IN THE ADMINISTRATIVE LAW COURT OF THE
UTAH DEPARTMENT OF EDUCATION
SPECIAL EDUCATION SERVICES DIVISION
DUE PROCESS HEARING

In the Matter of:

[redacted], by and through her parent,

Petitioner,

v.

Iron County School District,

Respondent.

DECISION AND ORDER

Case Number: DP-2324-05

Hearing Officer:
Nika Gholston

FINDINGS OF FACT AND FINAL ORDER

I. PROCEDURAL HISTORY

This due process hearing was conducted under the authorization of the Individuals with Disabilities Education Act (IDEA) at 20 U.S.C. 1400 et. seq. and implementing Federal Regulations at 34 C.F.R. Part 300, and implementing State regulations, Utah State Bd. of Educ., Special Educ. Rules IV.M. 2-3(a)-(e).

On or about February 02, 2024, the Petitioner filed a request for a due process hearing. On February 05, 2024, the undersigned Hearing Officer was assigned by the Utah State Board of Education to hear this matter.

The deadline to convene a resolution meeting was February 17, 2024 and the deadline to issue a final decision was April 18, 2024.

On March 14, the Parent requested to extend the federal compliance deadline. The request was granted, and the compliance date was extended to May 18, 2024.

Counsels participated in a status conference on April 04, 2024.

The Hearing was conducted on April 17-19, 2024. The Petitioner was represented by the Honorable Maya Anderson and the District was represented by the Honorable Scott Garrett. At the conclusion of the hearing, the Parties jointly moved to extend the compliance timeline to allow time to submit closing briefs. The request was granted, and the timeline was extended to June 17, 2024.

Prior to the hearing the Petitioner was advised of [Student's] right to have the Hearing open or closed. The Petitioner advised this Hearing Officer that it was the former's desire that the Hearing be closed. Student attended the Hearing. The Petitioner and District elected to make opening and closing statements and to present evidence and offer witness testimony in support of their respective positions and were allowed to cross examine witnesses as provided for under the applicable rules.

In rendering this Decision, the undersigned has considered all the exhibits introduced into evidence, all testimony offered as evidence at the Hearing, and all written arguments made by the parties in their closing briefs.

II. EXHIBITS

A. Petitioner's Exhibits:

Exhibit A – 12/21/2016 – Consent for Evaluation
Exhibit B – Medical Records
Exhibit C – Healthcare Plan
Exhibit D – 504 Accommodation Plan CMS
Exhibit E – Section 504 Plan Review CMS
Exhibit F – Log Entries
Exhibit G – Text messages –
Exhibit H – Email correspondence - 2019
Exhibit I - Email correspondence - 2020
Exhibit J - Email correspondence - 2021

Exhibit K - Email correspondence - 2022
Exhibit L - Email correspondence - Internal
Exhibit M - 504 Accommodation Plan CMS
Exhibit N - 504 Accommodation Plan SUCCESS
Exhibit O - Transcript
Exhibit P – 504 Plan Termination Documents
Exhibit Q – Parent's School Email Log

B. Respondent's Exhibits:

Exhibit 1 – Consent for Evaluation
Exhibit 2 – Medical Evaluation
Exhibit 3 – Healthcare Plan
Exhibit 4 – 504 Accommodation Plan CMS
Exhibit 5 – Section 504 Plan Review CHS
Exhibit 6 – Log Entries
Exhibit 7 – Transfer Information
Exhibit 8 – Text messages –
Exhibit 9 – Email correspondence –
Exhibit 10 - Email correspondence –
Exhibit 11 - Email correspondence –
Exhibit 12 - Email correspondence – Homebound
Exhibit 13 – 504 Accommodation Plan CMS
Exhibit 14 – 504 Accommodation Plan SUCCESS
Exhibit 16 – Transcript
Exhibit 17 – ACT Score Summary

108 ## III. BURDEN OF PROOF

109 The burden of proof is properly placed upon the party seeking relief, whether that is the
110 disabled child or the school district. *Schaffer v. Weast*, 546 U.S. 49 (2005), 129 S. Ct. 528
111 (2005).

