

**Individuals with Disabilities in Education Improvement Act
Before the Local Hearing Officer**

KB (Parent) on behalf of JU	)	
(Student),	)	
	)	
Petitioner,	)	
	)	
vs.	)	Final Order
	)	
	)	
Richland County School District	)	
One,	)	
	)	
District/Respondent.	)	

I. Introduction and Procedural Background

Parent submitted her due process request (“DPR”) on September 6, 2022.

District responded and moved to dismiss in part on September 16, 2022. I denied that Motion on September 19, 2022.

I convened a call with the parties on October 10 , 2022, to discuss scheduling. On October 14, 2022, I issued the scheduling order after the parties agreed to November 14 and 15, 2022, for this hearing.

Parents submitted a request for subpoenas. Because the requests related to District documents and witnesses, I treated the motion as a disclosure issue, and granted the request in part and denied it in part. The parties cooperated well in the scheduling of witnesses, and there were no stated concerns about the documents I ordered to be produced. Parent also submitted a request to amend, which I denied.

The hearing was held on November 14 and 15, 2022, as scheduled. Parent chose a private hearing. Parent appeared with Student's Father and an advocate. District was represented by counsel.

II. Background Facts

Student is currently a second grader at ("the School"). During the 2021-22 school year, Student was a first grader at the School.

Student's primary area of disability is other health impaired ("OHI") and his secondary area of disability is specific learning disability ("SLD"). [Parent Exh. 1 at 1; Parent Exh. 26 at 1 (Bates 11)].¹ The individualized education program (IEP) team noted "high area of concerns with hyperactivity/impulsivity and executive functioning based upon teacher rating scales." [Parent Exh. 26 at 1]. In a fall 2021 Section 504 referral, District also noted "Combined Presentation and Adjustment Disorder, with Disturbance of Conduct." [Parent Exh. 2; see *a/so* Parent Exh. 16 at 15, 32 (Bates 66, 83) (noting high levels of inattentiveness and ADHD)].

Although Student "sometimes" exhibits impulsive behavior, his teacher's input from first grade rated all positive behaviors as "frequently," and all other negative behaviors as "hardly ever." [Dist. Exh. 4]. Student's hyperactivity and impulsivity currently manifests itself primarily in blurting out answers in class or cracking jokes. Throughout both school years covered by this calendar year, Student's teachers uniformly described him as adjusted, polite, and well behaved. In the school setting, there are no documented instances of aggression, fighting, acting out, shutting down, elopement, or becoming

¹ Citations to "Bates" refer to the Bates numbers Defendants added to documents that were used at the hearing.

cognitively disconnected from his surroundings, nor was there any testimony that Student has been bullied or cannot cope in his dealings with peers.

Student lives with his mother. The bus stop is at the intersection about 330 feet from Student's home. [Dist. Exh. 10 at 11]. The cross street is a two-lane road. [*Id.* at Bates 117, 119]. In the morning, Student would board the bus on the same side of the street as his home. In the afternoon, Student would need to exit on the other side of the street requiring him to cross that road to reach his street.

The IEP team met on June 3, 2022, for an IEP team meeting. [Parent Exh. 7 (available by link, file entitled Special Review J. [last name redacted]-20220603_120638-Meeting Recording.mp4)].² The purpose of the meeting was to discuss Parent's request for special transportation, specifically "curb-to-curb" service. [See Parent Exh. 6 at 1 (Bates 15)]. District's local educational agency ("LEA") representative for the meeting was the assistant principal.

At the time, there was a clear issue with Student running in the halls and hiding mischievously to surprise others. Student's teacher stated, for example, that she didn't "know that there's a time when he's been alone and he hasn't been running through the building," that "he will not walk unless an adult is with him," and that Student "does run through the building."

² As of the date of this Order, District has been unable to download a copy of the video made of the June IEP meeting. District will maintain the link to the file through the pendency of this case.

Over Parent's objection, the IEP team adopted the suggestion of the special services consultant to address Parent's concerns by implementing a social story to teach Student the appropriate way to act. District members of the team believed Student could generalize those skills to safely ride the bus. Even though Student's father agreed with Parent as to the curb-to-curb transportation, he also agreed to the social story addition to the IEP. In addition, District's representatives and father agreed that a goal would be developed regarding running in school since there was data that Student ran five out of five days. Effective at the beginning of the 2022-23 school year, the adopted goal is:

By the end of the IEP, [Student] will decrease the number of times he runs/hides in the school setting when transitioning from classroom to classroom from 5 out of 5 days to 2 out of five days as measured by teacher data.

