment of the IEE in a statement that the evaluation has been
21 fully reviewed and considered.

22 _____
23 The Tribunal has considered the entire hearing record, including witness testimony
24 and admitted exhibits, and now makes the following Findings of Fact, Conclusions of Law,
25 and Ruling finding that Petitioners have failed to demonstrate that Respondent
26 substantively or procedurally violated the IDEA through the aforementioned allegation(s)
27 set forth in the Complaint. Petitioners’ requested remedies are denied. The credible and
28 material evidence of record is as follows:
29
30

1 **FINDINGS OF FACT**

2 **BACKGROUND**

3 1. Student (DOB [REDACTED]) was first identified as eligible for special
4 education and related services on January 03, 2022, during her [REDACTED] grade year, under the
5 Specific Learning Disability (“SLD”) and Other Health Impairment (“OHI”) educational
6 categories.³ The start of the 2023-24 academic term commenced Student’s [REDACTED] grade year
7 at Basha High School.⁴

8 **HEARING EVIDENCE**

9 2. On November 20, 2024, Student’s multidisciplinary evaluation team (“MET”)
10 convened to review existing data to determine whether additional information was needed
11 to determine eligibility or special education services in Student’s OHI educational
12 category.⁵ After a review of available information, the MET determined that Student was
13 eligible for special education services under the SLD category, but also determined that
14 additional data was needed in order to determine Student’s eligibility under the OHI
15 category for symptoms related to ADHD.

16 3. On November 20, 2024, a PWN was issued to Parents for the MET to
17 explore symptoms related to ADHD and determine eligibility for special education
18 services, educational planning, and academic interventions for the OHI educational
19 category.⁶

20 4. On November 22, 2024, Student was assessed separately by Psychologist
21 B.S.⁷ and Parents under the Conners 4 Scales (“Conners”).⁸ Student scored in the
22 average range in all categories.⁹ Psychologist B.S. noted the following in the Conclusion
23 section of his evaluation:

24 **Statement of Potential Eligibility for Special Education**

25 [OHI]: The student meets the criteria of an educational disability under the
26 educational classification of [OHI]. The determination of eligibility for special
27 education is based on an evaluation pursuant to the IDEA, A.R.S. 15-766 and the
28 following requirements: (1) The student has a health impairment that limits his/her

29 ³ See Respondent Exhibit L; see also Petitioners’ Exhibits 3-6.

30 ⁴ See Respondent Exhibit A.

⁵ See Respondent Exhibit B.

⁶ See Respondent Exhibit J.

⁷ See Respondent Exhibit O.

⁸ See Respondent Exhibit B.

⁹ *Id.*

1 strength, vitality, or alertness (including a heightened alertness to environmental
2 stimuli that results in limited alertness with respect to the educational environment)
3 that is due to chronic or acute health problems including but not limited to asthma,
4 attention deficit disorder, diabetes, epilepsy, or heart conditions. The health
5 impairment adversely affects performance in the educational environment. (2) The
6 health impairment has been verified by a qualified professional. (3) The student
7 was evaluated in all other areas related to the suspected disability. Note: A student
8 shall not be determined to be a student with a disability if the determinant factor is
9 lack of appropriate instruction in language arts (including the essential components
10 of reading instruction), lack of appropriate instruction in math, or limited English
11 proficiency. The Multidisciplinary Team (MET) will convene to determine eligibility.

