

**INDIVIDUALS WITH DISABILITIES EDUCATION ACT
STATE-LEVEL APPEAL**

STATE OF SOUTH CAROLINA	)	
	)	
	)	
G.J. (Parent) on behalf of Z.B.	)	
(Student)	)	
	)	
Petitioner,	)	
	)	MITCHELL YELL
v.	)	STATE-LEVEL REVIEW OFFICER
	)	
	)	
Florence County School District One,	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	

This matter is before me pursuant to an appeal of the Local Due Process Hearing Officer (“LHO”), Brian P. Murphy’s July 1, 2024, ruling that Parent had established no substantive violation of the Individuals with Disabilities Education Act (IDEA). The South Carolina Department of Education (“SCDE”) received the Petitioner’s appeal of the LHO’s orders on July 3, 2024.

On July 5, 2024, I was appointed as the state-level review officer (“SRO”) in the appeal. Parents and District were notified of my agreement to serve as SRO on the same day. Petitioners were represented by G.J. (“Parent”) on behalf of her minor son, Z.B. (“Student”) and the Florence County School District One (“District”) was represented by Kimberly Kelley Blackburn and Vernie L. Williams of Halligan Mahoney & Williams. The SCDE also notified

the parties that in accordance with the IDEA and federal regulations¹ the state is required to ensure that no later than thirty days after the receipt of a request for a review, a final decision is reached in the review and a copy of the decision is mailed to each of the parties. Based on the SCDE's receipt of the request for appeal on July 3, 2024, the due date for the final decision on appeal was established as August 2, 2024.

As the SRO, I have jurisdiction in this matter pursuant to a letter of appointment from the SCDE. I have the knowledge and ability to render and write decisions in accordance with the appropriate, standard legal practices. To ensure the rights of the parties pursuant to the IDEA, on July 7, 2024, I emailed the District and Petitioners (copied to the SCDE) a request that the parties adhere to the following schedule in submitting briefs to me: Parents brief due July 18, 2024, District brief due July 21, 2024, Parent's reply brief, if needed, due July 23, 2024. I received Parent's and District's briefs and exhibits in a timely manner. Parent did not submit a reply brief.

STANDARD OF REVIEW

In the two-tier due process system used in South Carolina, the SRO's (Tier Two) review of an LHO's (Tier One) ruling is limited to the issues appealed.² An SRO is to make an independent decision, although the decision must be based on the record of the hearing, the exhibits presented, and the applicable law and regulations. According to the U.S. Court of Appeals for the 4th Circuit, if the LHO and SRO arrive at different conclusions, the SRO must provide sound reasons for departing from the LHO's ruling.³

PROCEDURAL HISTORY

April 26, 2024

Due process hearing requested by parent.

The parent alleged that the following procedural violations were committed by District:

- Failure to adhere to state-mandated timelines.

¹ 34 C.F.R. § 300.5

15(b).

² 34 CFR §300.514.

³ Springer v. Fairfax County School Board, 134 F.3d 659, 663, 4th Cir. 1998

- Failure to allow parents to meaningfully participate in the individualized education program (IEP) development process and educational decision making.
- Failure to conduct and complete individualized evaluations.
- Failure to devise an appropriate IEP based on the child's individual needs.
- Failure to implement the IEP as written.
- Failure to maintain proper records.
- Failure to train staff and aides in the child's area of disability.
- Failure to train parents in the child's areas of disability.
- Failure to provide records within 45 days when requested by parents.
- Failure to offer extended school year (ESY) services to the child, resulting in regression of skills during the summer vacation that cannot be recouped quickly.
- Failure to allow the special needs child to participate in extracurricular activities to the same extent as his nondisabled peers when the child could participate with accommodations provided by the school.
- Failure by the school to notice that the child needed special education services, despite evidence that the child was struggling academically or behaviorally.

The parent alleged that the following substantive violations were committed by District:

- Failure to assess the student's academic and functional needs.

- Failure to conduct a complete and individualized evaluation of the student's needs.
- Failure to develop annual goals based on the student's needs.
- Failure to write goals that are challenging, ambitious, complete, appropriate, and measurable.
- Failure to provide special education and related services that are effective and based on peer-reviewed research.
- Failure to provide special education services that address all of the student's educational needs.
- Failure to monitor the student's progress toward his goals and make changes when necessary.
- Failure to include all of the student's educational needs in the Present Levels of Academic Achievement and Functional Performance (PLAAFP).
- Failure to adhere to the continuum of alternative placements.
- Failure to implement material parts of the IEP.