[Parent Exh. 1 at 5 of 10 (Bates 5); see *id.* at 8 of 10 (Bates 8) ("[Student] will also receive 30 minutes of behavior skills support to be delivered concurrently with his reading and writing services.")]. In the post-meeting prior written notice (PWN), District commented:

The parent's concern was to add specialized transportation to [Student]'s IEP because his mother stated he has a disability, and he is entitled to specialized transportation. The team considered specialized transportation but rejected adding specialized transportation due to the lack of data. The IEP team also determined no data supported the decision to show a need for a restrictive service to access the general education setting. Team proposes that his providers will provide strategies and interventions when transitioning in the school environment that can be generalized in other settings. The IEP team will reconvene within the first nine weeks to review data for implementation of strategies and interventions.

[Parent Exh. 6 at 1 (Bates 15)].

The IEP team met again on September 2, 2022, which was ten days into the 2022-23 school year. This was a special meeting called to again discuss Parent's request for

transportation services. [Hearing Officer Exh. 1].³ District's LEA for this meeting was the School's principal.

As to the new goal implemented in June 2022, the team noted one instance of running within the first ten days, which is well less than two out of five days. [See Parent Exh. 1 at 2 (Bates 2)]. The parties still disagreed as to the appropriate action. [Hearing Officer Exh. 1]. District documented:

The team considered specialized transportation, but rejected this service due to data showing that [Student] is able to transition appropriately in all observed settings when following community rules.

[Dist. Exh. 8 at 1 (Bates 17)]. None of the settings in which Student was observed occurred outside or at a bus stop.

Since the September meeting, there was another running incident in October 2022, but still no instances of hiding this school year. [See Dist. Exh. 13 (Bates 22)]. The two episodes in over two months is still far less than the goal of two per week. The incidents of running in the school do not involve elopement, disobedient efforts to escape, or incidents where Student was out of control or unaware of his circumstances. District noted that Student "has truly grown this year with his self-control." [Dist. Exh. 13 at 2 (Bates 22)].⁴

³ At the hearing, the parties agreed to the admission of the audio of the September IEP meeting. The file, however, was not marked as an Exhibit. I am designating it for purposes of the Record as "Hearing Officer Exhibit 1," and counsel for District will forward a copy to the court reporter for inclusion in the Record.

⁴ Even with classwork, there is substantial improvement noted. Student's teachers testified that Student needs little to no redirection, which contrasts with Student's actions in early 2022 when he required eleven redirections in thirty minutes. [See Parent Exh. 1 at 3 (Bates 3)].

III. Analysis

As set out in my Order denying the Motion to Dismiss, there are two issues to be resolved: (1) Whether District violated the IDEA in terms of the makeup of the IEP Team; and (2) whether District violated the IDEA by declining to provide special transportation as a related service.

A. IEP Team Makeup

Parent's first contention is that District should not have replaced the assistant principal with the principal as the LEA representative. District contends that it has the discretion to identify the LEA representative. The IDEA provides the requirements for the makeup of the IEP team.

(B) Individualized education program team

The term "individualized education program team" or "IEP Team" means a group of individuals composed of—

- (i) the parents of a child with a disability;
- (ii) not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
- (iii) not less than 1 special education teacher, or where appropriate, not less than 1 special education provider of such child;
- (iv) a representative of the local educational agency who—
 - (I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (II) is knowledgeable about the general education curriculum; and
 - (III) is knowledgeable about the availability of resources of the local educational agency;
- (v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);
- (vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(vii) whenever appropriate, the child with a disability.

20 U.S.C. § 1414(d)(1)(B); 34 C.F.R § 300.321(a). In terms of the attendance of members, the statute and regulations provide:

IEP Team attendance

(i) Attendance not necessary

A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(ii) Excusal

A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—

- (I) the parent and the local educational agency consent to the excusal; and
- (II) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

20 USC 1414(d)(1)(C); 34 C.F.R. § 300.321(e).

Although Parent phrases her issue as one of “excusal,” there is no issue presented regarding the excusal of an IEP team member. Excusal refers to situations in which one of the required roles is not filled because a team member cannot be present. The issue here is whether it was a violation to replace the assistant principal. with the principal in the LEA representative role.⁵

⁵ Parent also has complained about the participation of the assistant principal, apparently replaced the prior special services coordinator, who participated in developing the IEP in May 2022. There was no evidence, however, as to the nature of this change or how it would evidence a violation of the IDEA. If Parent still contends that her issue relates to the participation of the assistant principal. I further find no violation for the same reasons applicable to the principal.

