STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

**,

Petitioner,

vs.

Case Nos. 24-0464E
24-0465E

LEON COUNTY SCHOOL BOARD,

Respondent.
_____/

FINAL ORDER

The due process hearing was heard by Administrative Law Judge Jessica E. Varn of the Division of Administrative Hearings (DOAH), over the course of several non-consecutive days, on an abbreviated schedule, by Zoom conference. The first day of hearing was April 24, 2024, and the final day was July 2, 2024. The parties mutually agreed to the hearing schedule based on the parents' request for shortened hearing days.

APPEARANCES

For Petitioner: Parents of the student, pro se
(Address of Record)

For Respondent: Opal L. McKinney-Williams, Esquire
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1028 East Park Avenue
Tallahassee, Florida 32301

STATEMENT OF THE ISSUES[1]

Whether the School Board violated the Individuals with Disabilities Education Act (IDEA) and denied the student a free and appropriate public education (FAPE) by failing to maintain and provide data for progress monitoring, goals and accommodations;

Whether the School Board denied the student FAPE by refusing to provide end of school year (ESY) services; and lastly,

Whether the student's parents were denied the ability to meaningfully participate in the development of the student's IEP, which resulted in a denial of FAPE to the student.

PRELIMINARY STATEMENT

The requests for due process hearing were filed on or about February 1, 2024. A telephonic pre-hearing conference was held on February 19, 2024. During the conference, the parties were heard on the issue of consolidation of the two cases, and over Petitioner's objection, the cases were consolidated. The hearing was scheduled on mutually agreeable dates and for no more than five hours daily, to provide the accommodations requested by the parents, which included: an abbreviated hearing day schedule, breaks when requested, a separate room for the breaks, and a walk-through of the hearing site prior to the due process hearing. The parties agreed to begin the due process hearing on April 24, 2024.

[1] During the hearing and in Petitioner's post-hearing submissions, Petitioner raised multiple issues, including: the design of the individual education plans (IEP)(aside from the ESY issue), the implementation of the IEPs, transportation, shortened school days, staff training, tuition reimbursement, and alleged child find violations. These issues were not raised in the requests for due process hearing; therefore, they will not be addressed in this Final Order.

On February 27, 2024, Petitioner filed an amended request for due process hearing, and filed a Motion to Strike Defendant's Affirmative Defenses (Motion to Strike). The School Board filed its objection on March 1, 2024, as well as a Partial Motion to Dismiss for Lack of Subject Matter Jurisdiction (Partial Motion to Dismiss). A motion hearing was held on March 1, 2024, and an Order on Pending Motions was entered on March 4, 2024. Petitioner's Motion to Strike was denied, and the School Board's Partial Motion to Dismiss was granted.

On April 9, 2024, Petitioner filed a Motion to Compel Discovery Responses (Motion to Compel), and filed a Motion for Continuance Due to Failure of Respondent to Produce Discovery (Motion for Continuance). Two days later, the School Board filed its Response to the Motion to Compel, objecting to some of the discovery requests, and indicating the requests that had been fulfilled without objection. The School Board also objected to the Motion for Continuance. On April 16, 2024, an Order on Pending Motions was entered, denying both of Petitioner's motions.

During the course of the due process hearing, after Petitioner had presented his case in chief, it was clear that the School Board had, during discovery, failed to produce data requested and not objected to, including video footage of IEP meetings[2]. Those discovery violations were addressed during the hearing, by allowing Petitioner additional time to receive and review the data and videos, and reopen his case in chief. Petitioner reopened his case in chief, and introduced additional exhibits and testimony based on the new data and videos he received during the course of the hearing.

[2] The recording of IEP meetings is unusual, particularly in a state that requires two-party consent; however, the parents made this request, and the School Board complied.

The due process hearing was held over ten days spread over four months: April 24, 25, 26; May 2, 3, 9, 24; June 12 and 13; and July 2, 2024. The exhibits entered into the record by both parties are memorialized in the Transcript, as well as the list of 21 witnesses who testified.