112

113 ## IV. STATEMENT OF FACTS AND SUMMARY OF THE TESTIMONY

114 This section is a summary of the pertinent facts presented to this Hearing Officer. This decision
115 is based on all testimony presented at the hearing as well as exhibits admitted into evidence during
116 the hearing. Both parties were permitted to offer testimony by way of witnesses sworn under oath.
117 The testimony has been recorded and transcripts will be delivered to the Utah State Board of
118 Education. This Hearing Officer placed no weight on the fact that any particular testimony was
119 offered by either party since the purpose was to provide all of the appropriate and admissible
120 testimony. The witnesses were examined, and the weight given to each was based upon the
121 substantive nature contained therein for the purpose of deciding this matter.

122 **Findings of Fact**:

123 1. Petitioner first noticed that Student had medical issues in the fall of 2016. Student
124 was [redacted] ([redacted]) years old and a [redacted] grader at Cedar Middle School. (Tr. Day 1 at
125 118:1-18).
126 2. Petitioner first notified Respondent that "there was something going on with
127 [student]" and [student] was struggling in 2016. (Tr. Day 1 at 119: 9-15).
128 3. On December 21, 2016, Petitioner signed a Written Prior Notice and Consent for
129 Evaluation/Re-Evaluation ("Consent to Evaluate") authorizing the Respondent to

130 evaluate Student for eligibility for special education services pursuant to the IDEA.
131 (Tr. Day 1 at 119: 15-20; Exhibit 1).

132 4. The evaluation process was suspended because Student was hospitalized. (Tr. Day
133 1 at 119:21-120:12).

134 5. On February 14, 2017, an Individualized Healthcare Plan was initiated at Cedar
135 Middle School ("CMS"). (Joint Statement of Undisputed Facts and Material
136 Admissions).

137 6. On August 14, 2017, a 504 Plan was implemented at CMS. (Joint Statement of
138 Undisputed Facts and Material Admissions).

139 7. On February 21, 2019, the 504 Plan was reviewed at CMS. (Joint Statement of
140 Undisputed Facts and Material Admissions).

141 8. On August 13, 2019, Student was enrolled at Success Academy. (Joint Statement
142 of Undisputed Facts and Material Admissions).

143 9. On September 18, 2019, Success Academy reviewed and adopted the 504 Plan
144 developed at CMS. (Joint Statement of Undisputed Facts and Material
145 Admissions).

146 10. On January 08, 2020, Student transferred from Success Academy to Cedar High
147 School ("CHS"). (Joint Statement of Undisputed Facts and Material Admissions).

148 11. On January 22, 2020, the 504 Plan was reviewed and modified by CHS. (Joint
149 Statement of Undisputed Facts and Material Admissions; Exhibit 5).

150 12. On August 26, 2020, Student enrolled at Utah Online. (Joint Statement of
151 Undisputed Facts and Material Admissions).

152 13. Student did not earn any credits toward graduation while attending Utah Online.
153 (Joint Statement of Undisputed Facts and Material Admissions).
154 14. On March 17, 2021, Student re-enrolled at CHS. (Joint Statement of Undisputed
155 Facts and Material Admissions).
156 15. On September 03, 2021, Petitioner requested to drop classes [from Student's
157 schedule]. In response to Petitioner's request, a representative for Respondent
158 asked Petitioner to clarify whether her request was (1) to switch Student to a non-
159 graduation track or (2) to continue pursuit of the 24 credits needed to complete the
160 Iron County basic graduation requirements. (Joint Statement of Undisputed Facts
161 and Material Admissions; Exhibit J).
162 16. On September 07, 2021, a communication log notes "mom would like to continue
163 504, but [Student] may be having surgery … And "because things are uncertain
164 with Student's health, we will evaluate the 504 changes as needed." (Joint
165 Statement of Undisputed Facts and Material Admissions).
166 17. In March 2022, Student took the standardized ACT test with accommodations and
167 received a composite score of 18. (Joint Statement of Undisputed Facts and
168 Material Admissions).
169 18. In July 2022, Petitioner stated via text message to CHS special education
170 teacher/department chair Marney Garrett, "I know it overwhelms her, but I think I
171 want to request an IEP just in case she wants to try and go to high school until she's
172 22. Or even if it will be beneficial for sea. I mean really, it's probably too late in
173 the game and won't help her much now, I'm so torn! But if we decided to do it,
174 should I email Terry to request it?" (Tr. Day 2 at 152:16-22; Exhibit 8-1).