12 [SLD]: The student meets the criteria of an educational disability under the
13 educational classification of [SLD]. [SLD] means a disorder in one or more of the
14 basic psychological processes involved in understanding or in using language,
15 spoke or written, that may manifest itself in the imperfect ability to listen, think,
16 speak, read, write, spell, or to do mathematical calculations, including conditions
17 such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia,
18 and developmental aphasia. (ii) Disorders not included. [SLD], of [intellectual
19 disability], of emotional disturbance, or of environmental, cultural, or economic
20 disadvantage. [34 C.F.R. 300.8(c)(10)]¹⁰
21 (*Emphasis and errors in original.*)

22 Parent's ratings from in-home observations did not correlate with any behaviors observed
23 in the school setting, as they included descriptors that corresponded with DSM-5 criterion
24 for ADHD, Oppositional Defiant Disorder, and Conduct Disorder.¹¹

25 5. On December 03, 2024, Student was also assessed by Science Teacher
26 using Conners. Analysis showed no significant difference in Student's
27 inattention/executive dysfunction, hyperactivity, impulsivity, or emotion dysregulation
28 categories.¹²

29 6. On December 04, 2024, the MET team convened to review existing data,
30 teacher evaluations, and the Conners results for Student. Ultimately, the MET determined
that Student was not eligible for special education services under the OHI category due
to her evaluation scores, educational history, behavioral observations, assessments,
functional performance, test scores and other academic data which failed to demonstrate

¹⁰ *Id.*

¹¹ *Id.* Notably, Parent █████ marked her agreement with the MET's eligibility evaluation determination(s), while Parent █████ noted his disagreement.

¹² See Respondent Exhibit R.

1 any exhibited symptoms of ADHD in the school setting.¹³ The MET also determined that
2 the need for Assistive Technology services and devices were not needed to increase,
3 maintain, or improve Student’s functional capabilities.¹⁴

4 7. On December 04, 2024, a PWN was issued to Parents by the MET to
5 provide notice that Student was eligible for special education services solely under the
6 SLD category, as they removed the OHI category because the evaluation had not
7 provided evidence that Student’s ADHD-related learning difficulties in the school setting.¹⁵

8 8. On December 04, 2024, Student’s current IEP was drafted.¹⁶ Student’s
9 least restrictive environment (“LRE”) remained unchanged at Level A, with 80% or more
10 of Student’s day being inside the general education classroom. The IEP contained the
11 same accommodations as Student’s prior IEP,¹⁷ save an accommodation for use of a
12 calculator for examinations being removed, and an accommodation for access to
13 headphones for reading being added.

14 9. On January 14, 2025, Petitioners requested an IEE for Student, which was
15 granted.¹⁸ Student was assessed from January 31, 2025, through February 12, 2025.¹⁹

16 10. On February 12, 2025, Psychologist M.A. completed her evaluation of
17 Student using data obtained from interviewing Student, parental feedback, the
18 administration of six (6) different scales, and classroom observations.²⁰ In her summary
19 section, Psychologist M.A. noted that Student “[did] not appear to present with sufficient
20 symptoms to meet all DSM-5 diagnostic criteria for ADHD,” but recommended that
21 Student be found eligible for special education services under the OHI category based on
22 her prior diagnosis.²¹

24 ¹³ See Petitioners’ Exhibit 10.

25 ¹⁴ *Id.*

26 ¹⁵ *Id.*

27 ¹⁶ See Respondent Exhibit C.

28 ¹⁷ See Petitioners’ Exhibit 9.

29 ¹⁸ See Respondent Exhibit E.

30 ¹⁹ See Respondent Exhibit G; see also Petitioners’ Exhibit 1.

²⁰ *Id.*

²¹ *Id.* Notably, the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (“DSM-5”) is a handbook published by the American Psychiatric Association that contains criteria for diagnosing over 70 mental disorders. It serves as a clinical tool to standardize diagnoses and guide treatment, incorporating scientific advancements and addressing limitations of previous versions.

1 a. On January 31, 2025, Parents were interviewed by Psychologist M.A. At
2 that time, Parents reported that Student often had late and/or missing
3 assignments, had a history of difficulty maintaining friendships, and would
4 occasionally display a negative attitude when upset.

5 i. Parents did not provide Psychologist M.A. with medical
6 documentation from a mental healthcare provider or primary
7 healthcare provider to corroborate Student's alleged ADHD and
8 Dyslexia diagnoses.