At the conclusion of the due process hearing, the parties agreed to file proposed final orders by July 19, 2024; the parties waived the right to review the Transcript prior to filing their proposed final orders. The deadline for the Final Order was set for August 7, 2024. On July 18, 2024, a day prior to the deadline for the parties' proposed orders, the Transcript was filed with DOAH. A telephonic post-hearing conference was held with the parties on July 23, 2024, wherein the parties were asked to extend the deadline for the Final Order by one week, to provide the undersigned time to review the Transcript. The parties raised no objection; therefore, the deadline for the Final Order was extended to August 14, 2024. Both parties filed timely proposed orders, which were considered in preparation of this Final Order.

Unless otherwise indicated, all rule and statutory references are to the version in effect at the time of the alleged violations. For stylistic convenience, the undersigned will use male pronouns in this Final Order when referring to Petitioner. The male pronouns are neither intended, nor should be interpreted, as a reference to Petitioner's actual gender.

FINDINGS OF FACT[3]

1. The student is a [redacted]-year old student who has attended schools in Leon County since [redacted]. His primary eligibility for exceptional student education (ESE) services is autism spectrum disorder (ASD), with secondary

[3] The Findings of Fact do not contain reference to every witness who testified, but all testimony and all exhibits entered into the record were read or viewed.

eligibility under occupational therapy (OT), language impairment (LI) and other health impaired (OHI).

2. Due to multiple medical diagnoses, he struggles in many areas, including academic, behavior, and language. He's already been retained once, and remains below grade level across all academic areas. His parents opt to have him attend private therapy every Monday, which results in a shortened four-day school week.

3. During the relevant period, January [redacted] through January [redacted], the record is full of IEP meeting notices, video footage of multiple lengthy IEP meetings, an enormous volume of emails which contained requests and demands from the student's parents, and a polite response to every email and every request from the school staff. The following summary of events is only a fraction of the communication between the parties, highlighting the most relevant moments.

4. In January [redacted], the School Board was in the process of reviewing the most recent parent request, which was to consider an additional eligibility under OHI. The parents' hyper focus on procedure and process is the overarching thread through this voluminous record; starting here—with a parental request to add an eligibility category based on additional diagnoses of sleep apnea, hyperactivity, and Attention Deficit Hyperactive Disorder (ADHD). Any needs that the student had, of course, could be addressed under the first three eligibility categories—but the parents insisted on consideration of an additional category, and so the school staff complied with the request.

5. The parent's request was for the school staff to immediately send the appropriate forms home to add the medical diagnoses as an additional category of eligibility. The forms for medical providers to complete were then sent to the parents. The parents were also told that, although it was

the normal practice for the School Board to convene the IEP team to discuss a reevaluation request, in an effort to facilitate the immediate consideration of the request, only the school team members of the IEP team would convene to discuss the reevaluation request, as the IDEA did not require a meeting with the parents for such a request. The school staff' meeting would be limited to consideration of the reevaluation request, and would not address any potential change in services. The parents were then provided with reevaluation forms for their signature while the school staff waited for the return of the medical forms.

6. Even though the request was for *immediate* action, oddly, the parents' next step was to file a state complaint with the Department of Education (one of at least 5 or 6 filed by the parents within a span of a year) asserting, among other things, that the School Board violated the IDEA by adding a category of eligibility without first holding an IEP meeting with the parents. Sadly, this was not the only time that the parents filed a state complaint alleging a procedural defect after the School Board complied with a request of the parents.

7. On this issue, the Department of Education found that the School Board did not violate the IDEA because the parent did not request a meeting to discuss the reevaluation and because under the IDEA, a meeting was not required.

8. However, the Department of Education did find that the School Board violated its own policies and procedures, which state that a meeting must be held with parents for all reevaluations. The Department of Education gave the School Board until March 11, [redacted], to reconvene the IEP team to include the parent, and provide sufficient notice to give an opportunity for the parent to attend an IEP team meeting, to discuss the parents' request for reevaluation.