175 19. Ms. Garrett informed Petitioner that she would print the consent forms to evaluate
176 Student if she wanted to move forward with testing. (Tr. Day 2 at 153:12-19;
177 Exhibit 8-1).
178 20. Student unenrolled from CHS on the first day (August 16, 2022) of her senior
179 [school] year. (Joint Statement of Undisputed Facts and Material Admissions).
180 21. Petitioner suspected that Student had a disability that required IDEA services
181 during her senior year [of high school]. (Tr. Day 1, 125: 7-13).
182 22. On September 02, 2022, Petitioner expressed via email to special education
183 teacher/department chair that she believed "[Student] should have had an IEP a long
184 time ago." (Joint Statement of Undisputed Facts and Material Admissions; Exhibit
185 K).
186 23. Ms. Garrett was aware of Student's struggles via conversations with the Petitioner.
187 (Tr. Day 2 at 151:22-152:1).
188 24. Ms. Garrett testified that she considered making a referral for an evaluation for
189 Student and discussed getting permission to begin the testing with Petitioner. (Tr.
190 Day 2 at 153:2-10).
191 25. On September 02, 2022, Petitioner stated via email to Natasha Tebbs, a licensed
192 school counselor, "… we are in limbo on what to do with her regarding school. We
193 considered requesting an IEP in order to lengthen the amount of time she could
194 attend but it's just too overwhelming at this point to complete the amount of credits
195 needed. To be honest something should have been [done] a lot sooner and she
196 should have had an IEP a long time ago but we as parents were not aware of this or
197 we would have asked about it a lot sooner." (Exhibit 9-1).

198 26. On September 03, 2022, Natasha Tebbs, a licensed school counselor, informed
199 Petitioner that "[Student] only qualifies for the 504 Plan, not an IEP. The IEP is
200 solely for learning disabilities." (Joint Statement of Undisputed Facts and Material
201 Admissions; Exhibit K).
202 27. On September 07, 2022, Ms. Tebbs admitted to Petitioner that she was not in the
203 special education department or an expert in that area. Ms. Tebbs informed
204 Petitioner that Kevin Garrett was a better person to explain the IDEA. (Exhibit 10-
205 3).
206 28. Kevin Garrett is the director of special programs in the Iron County School District
207 and has been employed there for thirty-four (34) years. (Tr. Day 2 at 171:21-23).
208 29. On September 28, 2022, the Petitioner confirmed that she spoke with Kevin Garrett
209 who informed her that "[Student] would most likely qualify with a significant
210 health impairment." (Exhibit 10-2).
211 30. Petitioner was not sure if Student was "up for playing catch-up on 3 years of high
212 school at this point." (Exhibit 10-2).
213 31. Via email to Petitioner dated September 28, 2022, Ms. Tebbs states, "If you would
214 like to pursue the IEP, I can contact Marney Garrett, and she can help you with that
215 as well. If you prefer to pursue the GED, we can get you guys connected to the right
216 people there. Let me know what works best for you!" (Exhibit 10-2).
217 32. Petitioner responded to the email from Ms. Tebbs dated September 28, 2022, "No
218 worries, I've actually talked with Marney and Matt at adult high. We just have to
219 get [Student] informed and making a decision." (Exhibit 10-1).
220

V. ISSUES PRESENTED

The Individuals with Disabilities Education Act (IDEA) requires states and school districts to identify, locate and evaluate children with disabilities including those attending private schools. 20 U.S.C. 1412(a)(3)(A), 20 U.S.C. 1412 (a)(10)(A). The IDEA requires each state and school district to have policies and procedures and a practical method in place to ensure that children are timely identified, a duty known as Child Find.

The question presented is:

1. Whether LEA conducted a full and individual initial evaluation to determine whether a student is a "student with a disability" under Part B of the IDEA and these Rules, and to determine the educational needs of the student pursuant to 34 CFR §§ 300.301 and SpEd Rules II.D.?

VI. APPLICABLE STANDARDS AND ANALYSIS

The purpose of the "child find" provisions of the IDEA are to identify, locate, and evaluate students who are suspected of being a student with a disability and thereby may need special education and related services, but for whom no determination of eligibility as a student with a disability has been made (see Handberry v. Thompson, 446 F.3d 335, 347-48 [2d Cir. 2006]; see also 20 U.S.C. § 1412[a][3][A]; 34 CFR 300.111). The IDEA places an ongoing, affirmative duty on State and local educational agencies to identify, locate, and evaluate students with disabilities residing in the State "to ensure that they receive needed special education services" (20 U.S.C. § 1412[a][3]; 34 CFR 300.111[a][1][i]). The "child find" requirements apply to "children who are suspected of being a child with a disability … and in need of special education, even though they are advancing from grade to grade" (34 CFR 300.111[c][1]); D.K. v. Abington Sch. Dist., 696

247 F.3d 233, 249 [3d Cir. 2012]). The statute requires that each state agency have a "practical method"
248 in place to ensure that children suspected of having disabilities are "identified, located, and
249 evaluated." (34 CFR 300.111[a][1]).

