

BEFORE THE IDAHO STATE DEPARTMENT OF EDUCATION
(Administrative Hearing)

IN THE MATTER OF THE EXPEDITED)
DUE PROCESS HEARING REQUEST)
)
[REDACTED] (Parent) on)
behalf of "[REDACTED]", a minor child (Student),)
)
Petitioner)
v.)
)
)
)
BUHL SCHOOL DISTRICT #412, ("the)
District") and IDAHO STATE DEPARTMENT)
OF EDUCATION ("the Department"),)
)
Respondents)
_____)

No: EH-24-11-07a
Amended MEMORANDUM DECISION
and ORDER

PROCEDURAL HISTORY

This is an expedited administrative due process proceeding under the Individuals with Disabilities Education Act (IDEA.) This Hearing Officer prepared the Order and Certificate of Service but did not email the parties until the following day. Therefore the the date on the Certificate of Service required correction, and will reflect today's date of [REDACTED].

Petitioner, [REDACTED]
[REDACTED] a student (Student) in Respondent Buhl School District (District) represented by co-counsel Anne S. Magnelli and Nicole Jenkins.¹ On [REDACTED], Petitioner filed this

¹ Ms. Jenkins did not attend the hearing.

expedited due process hearing request against Respondents District and the Idaho State Department of Education (Department), represented by the Office of the Idaho Attorney General, alleging the following violations: 1) failure to follow the IDEA procedures re: change [REDACTED] [REDACTED] (2) inappropriate IEP/failure to follow or implement the student's IEP [REDACTED]; (3) SDE has an independent obligation and is ultimately responsible for ensuring that students are provided with FAPE under IDEA. On [REDACTED] [REDACTED], Respondent District filed an Answer. On [REDACTED], Respondent Department filed a Motion to Dismiss, accompanying Memorandum, Declaration, and attached Exhibit. On [REDACTED], Respondent District filed a [REDACTED]

[REDACTED]
[REDACTED]

A [REDACTED] hearing was held on [REDACTED]. Upon the close of testimony, both parties stipulated to provide written closing arguments due on [REDACTED] 2025 which were received timely and considered.

Each party identified exhibits for the hearing, and the following witnesses testified:

[REDACTED] Petitioner and parent

Sandra Lobo, Director of Support Services, Director of Special Education and Federal Programs

Angie Oparnico, Buhl School District Superintendent

[REDACTED] [REDACTED] teacher

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] principal

[REDACTED]

The following is included for historical background information: On [REDACTED] Petitioner filed an administrative due process request. On [REDACTED], the Hearing Officer granted Petitioner's Motion for Summary Judgment disposing of all issues raised in the Parent's Request for a Due Process Hearing [REDACTED]. On

[REDACTED]

[REDACTED]

[REDACTED] On [REDACTED], Petitioner filed an expedited administrative due process hearing EH-24-10-24a to determine whether District's [REDACTED]

[REDACTED]

[REDACTED]

A [REDACTED] due process hearing was held on [REDACTED]. On [REDACTED], this

² The parties stipulated to have [REDACTED]

Hearing Officer issued a Memorandum Decision and Order, finding that Petitioner did not meet [REDACTED] burden of proof.

LEGAL STANDARD

Petitioner, as the party bringing the Request for the Expedited Due Process Hearing, bears the burden of proof by a preponderance of the evidence to prevail in this matter. *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528, 163 L.Ed.2d 387 (2005).

ISSUES

1. [REDACTED]
2. Whether Respondent Buhl School District had an obligation to [REDACTED]
[REDACTED]

FINDINGS OF FACT

1. Student is currently in [REDACTED] [REDACTED] and on an IEP. ([REDACTED])
2. Student [REDACTED]
[REDACTED]
[REDACTED]
3. At the time of the hearing, Student [REDACTED]
[REDACTED]
[REDACTED]
4. Respondent [REDACTED]

[REDACTED] Student [REDACTED].

5. Respondent Buhl School District has a four-days school week, Tuesday through Friday.

(HT p. 20, ln. 20.)

6. On [REDACTED], Respondent [REDACTED]

[REDACTED]

[REDACTED] Petitioner testified that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. Either [REDACTED]

[REDACTED]

[REDACTED]

8. [REDACTED]

[REDACTED]

9. On [REDACTED] District [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. [REDACTED]

[REDACTED]

■ No date provided.

11. [REDACTED]
[REDACTED]

12. Student [REDACTED] pursuant to a prior Due
Process Hearing Order [REDACTED]
[REDACTED]

13. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

15. During the period between [REDACTED]
[REDACTED]

16. On [REDACTED]
[REDACTED]
[REDACTED]

17. [REDACTED]
[REDACTED]

■ The 2024-2025 school year began on August 14, 2024. (HT p. 49, ln. 5-8.)