9. During this same January to March time period, the parties were also working to schedule a facilitated IEP meeting for the student's annual IEP

review, which was due in late January [redacted]. The Department of Education contacted the parents to schedule the facilitated IEP meeting between January 17-21, [redacted]. The parents replied that, due to scheduling conflicts, they would not be available until after January 31, [redacted], and agreed to extend the deadline.

10. Although the parents agreed to an extension, the school staff continued to work with the Department of Education and the parents to schedule a meeting as soon as possible. Several considerations guided this need for urgency: the due date for an annual IEP review, consideration of a three-year reevaluation, the parental request for reevaluation, and the need to try to meet the Department of Education's deadline. Multiple attempts were made to secure mutually agreeable dates from the parents for an IEP meeting. However, once dates were set, invariably, the parents would cancel the meeting and the process would begin anew.

11. The parents routinely cited alleged "fraudulent activity" on the part of the school staff, or the failure to provide prior written notices (PWN), as reasons for canceling.

12. The parties eventually agreed on March 9, [redacted], as the date for the facilitated IEP meeting. The emails sent by school staff were focused on scheduling an annual IEP meeting, consider the reevaluation request, and deal with the various concerns of the parents. Many of the parents' responsive emails repeatedly alleged IDEA violations on the part of the school staff, in part for failure to provide PWNs for a variety of requests, many of which fell well outside the circumstance in which a PWN is required. In response to these many requests, school staff consistently informed the parents that a PWN would be provided after the IEP team met to consider each of the requests. The parents continued to demand PWNs although the IEP team had not yet met to consider the multiple requests.

13. Over a week before the March IEP meeting, the parents were notified of the mutually agreeable date. Prior to the meeting, they were also given a

draft of the IEP, and the parents had sent emails providing their input. Unfortunately, the state facilitator notified the parties that they could not meet on the set date.

14. Twelve school staff members arrived for the IEP meeting, as scheduled, but the parents and the facilitator did not. The meeting proceeded without them.

15. The March IEP meeting was held virtually from 9:00 a.m. to 4:00 p.m. After reviewing medical information previously provided by the parents, and independent educational evaluations (IEEs) that had been performed, considering a new category of eligibility as requested by the parents, and weighing the parents' input that had been sent via email, school staff updated the IEP.

16. The staff considered the medical forms that the parents had submitted, and agreed to add the OHI eligibility to the IEP. After consideration of all teacher data and input, and all progress monitoring data, the school staff updated the student's present levels of academic and functional performance (PLOPs) and agreed that the student needed ESY services.

17. The staff reviewed the independent language evaluation and determined that its findings aligned with what the service providers and instructional personnel witnessed concerning the student's language skills. According to the evaluator, the student was mostly intelligible, leading the staff to conclude that speech did not need to be added as an additional category of eligibility.

18. The staff then held a discussion about three-year reevaluations and specifically considered the list of evaluations and IEEs requested by the parents. The staff recommended reevaluations in the areas of intellectual/cognitive, adaptive behavior and hearing.

19. The staff also considered the parents' requests for evaluations. The staff agreed with the parents' requests for a psychological evaluation, achievement evaluation in reading and math, assistive technology (AT), vision, and hearing. The staff discussed the parents' request for an OT evaluation, and relied on the opinion of the school OT, who stated that another evaluation would not glean any additional information, but that more information could be gained by reviewing the student's functioning, which could occur by observation. The staff discussed the parents' request for an auditory central processing evaluation and determined that there was no direct research to show that it would guide interventions or help inform instruction. The staff rejected the parents' request for a physical therapy evaluation, due to the student's ability to maneuver the school and playground and there being no indication of gross motor challenges. The staff also rejected the parents' request for an updated functional behavioral assessment (FBA) because although the student's attendance had been sporadic, the function of the student's behavior, in their opinion, had not changed.