District is correct that, normally, the only restraints on the designation of an LEA representative are those set forth in the IDEA. In an extreme situation, the designation of a particular individual could result in the denial of a free and appropriate public education (“FAPE”). This is not one of those situations.

There is serious tension between the principal and Parent, approaching the level of palpable hostility. This was evident during the hearing, not only in the expressed concerns from Parent, who sought to exclude the principal, but also in the principal's demeanor and conduct on the stand where he was evasive and argumentative when questioned by Parent. I note that the principal and others testified that the change was made only because of Parent's conduct toward District employees. There is no question that Parent's past conduct toward District employees is indefensible at times, but it is not necessary to resolve the “chicken or egg” question as to who was disrespectful first, or who is most to blame for the breakdown in relations between the parties. The “why” as to the principal's designation does not evidence any violation. Nothing the principal did as a LEA representation shows that his participation poisoned the atmosphere or frustrated the IEP team's ability to function.

In fact, the principal only participated during the September meeting, and hardly spoke. When he did speak, he was entirely appropriate.⁶ I also note that District solicited more input from Parent in the September meeting when the special services coordinator facilitated than it did in June when the assistant principal facilitated the discussion. Although that may be Ms. C's doing, it is hard to

⁶ I also note that the principal is a school-level administrator who would have no supervisory authority over the District level administrators participating in the process.

understand how the principal could be characterized as an impediment.

As a separate and independent basis for denying relief, I also find that the principal's participation as LEA made no difference. The first question to be asked is whether Parent's claim that the principal was inappropriately designated alleges a substantive or procedural violation. Under both the statute and its regulation, a hearing officer's "determination of whether a child received FAPE must be based on substantive grounds." 20 U.S.C. § 1415(f)(3)(E)(i); 34 C.F.R. § 300.513(a)(1). The failure of an IEP team to consider a related service is a procedural violation of the IDEA. *Dibuo v. Bd. of Educ.*, 309 F.3d 184, 191 (4th Cir. 2002); *R.S. v. Bd. of Dirs. of Woods Charter Sch. Co.*, No. 1:16-cv-119, 2019 U.S. Dist. LEXIS 33760, at *39 n.27 (M.D.N.C. Mar. 4, 2019).

A hearing officer may find that a substantive violation results from procedural inadequacies only if the procedural violations "impeded the child's right to a FAPE," they "significantly impeded the parent's opportunity to participate in the decision-making process," or they "[c]aused a deprivation of educational benefit." 20 U.S.C. § 1415(f)(3)(E)(ii); 34 C.F.R. § 300.513(a)(2); *see also R.F. v. Cecil Cnty. Pub. Schools*, 919 F.3d 237, 248 (4th Cir. 2019), *cited in E.S. v. Smith*, 767 F. App'x 538, 538 (4th Cir. 2019); *e.g., Dibuo*, 309 F.3d at 190-91 (noting, in a reimbursement case, that a violation of a procedural requirement of the IDEA (or one of its implementing regulations) must actually interfere with the provision of a FAPE before the child and/or his parents would be entitled to reimbursement"); *accord R.S.*, 2019 U.S. Dist. LEXIS 33760, at *50.

Under [20 U.S.C.] § 1415(f)(3)(E)(ii)(II), an [LHO] must answer each of the following in the affirmative to find that a procedural violation of the parental rights provisions of the IDEA constitutes a violation of the IDEA: (1) whether the [petitioners] "alleg[ed] a procedural violation," (2) whether that violation

"significantly impeded the parents' opportunity to participate in the decisionmaking process regarding the provision of a [FAPE] to the parents' child," and (3) whether the child "did not receive a [FAPE]" as a result. *Id.* § 1415(f)(3)(E). Unless an [LHO] determines that a given procedural violation denied the child a FAPE, [h]e may only order compliance with the IDEA's procedural requirements and cannot grant other forms of relief, such as private placement or compensatory education. See *Fry v. Napoleon Cmty. Sch.*, 137 S. Ct. 743, 754 n. 6 (2017) ("Without finding the denial of a FAPE, a hearing officer may do nothing more than order a school district to comply with the [IDEA's] various procedural requirements.").