18. Respondent [REDACTED]

19. On [REDACTED]

[REDACTED]

20. [REDACTED]

[REDACTED]

[REDACTED]

21. Petitioner testified that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22. Petitioner testified that [REDACTED]

[REDACTED]

[REDACTED]

23. On [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] after Petitioner filed this hearing request, [REDACTED]
[REDACTED] are considered relevant.

[REDACTED]

[REDACTED]

25. Respondent did not provide Petitioner any documentation [REDACTED]

[REDACTED]

[REDACTED]

26. Student's [REDACTED]

[REDACTED]

27. Student's [REDACTED]

[REDACTED]

[REDACTED]

28. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

29. [REDACTED]

[REDACTED]

30. [REDACTED]

[REDACTED]

⁷ None was introduced during the hearing.

⁸ [REDACTED] testimony provided by the Superintendent, Principal, and [REDACTED]

[REDACTED]

31. [REDACTED]
[REDACTED]

32. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

33. [REDACTED]
[REDACTED]

34. [REDACTED]
[REDACTED]

35. Respondent did not [REDACTED]
[REDACTED]

36. Petitioner believed [REDACTED]
[REDACTED]
[REDACTED]

37. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

38. [REDACTED]
[REDACTED]

39. Mr [REDACTED]
[REDACTED]
[REDACTED]
40. [REDACTED]
[REDACTED]
[REDACTED]
41. [REDACTED]
[REDACTED]
42. [REDACTED]
[REDACTED]
[REDACTED]
43. [REDACTED]
[REDACTED]
44. [REDACTED]
[REDACTED]
45. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

46. [REDACTED]
[REDACTED]
[REDACTED]

47. Upon further questioning [REDACTED]
[REDACTED]
[REDACTED]

48. [REDACTED]
[REDACTED]
[REDACTED]

49. Petitioner described [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

50. Petitioner testified that [REDACTED]
[REDACTED]

51. [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

52. [REDACTED]
[REDACTED]

53. [REDACTED]
[REDACTED]

54. Petitioner testified that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

55. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

56. [REDACTED]

[REDACTED]

57. Students [REDACTED]

[REDACTED]

58. Student [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

59. [REDACTED]

[REDACTED]

60. [REDACTED]

[REDACTED]

61. Student's [REDACTED]

[REDACTED]

[REDACTED]

62. Initially, [REDACTED]

[REDACTED]

[REDACTED] but then the witness [REDACTED]

[REDACTED]

63. [REDACTED]

[REDACTED]

64. [REDACTED]

[REDACTED]

[REDACTED]

65. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

66. [REDACTED]

[REDACTED]

67. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

68. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

69. [REDACTED]
[REDACTED]
[REDACTED]

70. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

71. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

72. [REDACTED]
[REDACTED]

73. Petitioner testified that [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

CONCLUSIONS OF LAW

[REDACTED]

under IDEA

Generally, 34 CFR 300. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Therefore, the operative question is [REDACTED]

[REDACTED] The United States Education

¹¹ The IEP team convened a meeting to [REDACTED]

Department's Office for Special Education and Rehabilitative Services (OSERS) provides guidance regarding [REDACTED]

[REDACTED] which triggers procedural safeguards and rights under IDEA. These procedural safeguards protect both the procedural and substantive rights of students and their parents and are designed to ensure a District's compliance with IDEA's mandates.

OSERS defines [REDACTED]

[REDACTED]

[REDACTED] ■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ■ The reason for this is clear: a student [REDACTED]

[REDACTED] But a district cannot absolve itself from its ultimate obligation under IDEA to provide a FAPE to students with disabilities by [REDACTED]

[REDACTED] In fact, an oft anticipated purpose of an IEP, [REDACTED]

[REDACTED]

[REDACTED] Therefore, there are instances of when [REDACTED]

¹² [REDACTED]

¹³ Dear Colleague Letter, [REDACTED]

¹⁴ Dear Colleague Letter, [REDACTED]

[REDACTED]

[REDACTED]

This matter can only be described as complicated, challenging, with a factual scenario that despite extensive research by this Hearing Officer, did not produce an analogous case providing guidance or precedence.

The Hearing Officer in [REDACTED] Order dated [REDACTED], [REDACTED] found that Respondent's [REDACTED] circumvented the IDEA and resulted in not just procedural, but substantive violations. The Hearing Officer ordered Respondent [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] While this Hearing Officer [REDACTED] It is inconceivable that the [REDACTED] Hearing Officer contemplated that Respondent would take such action [REDACTED]

[REDACTED]

Shortly thereafter, Respondent [REDACTED]

[REDACTED].

