

SOAH Docket No. 701-25-03505.IDEA  
TEA Docket No. 053-SE-1024A

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**Before the  
State Office of Administrative  
Hearings**

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**STUDENT, by next friend  
PARENT,  
Petitioner**

**v.**

**~~West~~ Oranr**

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Student Code of Conduct and whether the conduct in question was caused by, or had a direct and substantial relationship to, Student's disability.

The Administrative Law Judge (Judge) concludes that Student violated the Student Code of Conduct and that Student's conduct was neither caused by, nor had a direct and substantial relationship to, Student's disability. Also, Student's conduct was not the result of the District's failure to implement Student's IEP. 58 USC (d) 6.i1 (m) 1

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Petitioner offered the testimony of the campus principal, a District student safety officer, a campus assistant principal, a District educational diagnostician, and Parent.

Respondent offered eleven separately disclosed exhibits, and all were admitted without objection. Respondent offered the testimony of a campus counselor, the District Assistant Superintendent for Student Services, and a District-contracted LSSP. The hearing was recorded and



independent assignments; \*\*\*, Student should have a designated area or room where Student can go to calm feelings of frustration with adult guidance and supervision; and adults can remind Student to make positive choices and change behaviors.<sup>4</sup>

5. An ARD committee met on September \*\*\*, 2024, for an annual review. Parent and Student attended the

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8. Student's BIP from September \*\*\* 2024, included the following interventions: \*\*\*; designated area – provide a designated area for Student during unstructured periods of the day; first this, then that – follow less desirable tasks with more desirable tasks and make completion of the first task necessary for the second; positive reinforcement – \*\*\*.<sup>8</sup>
  9. The \*\*\*. It is also where Student checks in and out with Student's case manager twice a day. Students can earn rewards and have access to positive behavior intervention supports in the room.<sup>9</sup>
  10. On September \*\*\*, 2024, Student had a disagreement with another student in a hallway on campus. When the assistant principal arrived, Student was visibly upset. The assistant principal talked to Student about making good choices, and Student left him in "a good mind state."<sup>10</sup>
  11. After the conversation with the t55..1 (t5e4.2 (11.2 t)-01 (11.2 (h)6.3 (a)-11.ni)-29
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conduct in question was not caused by, or did not have a direct and substantial relationship to, Student's disability, and that it was not a result of the District's failure to implement Student's IEP. Parent disagreed.<sup>15</sup>

16. At the beginning of the MDR ARD committee meeting, Parent questioned the monitoring of the cafeteria at the time of the incident. The District noted that Student had the opportunity to leave the situation prior to the fight. The District acknowledged that Parent did not receive a copy of the restraint documentation on the day of the incident, that Parent was not timely notified of the restraint, and that monitoring in the cafeteria would be adjusted for the safety of all students.<sup>16</sup>
17. On September \*\*\*, 2024, the District hand-delivered a letter to Parent with notice of Student's assignment to the DAEP (Notice) for \*\*\* days beginning September \*\*\*, 2024. The Notice explained that Student violated the Student Code of Conduct for fighting (defined as mutual combat between two or more students using blows of force to overcome the other student) and included a Notice of Suspension for three days effective September \*\*\*, 2024.<sup>17</sup>
18. The Notice also included a DAEP placement form completed by the assistant principal. According to the form, the discipline committee considered Student's intent and disciplinary history, determined that Student's behavior was not self-defense, and found that Student's disability did not substantially impair Student's ability to appreciate the wrongfulness of Student's conduct.<sup>18</sup>
19. The District determined that the fight was mutual combat and not self-defense on Student's part. A student's conduct is considered self-defense when the student has no other choice. The District determined in this instance that Student had a choice to walk away.<sup>19</sup>

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<sup>15</sup> JE 2 at 5, 6, 8.

<sup>16</sup> JE 2 at 5; PE 1; PE 2; Tr. at 194, 196.

<sup>17</sup> JE 4; RE 6 at 20.

<sup>18</sup> JE 4 at 6.

<sup>19</sup> Tr. at 109; 194.



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task behavior and



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Parent also contends that the number of welfare check-ins with Student's case manager were excessive and indicate a need for Student's IEP to be updated. However, whether or not Student's IEP is appropriate is not an issue in this expedited case.

Petitioner presented no

considered a manifestation of Student's disability. Therefore, the District may place Student at the DAEP for the conduct. 34 C.F.R. § 300.530.

## **VI. CONCLUSIONS OF LAW**

1. Respondent complied with the IDEA's procedural disciplinary requirements when it subjected Student to removal proceedings for violating the District's 5.5 (s) 5.5 65

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## **VII. NOTICE TO THE PARTIES**

The Decision of the Administrative Law Judge in this case is a final and appealable order. Any party aggrieved by the findings and decisions made by the Judge may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. §§ 300.514(a), .516; 19 Tex. Admin. Code § 89.1185(n).