June 6, 2024

Due Process Hearing-Day 1 10:00 am to 4:15 pm.

June 7, 2024

Due Process Hearing-Day 2 10:00 am to 4:10 pm.

June 17, 2024

Due Process Hearing-Day 3 (Video Conference) 3:04 pm to 3:54 pm.

July 1, 2024

LHO filed his final order. He found that "Parent has not shown that the IEPs for 2023-24 were not reasonably calculated to provide sufficient education benefits" (LHO Final Order, July 1, 2024, p. 6). LHO notes that according to

the U.S. Supreme Court in *Schaffer v. Weast* (2005) the burden of proof lies with the party bringing the challenge, which in this case is the parent. Thus, the parent did not prove the District denied FAPE. The LHO further found that parent did not focus on the proper standard and that “Parent has proven that the IEP team does not agree with her or always do what she wants and how she wants it done. But that does not even suggest a violation of the IDEA absent proof that what she wants is needed to provide FAPE” (LHO final order, July 1, 2024, p. 7).

July 3, 2024

Parent sent an email notifying SCDE of her intent to appeal.

July 5, 2024

The SCDE sent an email to Parent and District announcing that on July 3, 2024, Parent notified SCDE and District of the receipt of Parent’s request to appeal the decision of LHO. The SCDE also notified Parent and District that Dr. Yell was the appointed SRO. She also notified parties that August 2, 2024, was the due date for issuance of the SRO’s decision.

DISCUSSION

As the SRO, it is my task to examine the record and arrive at an independent decision.⁴ Additionally, the SRO must exercise plenary review and make an independent decision while giving due deference to the LHO’s findings unless the evidence in the record justifies a contrary conclusion.⁵ The LHO or SRO should not substitute their own notions of sound educational policy for those of local school authorities.⁶ I reviewed the briefs, transcripts, exhibits, and LHO’s

⁴ 34 C.F.R. § 514 (b)(2).

⁵ *Doyle v. Arlington County School Board*, 953 F.2d 105 (4th Cir. 1998).

⁶ *M.S. ex.rel Simchick v. Fairfax County School Board*, 553 F.3d 315, 326 (4th Cir. 2009).

order of July 1, 2024. I find that the rulings made by LHO, Brian P. Murphy, were consistent with the requirements of the IDEA.⁷ The hearing was conducted in an exemplary manner with Parent and District allowed to present evidence, examine and cross examine witnesses, and submit closing arguments. Moreover, LHO attempted on a number of occasions to provide advice to pro se Parent.

Prior to turning to the ruling, I will comment on four issues of importance that informed my decision. First, it is perfectly permissible for parents to represent themselves in such matters (i.e., pro se) and in this situation Parent is to be commended for her strong advocacy for her son. Although pro se parties are held to less stringent standards they must, nonetheless, adhere to the requirements of the law.

Second, according to the U.S. Supreme Court in *Schaffer v. Weast* (2005),⁸ the party that is seeking relief in IDEA cases bears the burden of persuasion.⁹ The burden of persuasion is important because the party that bears this burden must convince the trier of fact (here the LHO), of the correctness of their position. If the trier of fact is not convinced by the evidence they present, the party seeking relief will most likely lose the hearing or case. Before the Supreme Court took this case, it was heard by the U.S. Court of Appeals for the Fourth Circuit as *Weast v. Shaffer*.¹⁰ The fourth circuit relied on what the court called the “normal rule,” which holds that when a statute, such as the IDEA, is silent as to the burden of persuasion, the burden of persuasion is normally placed on the party initiating the hearing and seeking relief.¹¹ In *Weast v. Shaffer*, the parents initiated the proceeding challenging a school’s IEP; therefore, the court placed the burden of persuasion on the parents. The fourth circuit ruled in favor of the school district and the U.S. Supreme Court affirmed the fourth circuit court’s ruling. With respect to this matter, because Parent challenged the District and initiated the hearing, she bore the burden of persuasion. Thus, it was the responsibility of Parent to present evidence to the LHO to convince him of the correctness of Parent’s position.

⁷ 34 C.F.R. § 514 (b)(2)(ii).