250 Because the child find obligation is an affirmative one, the IDEA does not require parents to
251 request that the district evaluate their child (see Reid v. District of Columbia, 401 F.3d 516, 518
252 [D.C. Cir. 2005][noting that '[s]chool districts may not ignore disabled students' needs, nor may
253 they await parental demands before providing special instruction"]. A district's child find duty is
254 triggered when there is "reason to suspect a disability and reason to suspect that special education
255 services may be needed to address that disability" (J.S., 826 F. Supp. 2d at 660; New Paltz Cent.
256 Sch. Dist., 307 F. Supp. 2d at 400 n.13, quoting Dep't of Educ., State of Hawaii v. Cari Rae S.,
257 158 F. Supp. 2d 1190, 1194 [D. Haw. 2001]). To support a finding that a child find violation has
258 occurred, school officials must have overlooked clear signs of disability and been negligent in
259 failing to order testing, or have no rational justification for deciding not to evaluate the student
260 (Mr. P v. W. Hartford Bd. of Educ., 885 F.3d 735, 750 [2d Cir. 2018], quoting Bd. of Educ. of
261 Fayette County v. L.M., 478 F.3d 307, 313 [6th Cir. 2007]; see A.P., 572 F. Supp. 2d at 225). States
262 are encouraged to develop "effective teaching strategies and positive behavioral interventions to
263 prevent over-identification and to assist students without an automatic default to special education"
264 (Los Angeles Unified Sch. Dist. v. D.L., 548 F. Supp. 2d 815, 819 [C.D. Cal. 2008], citing 20
265 U.S.C. § 1400[c][5]).

266 To satisfy its burden of proving that a school district has violated its child find obligations, a
267 parent must show that (1) the student has an IDEA-eligible disability; (2) the school district
268 breached its child find duty; and (3) the child find violation resulted in a substantive denial of
269 educational opportunity. J.M. v. Summit City Bd. of Educ., 39 F.4th 126, 138 (3d Cir. 2022).

270 **(1) IDEA-eligible disability**

271 In 2016, Student was diagnosed with Crohn's disease, an autoimmune disorder which caused
272 severe digestive complications and required multiple hospitalizations and extensive treatment. The
273 District did not contest Student's disability and even suggested that Student would potentially
274 qualify under the IDEA classification of Other Health Impairment (OHI).

275 To be found eligible under OHI, a student must have "limited strength, vitality, or alertness"
276 due to a disability which adversely affects educational performance and is "due to chronic or acute
277 health problems such as asthma, attention deficit disorder or attention deficit hyperactivity
278 disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis,
279 rheumatic fever, sickle cell anemia, and Tourette syndrome" It must also "[a]dversely affect a
280 child's educational performance. 34 C.F.R. 300.8(c)(9).

281 In the present case, Student testified that she was "losing blood every day and unable to fully
282 function … bedridden … and in lots of pain." (Tr. Day 1 at 54:15-18). Student further testified that
283 she fell behind in school, didn't know how to do the classroom assignments, and didn't feel like a
284 student in any of her classes. (Tr. Day 1 at 75:7-16).

285

286 (2) **Breach of Child Find Duty**

287 The courts of appeals have uniformly placed the affirmative Child Find duty on states and
288 school districts, not on parents.

289 The Third Circuit has held that a child's entitlement to special education does not rest on the
290 vigilance of the parents. M.C. ex rel J.C. v. Cent. Reg'l Sch. Dist., 81 F.3d 389, 397 (3d Cir. 1996).
291 As one Pennsylvania Court explained the 3rd Circuit standard, a father's failure to request an
292 evaluation could not diminish the District's Child Find duties because it was the District's

"nondelegable responsibility" to propose an evaluation in light of the child's emotional issues and declining academic performance. Jana K. ex. Rel. Tim K. v. Annville-Cleona School Dist., 39 F. Supp. 3d 584, 602 (M.D. Pa 2014).