9 b. On February 01, 2025, Student was interviewed by Psychologist M.A.
10 Student offered that she has difficulty managing multiple assignments and
11 gets overwhelmed, leading to late and missing work. Student described
12 herself as "socially awkward," but noted that she put herself "out there" in
13 order to make friends.

14 c. On February 04, 2025, February 05, 2025, and February 07, 2025, Student
15 was observed in her Biology, English, and Geometry classes, respectively,
16 for a total of 1-hour and fifty (50) minutes. Overall, Student was noted to be
17 focused, on-task, receptive to offers of assistance, making voluntary
18 transitions with ease, and being generally pleasant.

19 11. On February 26, 2025, a Meeting Notice was issued to Parents for the MET
20 to review the IEE on March 03, 2025.²²

21 12. On March 03, 2025, the MET, along with Psychologist B.S. and Lead
22 Psychologist S.A., convened to review the IEE whereby it was determined that the report
23 did not provide any additional data or identify any areas of concern or educational impact
24 to support including OHI as a special education eligibility category for Student.²³ It was
25 specifically noted that no new information was provided that would signal the need to add
26 OHI to Student's IEP.²⁴

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²² See Respondent Exhibit H.

30 ²³ See Respondent Exhibit I.

²⁴ *Id.*

1 Student's teachers reported issues with Student's work initiation or organization. Student
2 was noted as being able to follow multi-step instructions, and being able to complete
3 assignments with support. No concerns regarding inattentiveness or difficulty regulating
4 emotions were noted for Student.

5 16. Lead Psychologist S.A. testified that "raw" scores are unreliable and are not
6 considered best practice. Psychologist M.A., who did not review any of Student's medical
7 records, admitted to using raw scores to make her underlying recommendation(s).

8 17. Student's 2024-25 Report Card, for Quarters 1-3, reflects a cumulative 2.87
9 GPA.²⁶ Student's 2024-25 Report Card for the 4th Quarter reflects an in-progress GPA of
10 3.25.²⁷

11 18. Special Education Chairperson testified that Student missed four (4) days
12 of school due to illness and having oral surgery, and noted that it took a while for her to
13 regain her energy – resulting in a number of missed assignments.²⁸ Special Education
14 Chairperson also testified that a unsuccessful attempts were made on March 25, 2025,
15 and March 28, 2025, to schedule a meeting with Parents to review Student's IEP after the
16 IEE was conducted, but that they were non-responsive.²⁹

17 **CLOSING ARGUMENTS**

18 19. In closing, Respondent argued that it had complied both procedurally and
19 substantively with the IDEA, and had provided Student with a FAPE at all times during
20 her enrollment at Basha High School. Respondent beseeched the Tribunal to dismiss the
21 underlying complaint.

22 20. In closing, Petitioners argued that the IEE triggered reevaluation, not simply
23 a review of Student's IEP. Per Petitioners, Respondent was required to convene the MET
24 to review existing data and determine what additional data, if any, is needed for review,
25 and to issue a reasoned eligibility determination based on said reviews. Petitioners
26 argued that the record was devoid of evidence to establish that Respondent conducted a
27 reevaluation or compared the IEE to data used in Student's December 2024 evaluation.
28 Petitioners also argued that Respondent did not properly consider IEE because it failed

29 ²⁶ See Respondent Exhibit M.

30 ²⁷ *Id.*

²⁸ See Respondent Exhibits M and Q.

²⁹ See Respondent Exhibit Q.

1 to (1) compare IEE executive functioning scores to the District’s earlier data; (2) conduct
2 an analysis of how executive functioning deficits explain ongoing assignment-completion
3 failures; or (3) provide a reasoned basis for calling the IEE “duplicative.” Petitioners
4 opined that the IEE identified significant executive-functioning deficits tied to Student’s
5 ADHD, in support of their position that OHI should not have been removed as Student’s
6 secondary category of special education eligibility. Ultimately, Petitioners asked for the
7 Tribunal to (1) order the MET to reconvene and reevaluate Student for eligibility under
8 OHI; (2) whereby a district-level expert be present to interpret the IEE; (3) wherein the
9 MET provides a written “crosswalk” comparison of IEE data and prior data to make an
10 eligibility determination, and (4) promptly reconvene the IEP team to add measurable
11 executive functioning goals if OHI is reinstated and consider compensatory services from
12 March 2025 onward as relief for what they considered to be Respondent’s substantive
13 and procedural IDEA violations.