20. As to the student's AT needs, it was noted that he had difficulty communicating verbally and struggled with remaining focused during work tasks and transitioning between tasks or activities. He also had difficulty writing legibly and in the space provided and demonstrated delays in his reading skills and decoding. The AT checklist contained the strategies and tools that had been implemented, including static communication boards, reinforcement choice boards, first/next and token boards, as well as language and behavior therapy support and OT services. The staff agreed that AT was required and that his AT needs were met; however, they recommended an AT reevaluation. At the hearing, the AT specialist testified that the parents never provided consent for this.

21. The staff also discussed the parents' request for the use of other reading programs--Orton Gillingham or Wilson. The staff discussed the

student's use of STAR and AIMSWeb and determined that STAR was a good measure because it reinforced the student's activity. The staff discussed the basic concepts of the reading programs proposed by the parent and compared them with the reading programs used previously and used at that time. They determined that the reading programs utilized at that point were effective to meet the student's needs.

22. A PWN was prepared that outlined which options were being proposed by the staff and those being rejected. For all evaluations proposed by the staff, the parents never provided consent.

23. The next day, efforts began again to schedule a facilitated meeting with the parents to review and revise the IEP, and, if necessary, to go over the evaluations and to discuss the need for ESY. The meeting was scheduled for four to six hours on April 14, [redacted].

24. On March 11, [redacted], the School Board wrote a letter regarding the parents' requested IEEs. The letter detailed the parameters for IEEs; that is, that they must be connected to an existing evaluation conducted by the School Board. The IEE requests that did not meet this prerequisite were addressed by staff in the March 9, [redacted], PWN. However, the parents were entitled to IEEs in OT and vision, so they were given a list of possible evaluators. A separate PWN was issued addressing the IEE requests, and the parents also received a flash drive with a video recording of the March IEP meeting.

25. The April 14 meeting was held, and the parents were present. As a reflection of her misunderstanding of PWNs, the student's mother started the meeting demanding a PWN for the principal serving in the role of principal and local education agency (LEA), and disagreed with the presence of a district level manager and a behavioral consultant. She also requested a PWN for the addition of OHI as an eligibility category—which she had requested—because she disagreed with the process. The parents insisted on an individual PWN for each and every evaluation that was being rejected,

despite the all-encompassing and accurate PWN that had been issued. Again, as an act of goodwill, the School Board complied with the request.

26. The student's PLOPs were reviewed, along with all the supporting data, which consisted of the progress monitoring data in every area of need, the various evaluations, formal assessments, informal assessments, teacher observations and informal data, as well as the parental input. The parents disagreed or took issue with virtually every bit of data, even after a full explanation was given by the staff.

27. During the April meeting, the student's mother claimed to hear a male voice in the virtual room of a district level staff member. Based on nothing but conjecture, and despite all efforts to explain that it was simply voices from a nearby meeting, the meeting was cut short by the parents. This allegation lingered for months, including a public records request sent by the parents to the School Board, demanding the name and contact information of the male voice, as well as information on any attorney working with the School Board—with the unfortunate result of stalling any movement on finalizing the student's IEP and causing distraction from the focus all should have had: to efficiently, with a collaborative mindset, create an IEP for the student.

28. In May of [redacted], the staff began again to try to schedule a meeting with the parents to complete the review of the IEP and to discuss ESY. Initial attempts were made to schedule the meeting on May 26 or May 27, or before the end of the school year, because the staff had made a recommendation for ESY support. The parents did not make themselves available. The meeting was finally set for June 23, [redacted].

29. The meeting on June 23, [redacted], occurred as scheduled. Prior to the meeting, the parents submitted a document outlining what they believed were the multiple federal and state laws the School Board had violated. At the start of the meeting, the student's mother sought clarification of the role of each participant, and this was explained to her. The student's mother

shared her concerns about a bus incident where law enforcement was called to assist, and she requested that transportation staff receive training. The staff agreed with this request and the IEP was amended to add this training.