R.F., 919 F.3d at 248; *T.B. v. Prince George's Cty. Bd. of Educ.*, 897 F.3d 566, 573-74 (4th Cir. 2018).

In the context of this case, the test can be easily phrased as: Did the designation of the principal as the LEA representative affect the outcome of the September IEP meeting? Only if it did would I then need to determine whether the change led to a substantive denial of a related service.

The assistant principal was the LEA representative during the June meeting when the IEP team reached the same conclusion. Her testimony was impressive, objective, and balanced. I can certainly understand how her calm demeanor and grasp of the issues engenders trust. As Parent noted, the assistant principal was receptive to helping Parent explore other transportation options.⁷ Yet, like all other District employees, the assistant principal agrees with the conclusion that special transportation is unnecessary. Although I understand that Parent prefers dealing with the

⁷ The testimony in this regard is somewhat confusing. There are apparently other transportation options available to all students. After many attempts to obtain information, District apparently provided a form to Student's father, who provided it to Parent. For reasons that are unclear, however, Parent has not submitted the form. That said, I am not considering this evidence in reaching my conclusions because: (1) the evidence about what the other options consist of is unclear; and (2) whether other options for transportation are available is not before me.

assistant principal rather than the principal, there is nothing to which I could point that would prove tthe IEP team would have agreed to Parent's request had the assistant principal remained as the LEA representative.

For this same reason, if I had found a procedural violation, I would still conclude that any such violation did not result in the loss of a related service. For purely procedural violations, hearing officers may issue orders to comply. 20 U.S.C. § 1415(f)(3)(E)(iii); 34 C.F.R. § 300.513(a)(3). Assuming there was a procedural violation in replacing the LEA representative, an "order to comply" would seemingly consist of merely an order to have the assistant principal serve as the LEA representative. As noted above, that would not result in District providing special transportation because, even if the assistant principal was the LEA representative, she would be only one member of the team. But even if her view were somehow dispositive, she agrees with the IEP team's decision.

Under the test set forth in *R.F.*, I find (1) that Parent alleged a procedural violation, (2) that the alleged violation did not significantly impede her opportunity to participate in the decision making process, and (3) that any such alleged violation did not result in the loss of a related service to which Student would otherwise be entitled. For these reasons, there is no basis for finding that District violated the IEP by replacing the assistant principal with the principal as the LEA representative.

B. Transportation

Transportation is a "related service" under the IDEA. 20 U.S.C. § 1401(26)(A) ("The term "related services" means transportation and such . . . other supportive services . . . designed to enable a child with a disability to receive a free appropriate public education."); see *also* 34 C.F.R. § 300.34(c)(16) (defining transportation). The Regulations state more forcefully that a service must be

“required to” (rather than merely “designed to”) permit a child to benefit from special education. 34 CFR § 300.34(a).

Because transportation is not as directly related to the delivery of services as, for example, a teacher aide, courts have clarified the standard for transportation: “[T]he IDEA requires transportation if that service is necessary for a disabled child ‘to benefit from special education,’ . . . even if that child has no ambulatory impairment that directly causes a ‘unique need’ for some form of specialized transport.” *Donald B. By & Through Christine B. v. Bd. of Sch. Comm’rs*, 117 F.3d 1371, 1374 (11th Cir. 1997) (quoting 20 U.S.C. § 1401(a)(17)).⁸

[T]he factors relevant in determining whether a child in this situation needs transportation as a related service include at least: (1) his or her age; (2) the distance he or she must travel; (3) the nature of the area through which the child must pass; (4) his or her access to private assistance in making the trip; and (5) the availability of other forms of public assistance in route, such as crossing guards or public transit.

Id. at 1375.

Although the standard is straightforward, District failed to properly explain it when Parent sought guidance as an IEP team member. At the hearing, District’s witnesses were far more forthcoming than the assistant principal was in the IEP meetings about the kind of behaviors that typify the need for special transportation. The assistant principal did not explain the simple statutory standard. Rather, she repeatedly told Parent that she needed “to show an impact as to Student having access to the general education setting,” which she also characterized as needing to show how Student’s

⁸ As with any service under the IDEA, the extent of the transportation varies depending on the needs of the Student. *E.g., Anchorage Sch. Dist. v. N.S.*, No. 3:06-cv-264 JWS, 2007 U.S. Dist. LEXIS 102919, at *25 (D. Alaska Nov. 8, 2007) (requiring door-to-door transportation).

disability “impacts his access.” Having reviewed the assistant principal's statements several times, I cannot tell what she was trying to say, but she certainly did not provide an accurate description of the applicable standard.