⁸ 546 U.S. 49. (2005).

⁹ The term burden of proof is often used to represent the ruling in *Schaffer*, although that term includes the burden of production and the burden of persuasion, the Supreme Court’s decision in *Schaffer* addressed only the burden of persuasion. See 546 U.S. 51.

¹⁰ 377 F.3d 449 (4th Cir. 2004)

¹¹ ID at 453.

Third, the District’s brief of July 21, 2024, noted that when an LHO finds a violation has occurred, he or she must determine if it was a procedural or substantive violation (District brief, July 21, 2024, p. 15). The IDEA includes a number of procedural protections for parents and their children. Although the law is not as specific on the substantive requirements, it does require that when ruling on a complaint under the IDEA, “a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.”¹² Moreover,

In matters alleging a procedural violation, a hearing officer that a child did not receive a free appropriate public education only if the procedural inadequacies (I) impeded the child’s right to a free appropriate public education; (II) significantly impeded the parents’ opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents’ child; or (III) caused a deprivation of educational benefits.¹³

In this statutory divide, Congress codified a distinction that courts had drawn between procedural and substantive violations of the IDEA and clearly, a hearing officer was given the authority to distinguish between procedural and substantive violations. Although the substantive requirements of the IDEA are not clearly delineated in the law as are the procedural requirements, it is generally agreed that a substantive violation arises under the IDEA when the substantive content of a student’s IEP is insufficient to provide him or her a FAPE. In *Endrew F. v. Douglas County School District RE-1*, the U.S. Supreme Court explained the substantive requirement as follows: “To meet its substantive obligations under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”¹⁴ Zirkel interpreted the substantive dimension of FAPE as “focused on the adequacy of the IEP in terms of its likely or actual results.”¹⁵

During the hearing, the LHO relying on the procedural and substantive distinction in the IDEA, explained to Parent on a number of occasions the importance of addressing the substantive issues in the case:

¹² 20 U.S.C. § 1415(f)(3)(E)(i).

¹³ 20 U.S.C. § 1415(f)(3)(E)(ii).

¹⁴ 580 U.S. 386, 397.

¹⁵ Zirkel, P.A. (2017). Failure to implement the IEP: The third dimension of FAPE under the IDEA. *Journal of Disability Policy Studies*, 28(3), 174-179.

- “Because you understand, I’ve made this point to you several times before that there’s a difference between procedural and substantive...But we’re spending a lot of time on the process and I’d really like us to get to what the substantive problems are, if there are any” (Hearing transcript, June 6, 2024, p. 136: 14-24).
- “So much of your testimony, if not almost all of it or all of it, has testified on communications within the IEP team and to District people and I wanted this and I said this and did I say this...What I have not yet heard much evidence on is what substantively has been the problem this year...But what I’m primarily concerned about now is what, if any, substantive problems were there rather than any back and forth about I asked for this and I didn’t get it when I wanted it” (Hearing transcript, June 7, 2024, p. 356: 4-24).
- “you’ve had many orders from me...where I explained the difference between a procedural violation and a substantive violation. I don’t make the law, but as you know the hurdle is pretty high to show a procedural violation is a substantive—leads to substantive harm under the IDEA. So please, if you will, focus on what substantively went wrong this year” (Hearing transcript, June 7, 2024, p. 357: 1-12).

At the end of the evidence phase of the hearing, LHO discussed the post-hearing submissions and suggested topics to be addressed. The LHO again focused on imparting to Parent the importance of addressing substantive issues: “What I am telling you is what I would find particularly helpful, and that is focusing on substantive issues, okay, not so much the process, or who said what, or when did I request this, or did I say this in a meeting. I’m still struggling, to be honest with you [], figuring out substantively what went wrong this past year and that’s what I’d like you to focus on” (Hearing transcript, June 8, 2024, p. 527: 11-20).