30. On the topic of ESY, the parents believed that their private providers were more appropriate for ESY and then disputed the behavior data shared by the staff. The parents sought what they characterized as "compensatory behavior services" through public payment for their private providers and requested, once again, a PWN for refusal of this request. After extensive discussion concerning the parents' desire to have the School Board pay for private providers, the parents left the meeting before discussion of ESY services could be finalized. After the parents left, the staff added ESY to the IEP, finding that the student needed ESY.

31. The staff next received a letter from a medical doctor, stating that the student would be absent for the entire summer to receive therapies for chronic medical conditions, making it apparent that he was never going to attend ESY in the summer of [redacted].

32. A year later, on May 19, [redacted], the IEP team met for an annual IEP review. Rather than working diligently to design an IEP to meet the student's needs, the meeting consisted of unproductive discussions started by the parents making false accusations that were not based in truth or based on law.

33. First, the parents sought the names and roles of every meeting participant, and the student's father asked for the qualifications of the School Board's program specialist who was facilitating the meeting, inquiring regarding his qualifications to review psychological evaluations. This inquiry was misplaced for many reasons, but mostly because there were no recent psychological evaluations to consider. The parents incorrectly insisted that a school psychologist was needed to proceed.

34. The student's mother also incorrectly claimed that the School Board had failed to seek parental consent for a verbal behavior milestones

assessment and placement program (VB-MAPP), which was conducted by the parent's chosen IEE provider. This evaluation, according to the parents, would become a new state complaint the School Board would need to respond to.

35. The parties were also sidetracked by a lengthy discussion on the student's diagnosis of anxiety, which the parents incorrectly insisted was a child find violation. The student's mother's distorted analysis, to the extent that it can be accurately summarized, was: because the parents had asked for the student to be eligible under Emotional Behavior Disability (EBD) (based on a diagnosis of anxiety), but anxiety was only later added to the IEP and referenced as a need that would be addressed, the student was owed compensatory education for failing to address the student's anxiety—and because the IEP team in that meeting would not agree to a package on compensatory education, the School Board was violating the law.

36. These frequent misguided accusations only served to misuse everyone's time and delay the creation of an IEP, as well as highlight the parent's misunderstanding of the IDEA.

37. The discussion of the student's PLOPs was protracted because every data point presented by the school staff was challenged by the parents, even in the most unfounded manner: according to the student's mother, since the student received all of his IEP accommodations, none of his reading data was valid.

38. A review of the PLOPs in the IEP, and the record as a whole, reflect a thoughtful, deliberate approach to collecting data points on each IEP goal, consisting of formal assessments, teacher observations, classroom data, informal assessments, parental input and extensive evaluations. At every turn, with each parental inquiry, challenge, and false accusation of illegal behavior, or allegations of a failure to collect data for progress monitoring, the staff responded patiently, politely, and professionally—without fail.

39. The parties got stuck trying to agree to appropriate goals for the IEP; thus, the staff member facilitating the IEP process encouraged the team to turn their attention to ESY, so that it could be finalized before summer started. The parents refused to do so.

40. The IEP meeting was reconvened on May 25, [redacted]. The IEP process was once again stalled at the goal-drafting stage. The parents would not accept the data collected by the staff, which caused them to disagree with just about everything recommended by staff for IEP goal drafting. The staff member facilitating the meeting once again encouraged a discussion of ESY, but once again, the parents refused to do so.

41. The parents took the position that even though the parties were stuck on the design of the IEP goals, the IEP meeting could not end unless they consented to it ending. They indicated that they would bring an advocate to write the goals for the IEP and requested that the current draft IEP could be used for ESY. The mother also launched into a lecture on PWNs, stating her incorrect belief that the School Board did not understand their purpose or how to draft them. Although staff members continued to try to get the parents to discuss ESY, because the school year was ending very soon and ESY would begin the following week, these efforts were unsuccessful. The meeting was continued to June 22, [redacted].