Likewise, I have serious concerns about whether the history between the parties led District to disregard Parent’s information. In June the assistant principal was dismissive of Parent’s efforts to provide information. For example, when Parent brought up information from Student’s doctor, She responded curtly, “we thank you for that information from [the doctor]. But at the same time, we have to have data to support.” When Parent tried to offer more information, the assistant principal responded, “Ok, thank you for that too.” At the hearing, District witnesses acknowledged that parental observations constitute data. When Parent, however, offered information, the only response she received was a curt, “thank you.” When Parent tried to determine what information was needed, District representatives kept repeating that they needed “data” from the teachers. By all accounts, however, teachers would have no opportunity to observe Student’s behavior outside the controlled environment within the School.

I can, to a degree, understand Parent’s frustration even though I do not condone how she expressed it during the meetings, including her treatment of Ms. C. in the September meeting. But the assistant principal should have explained the relevant standard in the June meeting. Further, more effort to get details of Parent’s observational data was in order, rather than attempting to limit relevant data to the one environment not at issue.

To find a substantive violation, however, I must ultimately determine that special transportation is needed to enable Student to access an education. In

this case, that question can be answered with a simple comparison: Would regular transportation services enable Student to receive a FAPE? If the answer is yes, then one cannot also conclude that special transportation is necessary.⁹ Based on all the evidence submitted, I find that Parent has not met her burden of showing that Student could not receive the same educational benefits by using regular transportation.

Much of Parent's evidence focused on the fact that Student runs when he should walk. For example, Parent introduced two videos showing Student running into the school either after he reached the sidewalk leading to the entrance and two videos of him running after he was dropped off under the awning leading into the front door. [Parent Exh. 18, files 20221013_072725 S (sidewalk), 20221101_073328 (sidewalk), 20221020_074313 (awning), 20221026_074221 (awning)].¹⁰ Parent's grandmother testified that, when Student sees her in the pickup line, he will run to her car.¹¹ Student's father also testified about situations in which Student would run after getting out of the car at certain gas stations during trips.

⁹ In making this determination, I am not limiting my consideration of evidence to the information considered by the IEP team. Doing so would only compound my concerns about whether Parent's views were fully considered and whether the assistant principal was forthcoming during the meetings. It would also turn an arguable (but not pled) procedural violation into an issue that would affect the outcome.

¹⁰ Based on the date stamps and my own review of the September IEP meeting, none of these videos were shown to the IEP team, and they were all created after the DPR. This information is still relevant, and I consider it because, as discussed above, I have concerns about whether District was cooperative in sharing with Parent what information would be necessary to show that special transportation is necessary.

¹¹ For reasons that are unclear, the principal argued as to whether Student was running.

Having reviewed the evidence in context, I conclude that there is nothing dangerous or uncontrolled about the way Student is running in the videos. Nor is there anything particularly unusual about it, as shown by the other students also running into the building. [*Id.*, file 20221026_074221]. None of these instances show impulsive behavior, an inability to traverse toward an intended destination, or an unawareness of surroundings. At some level, running, not paying attention, and making unpredictable moves is typical behavior, which is why all seven-year-old boys require supervision. The evidence does not show activity by Student that falls outside the range of typical behavior.

Evidence does not show that the general education transportation poses any unique danger to Student. South Carolina strictly regulates the operations of buses and bus stops. S.C. Code § 59-67-10, et. seq.

All school buses owned and operated by a private school or operated under contract for a private school must conform to State laws and regulations of the State Board of Education with respect to painting, lettering on the front and rear of the bus, use of stop arm and warning lights for loading and unloading pupils on the highway, maximum speeds and stopping at railroad crossings.”

Id. § 59-67-40; see also S.C. Code Regs. § 43-80-P (“All state-owned buses shall be equipped with an operational stop-arm.”).

There is no evidence of any dangers at the Student' bus stop. [See Dist. Exh. 10 (describing the stop and data regarding its compliance with applicable standards)]. Bus routes and stops also must comply with regulations designed to ensure the safety of students. See, e.g., S.C. Code Regs. § 43-80-E, -F. When a school bus stops, red lights and a swinging stop sign alerts vehicles to stop. Under District's policies and South Carolina law, the driver does not open the bus doors to allow until any traffic has halted. *Id.* § 59-67-200 (“Each school bus must come to a complete stop with clutch

disengaged before any passenger is permitted to alight or enter.”) After exiting the bus, children move in front of it and wait until gestured across the street by the driver. The driver continues to observe the children until they have gone about twenty yards from the bus.