Consistently with the other circuits, the Sixth Circuit has explicitly held that the IDEA imposes a Child Find duty on states to require school districts to have policies and procedures in place to identify, locate, and evaluate children with disabilities who may need special education and related services. Lakin v. Birmingham Public Schools, 70 F. App'x 295 (6th Cir. 2003). The State of Ohio has held that even if a parent fails to ask for IDEA services, the school district is not excused from a failure to evaluate the student because of its Child Find duty. Toledo City Schs., 66 IDELR 174 (SEA OH 2015).

In R.M.M. v. Minneapolis Pub. Sch. Special Sch. Dist. No. 1, 2017 WL 2787606 (D. Minn. 2017), aff'd Spec. Sch. Dist. No.1, Minneapolis Pub. Sch. V. R.MM., 861 F. 3d 769 (8th Cir. 2017), the Eighth Circuit held that a school district's "passive efforts" were deficient. The District Court explained and the Eight Circuit affirmed: "Court around the country, including this one, have recognized that the IDEA's child find requirement imposes an "affirmative duty" on school districts. This duty is the sole responsibility of the school districts – it may not be discharged simply by passing the burden on to private educators or parents. The reason for this is self-evident – private school officials and parents may be unwilling or unable to recognize the need for an evaluation and are under no duty to assist the district. Here the passivity of the School District's child find activities evidenced an abrogation of its responsibilities that the IDEA simply does not permit." Id. At *15-16."

The Ninth Circuit has long held that school districts cannot foist upon parents the district's own legal affirmative duties. W.G. v. Board of Trustees of Target Range School Dist. No. 23, 960

316 F.2d 1479, 1485 (9th Cir. 1992), superseded on other grounds by 20 U.S.C. 1414 (d)(1)(B) (parent
317 leaving an IEP meeting did not protect school from violation); N.B. v. Hellgate Elementary Sch.
318 Dist., 541 F. 3d 1202, 1209 (9th Cir. 2008) (failure to fully evaluate found where school gave
319 referral and parents didn't follow up.) The educational agency simply cannot abdicate its
320 affirmative duties under the IDEA. Anchorage School District v. M.P., 689 F. 3d 1047 (9th Cir.
321 2012).

322 The Tenth Circuit has held that the Child Find obligation requires schools to "proactively
323 identify, locate and evaluate students with disabilities who may need special education or other
324 academic supports." D.T. by and through Yasiris T. v. Cherry Creek School District No. 5, 55 F.4th
325 1268, 1273 (10th Cir. 2022). The Court issued no mandate requiring parents to take any particular
326 action to ensure the school was "notified" about a potentially disabled child.

327 In the present case, the Petitioner and Respondent offered extensive witness testimony and
328 exhibits detailing email and text communications between Parent and District regarding whether
329 Student should be evaluated for an IEP. Repeatedly, Parent expressed that she was unsure about
330 how to move forward or what could be done to assist Student at this point in her educational
331 journey. In response to the Parent's uncertainty, the District could have requested consent for
332 evaluation by simply printing the paperwork and providing it to the Parent. The District failed to
333 present any evidence that it did so; there is nothing in the hearing record to support a finding that
334 the District proposed testing or attempted to obtain consent from the Parent for an initial evaluation
335 to determine whether Student is a child with a disability. There is no evidence that the Parent failed
336 to respond to a request for, or refused consent to, evaluations to determine eligibility. Instead, the
337 District argued that the Parent had training and knowledge about the special education process and
338 that she knew how to print the forms herself. The District concluded that Petitioners did not

339 demonstrate that the Mother ever requested an evaluation such that the District was required to
340 either grant the request or provide written prior notice of its refusal to do so. Rather, it argued, the
341 overwhelming evidence was that the as of the spring of 2022, District would have initiated an
342 evaluation at any time Mother decided an IDEA referral was a path she wished to pursue.

343 In short, a child's entitlement to special education cannot rest on the vigilance of the parents.
344 The District had reason to suspect that Student had a qualifying disability and failed to make
345 reasonable efforts to obtain the informed consent from the parent. As such, the District **failed** to
346 meet its child find obligation.

347

348 **(3) <u>Student's Need for Special Education</u>**

349 The evidence shows that Student has chronic and severe medical limitations. Petitioner
350 contends that Student was eligible for special education because the limitations had an adverse
351 effect on her education. The District contends they did not.