14 **CONCLUSIONS OF LAW**

15 **APPLICABLE LAW**

16 1. Congress enacted the IDEA to ensure that all students with disabilities are
17 offered a FAPE that meets their individual needs.³⁰ The IDEA does not define the level of
18 education that must be provided, except that it must be “reasonably calculated to enable
19 the student to receive educational benefits.”³¹ Through the IDEA, Congress has sought
20 to ensure that all students with disabilities are offered a FAPE that meets their individual
21 needs.³² These needs include academic, social, health, emotional, communicative,
22 physical, and vocational needs.³³ To do this, school districts must identify and evaluate
23 all students within their geographical boundaries who may be in need of special education
24 and services. The IDEA sets forth requirements for the identification, assessment and
25 placement of students who need special education, and seeks to ensure that they receive
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28 ³⁰ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996).

29 ³¹ *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 201 (1982)

30 ³² 20 U.S.C. §1400(d); 34 C.F.R. § 300.1.

³³ *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.”³⁴

3 2. A FAPE consists of “personalized instruction with sufficient support services
4 to permit the child to benefit educationally from that instruction.”³⁵ 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.”³⁶ 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.”³⁷ The IDEA does not require that each student’s potential be
10 maximized.³⁸ 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.”³⁹

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.⁴⁰ 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.⁴¹ The IEP team must consider the strengths of
22 the student, concerns of the parents, evaluation results, and the academic,
23

24 ³⁴ *Rowley*, 458 U.S. at 200.

25 ³⁵ *Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 204 (1982).

26 ³⁶ *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).

28 ³⁷ *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ____ (2017).

29 ³⁸ *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 198 (1982).

30 ³⁹ *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)).

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

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

1 developmental, and functional needs of the student.⁴² 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,⁴³ 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.⁴⁴

7 4. The IEP team must consider the concerns of a student's parents when
8 developing an IEP.⁴⁵ In fact, the IDEA requires that parents be members of any group
9 that makes decisions about the educational placement of a student.⁴⁶

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.⁴⁷ The standard of proof is
12 "preponderance of the evidence," meaning evidence showing that a particular fact is "more
13 probable than not."⁴⁸

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.⁴⁹

17 7. Statutes should be interpreted to provide a fair and sensible result.⁵⁰ "In
18 applying a statute its words are to be given their ordinary meaning unless the legislature
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20

21 ⁴² 20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. §§ 300.324(a).

22 ⁴³ 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503.

23 ⁴⁴ 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 ⁴⁵ 20 U.S.C. § 1414(d)(3)(A)(ii); 34 C.F.R. §§ 300.324(a)(1)(ii).

25 ⁴⁶ 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.327 and 300.501(c)(1).

26 ⁴⁷ *Schaffer v. Weast*, 546 U.S. 49, 56 (2005).

27 ⁴⁸ *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).

⁴⁹ 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).

⁵⁰ 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.”⁵¹

3 8. The Tribunal is required to apply equitable principles when rendering
4 decisions.⁵² The application of equity entails offering a remedy to avoid an
5 unconscionable or unjust result.⁵³

6 9. This Tribunal’s determination of whether Student received a FAPE must be
7 based on substantive grounds.⁵⁴ A FAPE consists of “personalized instruction with
8 sufficient support services to permit the child to benefit educationally from that
9 instruction.”⁵⁵ Courts do not “substitute their own notions of sound educational policy for
10 those of the school authorities which they review.”⁵⁶ 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.⁵⁷

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.⁵⁸ If one of the three impediments listed has
18 occurred, the student has been denied a FAPE due to the procedural violation.