The LHO relates that in the closing submission, Parent made the following three references to FAPE violations: (1) “I responded to the district with additional suggestions to accommodate my son for the denial of FAPE,” (2) “Not providing my son the missed instructions, a general education teacher to provide the missed instructions, or anything to assist with the sleeping disorder causing him to not receive those skills to assist with maintaining his IEP goals and services, denied my son a FAPE,” and (3) “Failing to implement the many areas of the IEP as it was written all constitutes a denial of FAPE for my son in the 23-24 school year” (LHO final order, July 1, 2024, p. 4). The LHO found Parent’s first reference to a FAPE did not explain how a particular District practice denied FAPE, the second reference was “just another theory,” in which

Parent did not provide any evidence to support the theory, and the third reference did not explain how the issues of (a) transportation reimbursement, (b) issues with the functional behavioral assessment (FBA), (c) wearing a hoodie as an accommodation, (d) services from the behavior interventionist, (e) the delay in returning to in person instruction, (f) the “A New You” counselor, (g) provision of family counseling, (h) training of teachers in Student’s disabilities, (i) extended school year services (ESY), (j) guidance counseling, (k) academic suspension from football, (l) documentation of abbreviated assignments from general education teachers, and (m) general parental participation and issues of access to information issues denied Student FAPE. IHO concluded that “Parent has established no substantive IDEA violation” (LHO final order, July 1, 2024, p. 22). During the hearing, I found little emphasis on substantive issues and there was no evidence provided that District denied Student a FAPE.

Similarly, in the Parent’s brief of July 18, 2024, no evidence is provided on substantive issues such as Student’s goals or Student’s progress toward meeting those goals. The only mention of goals and progress are general statements such as the following: “Not including the behavior interventionist prevented my son from improving and meeting his behavior and academic goals” (Parent brief, July 18, 2026, p. 1). Two pages later in the brief when addressing the support of the behavior interventionist, Parent writes “Although it may seem uncommon, it is what has been working and helping my son as it relates to his disability affecting him in the school setting to help him meet his IEP goals as it relates to behavior and academic achievement” (Parent brief, July 18, 2026, p. 3). Early in the brief, therefore, Parent writes that behavior interventionist is not assisting Student to meet his goals and a few pages later she writes that the behavior interventionist is helping him to meet his IEP goals. As in the hearing, Parent seems to be primarily concerned that the services of the behavior interventionist are not provided in the way she wants services provided, not in the manner the District is providing the services, which, by her own admission, has been successful in helping Student. As District noted in the response brief of July 21, 2024, “The Parent failed to present evidence that any goals in the IEP were improper, or that the District used inappropriate methodologies or techniques, or even inappropriate accommodations; rather she primarily complains that certain requests were not addressed the way she wanted them to be addressed...The Parent was not able to show that the District failed to provide FAPE” (District reply brief, July 21, 2024, p. 2). I would add that Parent provided no evidence that District’s IEP was not “reasonably calculated to enable (Student) to make

progress appropriate in light of (Student's) circumstances.”¹⁶

The one procedural error that Parent points to in her due process hearing request of April 26, 2024, that could potentially rise to a substantive violation is her contention that District failed to allow Parent to meaningfully participate in the IEP development process and educational decision making. Meaningful involvement of parents in special education decision making is the “very essence of the IDEA” and when a school district fails in this critical obligation, it is likely that FAPE has been denied.¹⁷ In my review of the hearing transcripts and exhibits, I found that the District's efforts to involve Parent in decision-making were exemplary. District's IEP team met many times during the 2023-2024 school year and even in the summer. Moreover, testimony by the teachers, especially the special education teacher, showed that they were dedicated to do their very best for Student.

The fourth issue of importance in my decision is what Zirkel referred to as third dimension of a FAPE: Implementation.¹⁸ The IDEA's definition of a FAPE requires that a student's program of special education be “provided in conformity” with the student's IEP.¹⁹ In this sense, a student's IEP is the blueprint of his or her FAPE, which is developed collaboratively by those who best know the student's academic and functional needs, his or her parent(s), teacher(s), and other school based personnel. In 2011, the U.S. Circuit Court of Appeals for the 4th Circuit in *Sumter County School District 17 v. Heffernan*²⁰ concluded that “a material failure to implement an IEP, or, put another way, a failure to implement a material portion of an IEP, violates the IDEA.”²¹ Thus, if a school district failed to implement a material portion of the IEP, that likely would be a denial of FAPE. In 2007, the U.S. Court of Appeals for the 9th Circuit in *Van Duyn v. Baker School District*²² held that a material failure to implement a student's IEP “occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP.”²³ Material failures to implement

¹⁶ *Endrew F. v. Douglas County School District RE-1*, 580 U.S. 386, 397 (2017).