352 Not every student who is impaired by a disability is eligible for special education. Some
353 disabled students can be adequately educated in a regular education classroom. Federal law
354 requires special education for a "child with a disability," who is defined in part as a child with an
355 impairment who, by reason thereof, needs special education and related services. 20 U.S.C.
356 1401(a)(3)(A)(ii); 34 CFR 300.8(a)(i)(2017).

357 The Petitioner proved convincingly that Student has a qualifying disability and that her needs
358 could not be provided with modification of the regular school program. The hearing record details
359 Student's extensive medical treatment, frequent hospitalizations, missed instruction, failure to
360 understand and complete assignments, and lack of earned credits supporting a finding that her
361 limitations could not be adequately addressed in general education by a 504 plan.

362 **VII. CONCLUSIONS AND PREVAILING PARTY**

363 Based upon the foregoing Findings of Fact and Analysis, the undersigned finds that the
364 Petitioner has met their burden of proving that Respondent failed to meet its child find
365 obligations.

366

367 **VIII. ORDER**

368 Based upon the foregoing, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

369 1. It is **ORDERED** that the Petitioners are the prevailing party in this matter.
370 2. It is **ORDERED** that LEA shall fund a full physical and psychological health evaluation
371 to be conducted by a mutually-agreed upon third party provider who shall make
372 recommendations as which accommodations, services, and supports would best enable
373 Student to receive FAPE;
374 3. It is **ORDERED** that the Petitioners' request for compensatory education is granted. The
375 goal of compensatory education is to place the student in the position that the student would
376 be in had the LEA provided the appropriate services in the first place (Reid v. District of
377 Columbia, 43 IDELR 32 (D.C. Cir. 2005)). In determining an amount of compensatory
378 services, equitable consideration is required; however, there is no obligation to provide a
379 day-for-day compensation for time passed. (Parents of Student W. v. Puyallup School Dist.,
380 No. 3, 31 F. 3d 1489, 1497 (9th Cir. 1994)).
381 a. LEA shall provide the following compensatory services: Compensatory services
382 offered in the total amount of one-hundred (100) hours in content areas of academic,
383 social/emotional development, executive-functioning and/or behavior skills,
384 considering the current data of Student's progress and deficits.

b. Compensatory services shall be provided by a qualified special education teacher, counselor/school psychologist, behavior interventionist, speech language pathologist, or occupational therapist, as appropriate, and as selected by LEA.

c. Compensatory Services Scheduling:

i. A team comprised of LEA representatives and Parent shall meet no later than September 02, 2024. The team shall determine the schedule and manner in which compensatory services will be provided considering Student's schedule, ability to sustain her attention, involvement in any extracurricular activities after school, and her interest levels.

ii. The compensatory services may not replace any ESY services required by Student's IEP. The compensatory services pursuant to this Paragraph will be offered regardless of whether the IEP Team determines Student qualifies for Extended School Year ("ESY") services.

iii. Compensatory services shall be completed by the end of the 2024-2025 school year. Student absence shall result in waiver of service scheduled for that day. Staff absence must be rescheduled. Any compensatory service declined or not used by the end of the 2024-2025 school year, shall be deemed waived (assuming LEA has made a good faith effort to timely commence and provide all compensatory service and documented such efforts).

iv. LEA may choose to contract with another LEA or service provider to provide the services described above. LEA retains the responsibility for ensuring that services are provided by a fully credentialed special educator or related service provider in a timely manner and as otherwise set forth herein. LEA will be receptive to parental feedback and input as to who will provide compensatory services; however, LEA has the ultimate authority to determine which fully credentialed special educator or related service provider will provide the services.

v. Parent may choose to waive compensatory services in whole or in part. USBE requests that such a waiver be made in writing.

4. It is **ORDERED** that any and all other requested relief, not specifically granted and ordered herein is denied.

Dated this 17th day of June, 2024.

/s/ Nika Gholston
USBE Hearing Officer

IX. RIGHT TO APPEAL

This is the final administrative decision in this matter. Pursuant to State Bd. of Educ., Special Education Rules IV. P., (2016), this decision may be appealed. If appealed, the appeal must be filed within thirty (30) days of the due process hearing decision. Sped Rule IV.S.(2).

cc: Maya Anderson, Esq.
Scott Garrett, Esq.