While Respondent may have technically complied with [REDACTED]

[REDACTED]

under this exceptional circumstance and fact scenario, this Hearing Officer is not convinced that Respondent complied with IDEA. Respondent has an obligation provide a FAPE to children with

disabilities, [REDACTED], and it is taking every action available to avoid such obligation [REDACTED]. Respondent cannot substantively violate Student's rights under IDEA and then [REDACTED].

There is a clear pattern of [REDACTED]

Testimony from [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondent's handling of Student's [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] due to

substantive IDEA violations is a technicality away from violating an order. It is further

disconcerting that the principal has no training regarding the establishment or implementation of

an IEP [REDACTED]

[REDACTED] It is a legal absurdity that Respondent took such actions which then

required Petitioner, [REDACTED]

[REDACTED] However, the testimony by

building administrators [REDACTED] that unraveled proved to be even more

troubling due to a lack of credibility. The Superintendent testified that [REDACTED]

[REDACTED]

[REDACTED]. The Principal testified that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] testified that it was the Principal who directed [REDACTED] [REDACTED]

[REDACTED]. Neither the Principal nor [REDACTED]

[REDACTED]

[REDACTED] It is further noted, and significant in terms of evaluating Respondent's habit of [REDACTED]

[REDACTED]

Respondent again [REDACTED]

[REDACTED] It is incomprehensible that Respondent took the identical course of action that [REDACTED]

[REDACTED] violation of IDEA [REDACTED]

[REDACTED]

[REDACTED]

CONCLUSION

The matter at hand is not just unusual, but appears to be unprecedented in terms of a district's [REDACTED]. A discussion of whether [REDACTED]

[REDACTED]

[REDACTED] Petitioner's burden of proof is only a preponderance of the evidence, and in light of the totality of the circumstances, for all purposes, Respondent's actions

¹⁸ It is also troubling that given the circumstances, Respondent [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

REMEDIES

The IDEA empowers courts to grant the relief that they determine to be appropriate. See *Burlington Sch. Comm. V. Massachusetts Dep't of Educ.*, 556 IDELR 389 (U.S. 1985) (citing 20 USC 1415(i)(2)(C)(iii)).

Private Placement

While Petitioner met [REDACTED] burden of proof to show violations under IDEA, Petitioner failed to present any evidence regarding [REDACTED]. Other [REDACTED] the record is void of any information explaining Student's [REDACTED]

[REDACTED]. There was no testimony discussing [REDACTED]

[REDACTED] While Petitioner testified that Student [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Compensatory Education

While not explicitly provided by the IDEA, compensatory education is appropriate when there is a need to attempt to place a student in a comparable position had Respondent not violated Student's rights under IDEA. The award for compensatory education is within the broad

[REDACTED]

[REDACTED]

discretion of the court and is based on equitable principles. Compensatory education may include the award of services themselves. The [REDACTED] addressed compensatory education for [REDACTED]. Here, the only question is whether there is an equitable need for compensatory education due to [REDACTED]. This Hearing Officer finds that an award of services is an appropriate remedy given this unique circumstance.

Attorney's Fees

The IDEA does not permit a hearing officer to award attorney's fees.²¹ Any request is denied. The Parties are responsible for their own attorney fees and costs.

Based on the findings of fact, conclusion of law, the following remedies have been determined appropriate. It is therefore ORDERED:

1. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²¹ 34 CFR 300.517(a)(1) "the court in its discretion may award reasonable attorney's fees as part of the costs".

3. By [REDACTED], Respondent will arrange for professional development training with Idaho Special Education Support and Technical Assistance (SESTA) to be completed within ninety days of this Order. The training will be on [REDACTED]. The following personnel will participate: all Buhl [REDACTED] building administrators, special education director, special education staff, and Superintendent. Respondent will consult with SESTA to determine the format of the training. Within seven days of the session, Respondent shall provide to the Idaho State Department of Education the agenda, materials presented, participant's names and professional roles.

Dated on this 12th day of January, 2025

/s/ Courtney S. Wucetich

Courtney Sidonia Wucetich

Hearing Officer

NOTICE

Any party aggrieved by the findings and decision herein has the right to bring a civil action with respect to the due process complaint notice requesting a due processing hearing under 20 USC 1415(i)(1). The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. (See 20 USC 1415(1)(2)). 20 USC 1415(I)(2)(a) provides that: Time limitation: The party bringing the action shall have 90 days from the date of this decision to file a civil action, or if the State has an explicit time limitation for bringing civil actions under Part B of the Act, in the time allowed by State law. IDAPA 08.02.03.109.05(g) provides that “An appeal to civil court must be filed within forty-two (42) calendar days from the date of issuance of the hearing officer’s decision.

Certificate of Service

I DO HEREBY certify that on January 15, 2025, I emailed to Counsel this Memorandum Decision and Order

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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