42. Subsequent IEP meetings were held on June 22, [redacted]; June 29, [redacted]; August 18, [redacted]; and September 15, [redacted]. During these meetings, all of the data on the student was discussed and examined thoroughly. The parents were accompanied by educational advocates, they actively engaged in questioning every single piece of data, and they asked multiple questions, which were all answered. The sticking point for the parents was the collection of data, as they believed that it had be to collected in a particular manner. The staff explained all of the data points, but no amount of explanation was sufficient for the parents. The parents would eventually demand compensatory education during the IEP meetings.

43. The video footage of the IEP meetings was quite telling—it highlighted the professionalism exhibited by the school staff and the parents' deep misunderstanding of the IDEA. The record as a whole establishes that the School Board properly collected data on the student's progress, appropriately engaged in progress monitoring, and offered ESY both summers. The student, however, never attended ESY.

44. There is overwhelming record evidence establishing that the parents were given every opportunity to meaningfully participate in the development of the IEPs for their son, and that the School Board consistently attempted to educate the parents, and to help them through their misconceptions about the IDEA and its implementing regulations.

CONCLUSIONS OF LAW

45. DOAH has jurisdiction over the subject matter of this proceeding and of the parties. *See* § 1003.57(1)(c), Fla. Stat.; Fla. Admin. Code R. 6A-6.03311(9)(u).

46. Petitioner bears the burden of proof on each of the issues raised. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005).

47. In enacting the IDEA, Congress sought to "ensure that all children with disabilities have available to them a free appropriate public education that emphasized special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A); *Phillip C. v. Jefferson Cnty. Bd. of Educ.*, 701 F.3d 691, 694 (11th Cir. 2012). The statute was intended to address the inadequate educational services offered to children with disabilities and to combat the exclusion of such children from the public-school system. 20 U.S.C. § 1400(c)(2)(A)-(B). To accomplish these objectives, the federal government provides funding to participating state and local educational agencies, which hinges on each agency's compliance with the IDEA's procedural and substantive requirements. *Doe v. Ala. State Dep't of Educ.*, 915 F.2d 651, 654 (11th Cir. 1990).

48. Parents and children with disabilities are given substantial procedural safeguards to ensure that the purposes of the IDEA are fully realized. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 205-06 (1982). Among other protections, parents can examine their child's records and participate in meetings concerning their child's education; receive written notice before any proposed change in the educational placement of their child; and file an administrative due process complaint about any matter relating to the identification, evaluation, or educational placement of their child, or the provision of FAPE. 20 U.S.C. § 1415(b)(1), (b)(3), & (b)(6).

49. In *Rowley*, the Supreme Court held that a two-part inquiry must be undertaken in determining whether a local school system has provided a student with FAPE. First, it is necessary to examine whether the school district has complied with the IDEA's procedural requirements. *Rowley*, 458 U.S. at 206, 207. A procedural error does not automatically result in a denial of FAPE. *See G.C. v. Muscogee Cnty. Dist.*, 668 F.3d 1258, 1270 (11th Cir. 2012). Instead, FAPE is denied only if the procedural flaw impeded the students right to FAPE, significantly infringed the parents' opportunity to participate in the decision-making process, or caused an actual deprivation of educational benefits. *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 525-26 (2007).

50. In this case, Petitioner's Complaints contain two alleged procedural violations: an alleged failure to maintain and provide data for progress monitoring, goals and accommodations; and an alleged failure to provide the parents' with meaningful participation in the development of the student's IEPs. As to progress monitoring, Petitioners failed to present any persuasive evidence establishing that the School Board failed to collect and maintain data for progress monitoring; in fact, the record is clear that the School Board collected data and monitored the student's progress with fidelity and accuracy.