The concern that Student is endangered by traffic in the afternoon is speculative, at best. If there is any conceivable risk, it would arise more likely in the morning at the bus stop before the bus arrived and while there is traffic on the Student's cross street.¹² But this fact also cuts against Parent's ability to show that special transportation is necessary. Parent could accompany Student to the bus stop in the morning, rather than drive him to a point near the school.

Normally, the focus in an IDEA case is not on the actions or decisions of a parent, but the question is reasonable here since Parent bears the burden of proving that special transportation is necessary. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005). Further, “private assistance in making the trip” is a consideration in determining whether special transportation is necessary. *Donald B.*, 117 F.3d at 1375. Under South Carolina law, the responsibility of the safety of students to and from the bus stop is the responsibility of parents.

Parents or guardians are responsible for the safety, conduct, and the timely arrival of their children to, from, and at the designated school bus stop before the arrival of the school bus for pick up and transport to school and the timely departure of the children after the school bus leaves the designated school bus stop after transporting the children from school. For purposes of this section, the phrase "arrival of the school bus" includes the time that the school bus assigned to the school bus stop activates the

¹² On the morning that District studied and measured the stop, traffic was noted as being “light.” [Dist. Exh. 10 at 1 (Bates 112)].

required pedestrian safety devices, stops, and loads or unloads students until the school bus deactivates all pedestrian safety devices.

S.C. Code § 59-67-415.

Because the evidence shows no impediment to Student using the regular transportation services, there is no basis for finding that special transportation services are necessary for Student to access an education.

IV. Conclusion

For the foregoing reasons, Parent's requests for relief under the IDEA is denied. Moving forward, both parties need to determine how to deal with the other so that everyone is on the same page in terms of Student's education. Although there has been serious conflict between the adults, I also believe that both District and Parent firmly believe that they are each trying to do what is best for Student. Further, while the IEP meetings went horribly, both sides were professional and respectful to each other in the hearing. So, it can be done.

Without a finding of a violation, I have no authority to order the parties to do anything. Based on my review and dealings with both sides, however, I strongly suggest that the parties would benefit from the State's facilitated IEP services for future meetings.

[https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/facilitated-individualized-education-program-fiep-team-meeting/#:~:text=FIEP\)%20Team%20Meeting-.Facilitated%20Individualized%20Education%20Program%20\(FIEP\)%20Team%20Meeting,programming%20for%20students%20with%20disabilities](https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/facilitated-individualized-education-program-fiep-team-meeting/#:~:text=FIEP)%20Team%20Meeting-.Facilitated%20Individualized%20Education%20Program%20(FIEP)%20Team%20Meeting,programming%20for%20students%20with%20disabilities)

Again, I make no finding on "who started it," or "who was worse" in the IEP meetings because that is not relevant to the issues before me. Each side contends that the other side was not listening or considering its/her point of view. Ensuring that

everyone is heard and considered is precisely why this program exists. If a party believes that the other side will be unreasonable, it should welcome facilitation.

Having conducted many hearings and having seen many difficult situations, it is also important to put things into perspective here. By all accounts, Student is a well-regarded child, who, academically, is doing well under his circumstances. Student has two parents, who are united in their devotion to his development and care. Student's educators were impressive and credible, and they also appear to be dedicated to Student's development. To their credit, while Student's parents and District representatives have feuded, they did not drag Student into their disputes. If the parties can align their energy, Student's future is quite bright.

Notice of Appeal Process

Any party may appeal this ruling. A party seeking to appeal this ruling must do so **in writing** and **within ten (10) days** of receipt of this Order. The written appeal must be addressed to:

The South Carolina Department of Education
Office of General Counsel
1429 Senate Street
Rutledge Building
Columbia, SC 29201

I will not accept, read, or consider any further argument about the merits on this matter unless it is remanded to him by the SRO or the District Court. No email, letter, or other written communication will be construed or considered as either a Motion to Reconsider or as a Motion to Alter or amend this Order. Further, no such communication may toll or extend the time limit set forth above for filing an appeal.



Brian P. Murphy
Local Due Process Hearing Officer

Dated November 17, 2022