19 DECISION

20 11. Petitioners filed the DUE PROCESS COMPLAINT in this matter on April 04,
21 2025; thus, the relevant period of time for the issues at bar run between Student’s [REDACTED] and
22 [REDACTED] grade academic terms. Therefore, any actions or inactions that occurred before April
23 04, 2023, are beyond the limitations period.
24

25 _____
26 ⁵¹ *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 ⁵² *Seitz v. Industrial Commission of Arizona*, 184 Ariz. 599, 603 (Ariz. Ct. App., Div. 1, 1995).

28 ⁵³ *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 ⁵⁴ 20 U.S.C. § 1415(f)(3)(E)(i); 34 C.F.R. § 300.513(a)(1).

30 ⁵⁵ *Rowley*, 458 U.S. at 203.

⁵⁶ *Id.* at 206.

⁵⁷ *J.W. v. Fresno Unified Sch. Dist.*, 626 F.3d 431, 439 (9th Cir. 2010).

⁵⁸ 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 ***Issue #1 – Respondent’s alleged failure to properly consider Psychologist M.A.’s***
5 ***IEE of Student***

6 13. 34 C.F.R. § 300.321(a)(5) provides, in pertinent part, that the public agency
7 must ensure that the IEP Team for each child with a disability includes an individual who
8 can interpret the instructional implications of evaluation results.

9 14. 34 C.F.R. § 300.502(c)(1) provides that if a parent obtains an IEE at public
10 expense, or shares with the public agency an IEE obtained at private expense, the results
11 of the evaluation must be considered by the public agency, if it meets agency criteria, in
12 any decision made with respect to the provision of FAPE to the child.

13 15. Petitioners’ argument that the underlying IEE triggered a mandatory
14 reevaluation of Student’s IEP is erroneous. An IEE triggers a mandatory review of a
15 student’s IEP under the IDEA, requiring the school to "consider" its results when making
16 educational decisions. The school is not obligated to adopt every recommendation
17 contained in the IEE. Instead, the IEP team must genuinely review and discuss the IEE’s
18 findings and determine how, if at all, they impact the student’s services, placement, and
19 educational program.

20 16. Both Psychologist B.S. and Lead Psychologist S.A. independently reviewed
21 the underlying IEE for the District and determined that the report did not provide any
22 information to support a determination that OHI would be an appropriate inclusion in
23 Student’s IEP as a special education eligibility category, or that the report identified one
24 or more areas of concern to reasonably conclude that Student’s education would be
25 adversely impacted by failing to do so. There is no evidence in the record to suggest that
26 neither was qualified or otherwise capable of interpreting the instructional implications of
27 the IEE, or that the District did not carefully review, weigh, and/or scrutinize (i.e. consider)
28 the substance of the report before choosing not to rely on Psychologist M.A.’s
29 recommendation that Student be found eligible for special education services under the
30 OHI category. The District. In fact, the District relied on Psychologist M.A.’s determination
that Student “[did] not appear to present with sufficient symptoms to meet all DSM-5

1 diagnostic criteria for ADHD,” which was corroborated by her teachers’ observations.
2 Student was noted as being able to follow multi-step instructions, complete assignments
3 with support, and get back on task after distraction(s) without redirection. None of the
4 evaluators expressed concerns regarding Student being inattentive or having difficulty
5 regulating her emotions. Most notably, there was no evidence presented to establish an
6 ADHD diagnosis for Student, or that she ever exhibited ADHD-related learning difficulties
7 in the school setting.

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

10 ***Issue #2 – Respondent’s alleged failure to provide Parents with a legally sufficient***
11 **PWN**

12 18. 34 C.F.R. § 300.503(a) provides that written notice must be given to
13 the parents of a child with a disability a reasonable time before the public agency either
14 proposes or refuses to initiate or change the identification, evaluation, or educational
15 placement of the child or the provision of FAPE to the child.