51. There is also overwhelming evidence establishing that the parents were involved in the creation of the IEPs, were often accompanied by advocates, had every question answered, and were given ample opportunity to express their beliefs and demands. The testimony was consistent that the parents' concerns were heard and considered, and that often they succeeded in having the School Board provide more than what is required by law. The record as a whole established that the parents meaningfully participated in the decision-making process—oftentimes derailing the IEP process unnecessarily.

52. Petitioner also alleges a substantive violation; that is, that the IEP was flawed in its design and did not provide FAPE because the IEP does not provide for ESY. To satisfy the IDEA's substantive requirements, school districts must provide all eligible students with FAPE, which is defined as:

> [S]pecial education services that –
>
> > (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under [20 U.S.C. § 1414(d)].

20 U.S.C. § 1401(9).

53. The components of FAPE are recorded in an IEP, which, among other things, identifies the child's present levels of academic achievement and functional performance; establishes measurable annual goals; addresses the services and accommodations to be provided to the child, and whether the child will attend mainstream classes; and specifies the measurement tools and periodic reports to be used to evaluate the child's progress. 20 U.S.C. § 1414(d)(1)(A)(i); 34 C.F.R. § 300.320. "The IEP is the centerpiece of the statute's education delivery system for disabled children." *Endrew F. v.*

Douglas Cnty. Sch. Dist. RE-1, 137 S. Ct. 988, 994 (2017)(quoting *Honig v. Doe*, 108 S. Ct. 592 (1988)). "The IEP is the means by which special education and related services are 'tailored to the unique needs' of a particular child." *Id.* (quoting *Bd. of Educ. v. Rowley*, 458 U.S. at 181).

54. Under the second step of the *Rowley* test, it must be determined whether the IEP developed under the IDEA is reasonably calculated to enable the child to receive educational benefits. *Rowley*, 458 U.S. at 206-07.

55. In *Endrew F.*, the Supreme Court held that "[t]o meet its substantive obligation 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." *Endrew F.*, 137 S. Ct. at 999. As discussed in *Endrew F.*, "[t]he 'reasonably calculated' qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials," and that "[a]ny review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal." *Id.*

56. Whether an IEP meets this standard differs according to the individual circumstances of each student and must aim for progress that is "appropriately ambitious." *Id.* at 1000.

57. Most importantly, the IDEA provides that an IEP must be individualized to the student and include measurable annual goals and services designed to meet *each* of the educational needs that result from the child's disability. 20 U.S.C. § 1414(d)(1)(A)(i)(II); *Alex R. v. Forrestville Valley Cmty. Unit Sch. Dist. #221*, 375 F.3d 603, 613 (7th Cir. 2004)(explaining that an IEP must respond to all significant facets of the student's disability, both academic and behavioral); *CJN v. Minneapolis Pub. Schs.*, 323 F.3d 630, 642 (8th Cir. 2003)("We believe, as the district court did, that the student's IEP must be responsive to the student's specific disabilities.").

58. Here, the only substantive deficiency alleged by Petitioner is the failure to provide ESY. The evidence, however, established that both years,

the school staff members of the IEP team believed that the student needed ESY services to receive FAPE and made every effort to add it to a finalized IEP. Petitioner failed to establish that there was a denial of ESY, or that the design of the IEP, as to ESY, was deficient in any manner.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner failed to meet his burden of proof; therefore, all requests for relief are DENIED.

DONE AND ORDERED this 12th day of August, 2024, in Tallahassee, Leon County, Florida.

JESSICA E. VARN
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 12th day of August, 2024.

COPIES FURNISHED:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

This decision is final unless, within 90 days after the date of this decision, an adversely affected party:

a) brings a civil action in the appropriate state circuit court pursuant to section 1003.57(1)(c), Florida Statutes (2014), and Florida Administrative Code Rule 6A-6.03311(9)(w); or
b) brings a civil action in the appropriate district court of the United States pursuant to 20 U.S.C. § 1415(i)(2), 34 C.F.R. § 300.516, and Florida Administrative Code Rule 6A-6.03311(9)(w).