¹⁷ *Amanda J. v. Clark County School District*, 260 F.3d 877, (9th Cir. 2001).

¹⁸ Zirkel, P.A. (2022). The four faces of free appropriate public education. *Intervention in School and Clinic*, 57(5), 355-358.

¹⁹ 20 U.S.C. § 1401(9)(D).

²⁰ 642 F.3d 478 (4th Cir. 2011).

²¹ ID at 452.

²² 502 F.3d 811 (9th Cir. 2007).

²³ ID at 822.

could occur around substantial or significant portions of a student's IEP, such as the special education services, related services, supplementary aids and services, program modifications, or accommodations, and whether or not a school district puts the plan or IEP into action. The task in determining failure to implement is to compare the services that were actually delivered to those services as described in a student's IEP both quantitatively (i.e., how much was withheld) and qualitatively (i.e., how important were the withheld services).²⁴

In the due process hearing complaint of April 26, 2024, Parent alleged that the school district has failed to implement material aspects of Student's IEP. Specifically, student was to receive abbreviated assignments, described by the principal as a modified assignments with credit given for partial completion. For example, a 20 question assignment may only consist of 10 questions instead of 20 (Hearing transcript, July 6, 2024, testimony of p. 33: 18-23). The 8th grade social studies teacher, the 8th grade science teacher, and the language arts teacher testified that they did abbreviated assignments (Hearing transcript, July 6, 2024, testimony of the social studies teacher,

p. 89-90, Hearing transcript, July 7, 2024, testimony of the language arts teacher, p. 339-340, and Hearing transcript, July 7, 2024, testimony of the science teacher, p. 348). According to the special education teacher, some instructors did not always document how they abbreviated assignments but nonetheless did an excellent job, worked diligently with Student, and were very willing and collaborative (Hearing transcript, July 7, 2024, Testimony of the special education teacher, p. 283: 6-10). The special education teacher also met with Student's teachers and worked with them to help accommodate Student. Although, it would have been preferable if all of Student's teachers kept documentation of their efforts to accommodate Student using abbreviated assignments, LHO points out that "No IEP is implemented with perfection, and the law does not require perfection. Parent must show that the failure to implement was "material," in that the provision not implemented was necessary to provide FAPE" (LHO Final Order, July 1, 2024, p. 18).

In the brief sent to me on July 18, 2024, Parent wrote the special education teacher testified that the general education teachers did not believe that they needed assistance from the behavior interventionist being in their classrooms. She also noted that not providing the behavior interventionist to collect data resulted in failure to implement the IEPs and that the presence of

²⁴ L.J. v. School Board of Broward County, Florida, 927 F.3d 1203 (11th Cir. 2019).

the behavior interventionists was to assist with completing assignments, listening to music, respecting teachers and peers (Parent brief, July 18, 2026, p. 1). However, when parent was asked if anyone (i.e., teachers), other than her, believed that Student needed a behavior interventionist to be in the classroom full time, Parent answered “no” (Hearing transcript, July 7, 2024, testimony of Parent, p. 417: 21-24). This was not an implementation failure; rather it was a disagreement between Parent and school personnel. As the special education teacher stated in her testimony: “Again, as a case manager, I am required to make sure that the IEP is implemented. That means I have to make sure teachers are following the plan, they’re doing what they’re supposed to do, and that is something I did do” (Hearing testimony, July 7, 2024, testimony of special education teacher, P. 291: 7-11). Judging by the testimony and exhibits, the special education teacher did a commendable job.

ADDITIONAL ISSUES

The LHO did order District to comply with Parent’s request to be provided access to the guidance counselor’s notes. Whereas LHO observes that District’s failure to provide the counseling notes does not rise to the level of a substantive violation, it is a procedural right of parents. Furthermore, under the IDEA the LHO may require District to comply with such procedural requirements.²⁵

The following issues were also brought up in this hearing:

- Reimbursement for transportation. The District had provided almost \$3000 to reimburse Parent for transportation. According to LHO, in her closing submission, Parent noted that she was not aware of any reimbursement she had not received and there was insufficient evidence that District failed to implement this requirement in the IEP (LHO final order, July 1, 2024, p. 8). I agree with LHO’s conclusion regarding reimbursement.
- Functional behavioral assessment issues. There was no substantive evidence provided regarding the FBA conducted by the independent evaluator, who was the Parent’s choice to conduct the assessment (Hearing transcript, July 6, 2024, testimony of, p. 122: 21-24). According to LHO,