16 19. 34 C.F.R. § 300.503(b) provides that notice must include (1) a description
17 of the action proposed or refused by the agency, (2) an explanation of why the agency
18 proposes or refuses to take the action, (3) a description of each evaluation procedure,
19 assessment, record, or report the agency used as a basis for the proposed or refused
20 action, (4) a statement that the parents of a child with a disability have protection under
21 the procedural safeguards of this part and, if this notice is not an initial referral
22 for evaluation, the means by which a copy of a description of the procedural safeguards
23 can be obtained, (5) sources for parents to contact to obtain assistance in understanding
24 the provisions of this part, (6) a description of other options that the IEP Team considered
25 and the reasons why those options were rejected, and (7) a description of other factors
26 that are relevant to the agency's proposal or refusal.

27 20. 34 C.F.R. § 300.503(c)(1) provides that notice must be written in language
28 understandable to the general public, and provided in the native language of the parent or
29 other mode of communication used by the parent, unless it is clearly not feasible to do
30 so.

1 21. Respondent's March 03, 2025, PWN unquestionably complied with all
2 aforementioned regulations. The PWN succinctly explained that the District would not
3 convene a MET to modify Student's special education eligibility based on Psychologist
4 M.A.'s IEE results because the report did not provide any new information that would
5 signal a need to add OHI as a qualifying category. The evaluation means and evaluators
6 were identified, and the notice itself was not issued in an untimely manner. The language
7 was clear and unambiguous. Petitioners' argument that the PWN did not reference "legal
8 or methodological grounds" is an impermissible attempt to expand regulatory
9 requirements. Additionally, Petitioners' argument that the PWN used "vague rationale" is
10 refuted by the very face of the document.

11 22. Petitioners failed to sustain their burden of proof as to this allegation. No
12 procedural or substantive due process violation exists.

13 ***Issue #4 – Respondent's alleged Denial of FAPE to Student***

14 23. 34 C.F.R. § 300.101 provides, in pertinent part, that a FAPE must be
15 available to all children residing in the State between the ages of 3 and 21, including
16 children with disabilities. Each State must ensure that FAPE is available to any individual
17 child with a disability who needs special education and related services, even though the
18 child has not failed or been retained in a course or grade, and is advancing from grade to
19 grade.

20 24. As previously addressed, Petitioners did not provide any medical evidence
21 to substantiate the assertion that Student was ever diagnosed with ADHD and admitted
22 that Student has never been prescribed medication to mitigate or manage ADHD-related
23 symptoms. Regardless, Respondent clearly accepted Parents' avowal of such, and
24 conducted an evaluation of Student in order to determine whether Student exhibited
25 ADHD-related learning difficulties in the school setting. Ultimately, it was determined that
26 Student did not satisfy DSM-5 diagnostic criteria for ADHD, and that she did not exhibit
27 ADHD-related learning difficulties in the school setting sufficient to warrant inclusion of
28 OHI category and associated supports in her IEP to provide access the general education
29 curriculum. There are no executive function deficiencies noted in the record for Student
30 beyond subpar organizational skills. No adverse impact exists.

NOTICE OF RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to 20 U.S.C. § 1415(i)(1)(A), 34 C.F.R. §§ 300.514(b) and 300.516, and ARIZ. REV. STAT. § 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 ARIZ. REV. 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.

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

Jeffrey Studer, Director of Dispute Resolution
Arizona Department of Education
3300 N. Central Ave, 24th Fl.
Phoenix, AZ 85012
Jeffrey.Studer@azed.gov
Laura.Boever@azed.gov



Jennifer N. MacLennan, Esq.
Brittany Reed, Esq.
Gust Rosenfeld, PLC, Counsel for Respondent
One E. Washington St., Ste. 1600
Phoenix, AZ 85004-2553
maclennan@gustlaw.com
reed@gustlaw.com

By: OAH Staff