





Petitioner requested the following items of relief:

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SOAH DOCKET NO.T 6.28 Tm [(Tw 0 T31

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“[t]his patient appearsto have a serious \*\*\* (\*\*\*).”<sup>11</sup>

12. The District’s functional \*\*\* evaluation used a variety of formal and informal measures. The \*\*\* who completed the evaluation consulted materials by Dr. \*\*\* related to the \*\*\* Scale, however a \*\*\* Scale was not conducted. The evaluator concluded that Student had “resolved all of the \*\*\* characteristics of the Phase II, Range 9-10 Scoring Guide” based on the evaluator’s review of \*\*\* Scale materials and her assessment of Student’s functioning in the characteristics of \*\*\* . Overall, the functional \*\*\* evaluation found that Student accessed the curriculum and school environment adequately. The functional \*\*\* evaluation found that Student did not demonstrate an educational need for \*\*\* services from a \*\*\* .<sup>12</sup>
  13. The District’s \*\*\* 338
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recommend a behavior intervention plan, concls(m)-6hmT-

mend 18d7370

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that. Ms. \*\*\* also provided the school staff with additional resources if they had questions, including access to a \*.<sup>24</sup>

25. An ARD Committee meeting was held on March \*\*\*, 2021 to correct a clerical error in the IEP, failing to check a box for a graph paper accommodation in math, and to add information regarding Student's \*\*\*.<sup>25</sup>
26. Another ARD Committee meeting was held on May \*\*\*, 2021. At that time, Student had already mastered Student's reading fluency goal and was reading on grade level. The ARD Committee added an accommodation at Parent's request that Student use a particular \*\*\* that was recommended for \*\*\*. The meeting ended in agreement.<sup>26</sup>
27. Student's report card for the 2020-2021 school year reflects that Student met all \*\*\* grade-level standards.<sup>27</sup>

#### 2021-2022 School Year – \*\*\* grade

28. Parent sent a letter to the \*\*\* principal, dated August \*\*\*, 2021, expressing disagreement with the IEP that was developed at the May 2021 ARD Committee meeting and requesting another ARD Committee meeting to discuss her concerns. District administrators met with Parent to discuss her concerns in advance of the ARD Committee meeting.<sup>28</sup>
29. An ARD Committee meeting was held on September \*\*, 2021. The ARD Committee agreed to add an additional 50 minutes per week of targeted academic support in the special education setting for \*\*\* to target Student's weaknesses identified by Student's case manager's data collection. The ARD Committee also agreed to two additional annual goals in reading fluency and phonological awareness since Student had mastered Student's fluency goal at the end of the previous school year. The meeting ended in agreement.<sup>29</sup>

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<sup>24</sup> Tr. 472-73.

<sup>25</sup> JE7 at 2.

<sup>26</sup> JE6 at 1, 7.

<sup>27</sup> JE12 at 3.

<sup>28</sup> RE67; Tr. 503.

<sup>29</sup> JE5 at 5, 8; Tr. 505-09.

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SOAH DOCKET NO. 701 -22-2828.IDEAS

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SOAH DOCKET NO. 701 -22-2828.IDEA  
TEA DOCKET NO. 262 -SE-0522

PAGE 13  
DECISION OF THE HEARING OFFICER

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Petitioner's Complaint did not specifically challenge the restrictiveness of Student's educational placement, which is predominantly in the general education setting. In \*\*\* grade Student received targeted services in a special education setting for 80 minutes, then 140 minutes, then 90 minutes per week, depending on which IEP was in effect. This limited removal from the general education setting is appropriate based on Student's particular needs, and was adjusted over the course of the year based on Student's performance. In particular, Student's dyslexia needs were met through this more targeted instruction, rather than removal for 180 minutes per week for a standard dyslexia intervention,<sup>51</sup> keeping Student in the general education setting as much as possible.

In the LRE section of Petitioner's Closing Brief, Petitioner connects an argument that removal from the general education setting is stigmatizing to Student with an argument that the District has failed to appropriately instruct Student in self-advocacy. Petitioner did not present evidence that the potential stigmatization of removal from the general education setting





However, “overall educational benefit, not solely disability remediation, is the IDEA’s statutory goal.” *Klein Indep. Sch. Dist. v. Hovey*, 690 F.3d 390, 398 (5th Cir. 2012). As discussed above, Student’s IEPs



more than a de minimis failure to implement all elements of Student's IEP, and instead, must demonstrate that the District failed to implement substantial or significant provisions of the IEP. *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000).

Petitioner's Complaint alleges that the District failed to implement Student's IEP. However, Petitioner did not present evidence that the District failed to implement Student's IEP during the relevant time period and appears to have abandoned this claim by not addressing it in Petitioner's Closing Brief. As discussed above, factors three and four was resolved in favor of the District.

Petitioner therefore did not meet Petitioner's burden on this claim.

#### V. CONCLUSIONS OF LAW

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