²⁵ 20 U.S.C. § 1415(f)(3)(E)(iii).

additional Parent contentions regarding the FAB and Student wearing a hoodie and having a full time classroom behavior interventions had no substantive merit. I agree

- “A New You” counseling. Parent confirmed that the counseling services provided from Student’s school based therapist were effective and the IEP team rejected the addition of a counselor from A New You.the Secondary Supervisor for Exceptional Children testified that “the team rejected the outside counseling by A New You Counseling Center because (Student) was being provided counseling services at the school by [] and [].” (Hearing transcript, July 6, 2024, testimony of the Secondary Supervisor of Exceptional Children, p. 168: 9-14). I agree with LHO that there was no evidence that a counselor you “A New You” counseling was needed to provide FAPE to student.
- Family counseling. Parent contended that District should provide family counseling and counseling between herself and the school-based therapist. I agree with the LHO that Parent provided no evidence that such services would be necessary to assist Student to benefit from his special education (LHO final order, July 1, 2024). Additionally, the principal testified that family counseling was beneficial even though Student did not want counseling. Moreover, the mental health counselor’s testimony noted the importance of family counseling including Student (Hearing transcript, July 6, 2024, testimony, p. 303: 12-13).
- Staff training. Parent asserted that District failed to implement training staff as required by the IEP. Teacher testified they had received training as per the IEP. I agree with LHO’s finding that no evidence was provided that the District failed to implement training.
- Extended school year services. The IEP did address and provide ESY services and Parent agreed that the amount of ESY services were appropriate to meet Student’s needs (Hearing transcripts, July 7, 2024, testimony of Parent, p. 411: 1-10).

- Guidance counseling. The services of either a school-based therapist or guidance counselor were available to student daily. In fact, Student attended counseling three times a week and family counseling twice a month (Hearing transcript, July 6, 2024, testimony of mental health counselor, pp. 315-317). I agree with the LHO that Parent has provided no evidence showing how not provided the number of services she requested would deny FAPE.
- Academic suspension from football. District had a policy that no players on the football team were permitted to practice or play after receiving failing grades (Hearing transcript, July 6, 2024, testimony p. 495: 6-13). Student received tutoring from the special education teacher during the time when he was not allowed to practice or participate because of his grades. His grades improved and he was allowed to return to the team. Neither conditioning, practicing, nor playing with the football team were in the IEP so are not issues that involve Student's special education services under the IDEA.
- Abbreviation of assignments. As addressed previously in this ruling, teachers did not always provide documentation but their testimony indicated that abbreviated assignments were provided to Student. I agree with the LHO that the parent failed to show that was a material failure to implement the IEP.

CONCLUSION

Providing a FAPE to eligible students with disabilities is the essential obligation of special educators. A FAPE depends on (a) ensuring that parents are meaningfully involved in their children's special education identification, assessment, programming, and placement; and (b) having school-based personnel who understand and can meet their responsibilities under the IDEA. The IDEA grants parents an enforceable right to pursue a FAPE for their child with a disability, and as members of the IEP team, parents are considered equal partners with school personnel in determining the components of their child's appropriate education. When parents and school personnel collaboratively develop a student's IEP, that IEP should be implemented as written. This

means that all staff involved in executing a student's IEP, including general education teachers and related services personnel, must understand and carry out their responsibilities as agreed upon.

The IEP does not guarantee success but it does guarantee that school-based personnel will make good faith efforts to ensure that special education programming will enable a student to make progress in light of their circumstances. I believe that District personnel have met the FAPE requirements of the IDEA.

RULING

I affirm LHO's ruling that Parent failed to provide evidence of a substantive violation of FAPE. I also affirm LHO's ruling that District failed to provide Parent with guidance counselor notes and his order that District comply with Parent's request for the guidance counselor's notes.

NOTICE OF APPEAL RIGHTS

Any party aggrieved by this decision may commence 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 within ninety (90) days of the date of this decision.²⁶



Mitchell L. Yell, Ph.D.

State-Level Hearing Review Officer

August 2, 2024

²⁶ 20 U.S.C. § 1415(i)(2)(A)-(B); 34 C.F.R. § 300.516; S.C. Code Regs. § 43-243(V)(17).