Student's Requested Relief

Student sought the following relief against the District for these alleged violations:

- 1. An order to compel the District to develop and implement an appropriate Individualized Education Program (IEP) with appropriate supports.
- 2. An order to compel the District to continue to provide special education instruction and services in the *** setting at a level equal to or greater than the level Student was receiving during the 2022-2023 school year.
- 3. An order to compel the District to revise its approach in the *** class to provide Student with an appropriate education individualized to Student's unique needs, characteristics, and circumstances.

The Due Process Hearing

The due process hearing began as scheduled on March 20, 2024. The hearing was conducted using the virtual Zoom platform. The hearing was open to the public, and Student did not attend. Each party was allowed eleven and one-half hours for the presentha

- 14. In the October ***, 2022 ARD, during Student's *** grade year, the District continued to recommend 90 minutes of reading instruction in the *** setting. (JEx 14-87; T p. 52:15-55, 55:2-56).
- 15. Based upon the additional testing by ***, the District's Licensed Specialist in School Psychology (LSSP), presented to the ARD as the November ***, 2022 Specific Learning Disability Report, Student had an overall IQ of *** and met special education eligibility in the areas of dyslexia and written expression in addition to the prior eligibilities of SLD in basic reading, reading fluency and OHI for ADHD. (JEx 15-116, Tr. p.377; JEx 9-51-52; Tr. p. 43:8-44).
- 16. The LSSP who conducted the November 2022 evaluation indicated that the finding of eligibility for dyslexia related in part to a change in the law, which allowed a dyslexia finding based merely on difficulties in basic reading skills or reading fluency, and in part due to the results

33. At the end of the ††† therade Studentals Fix 15200 Ta9 for	uidE5 4fTed[4(4851-72(1:79]FTH-7240089);FTx470040185 71]501 (2F5)Bw0(484
101:13-102; T4485 4.	T4485.4. pp

- continued to address Student's *** during ARD meetings and reported to the school that Student suffered from *** due to ***. Student suffers from severe *** which are triggered by *** in the presence of Student's typically developing peers or to be *** linked to Student's reading disability. (Tr. p. 435:11-436).
- 44. Based upon teacher and administrator observations, Student had a good relationship with Student's peers. (Tr. p. 328).
- 45. Several staff members testified that they had not seen Student display *** in a variety of contexts, but they overlooked the fact that the issue is not one of *** with peers in all contexts, but rather limited to *** in the context of reading. These staff members had not observed Student *** in a group of peers or in a reading setting with non-disabled peers. (Tr. pp. 171:25-174, 238, 240; 332:24-333, 442:9-19).
- 46. Student was not diagnosed with *** disorder. (Tr. pp.408-409).
- 47. The evaluation of Student conducted by the District's LSSP did not indicate any concerns regarding ***. (Tr. p. 369).
- 48. The independent evaluation from *** neuropsychology did not indicate concerns regarding ***. (J13).
- 49. The Parent's expert in clinical psychology, Dr. ***, determined from interviews with the Parents, Student, and through testing of Student that Student experiences an increase in social stress due to the compounding impact of Student's academic deficits and the resultant physical manifestations. (PEx 2; Tr. p. 391:9-395).

50p [(he prospose)6dlf)2f(te)14 4rd5 (2023 iie)dicases (Sd(s)-10)(T-14tu868 d6T(TO(s))di(e)24si(1)4 Tan) 10(Sh6-Cd) 10(00) TTud

both parties agree.

However, the District's proposed reduction of the Student's minutes in the *** setting (from 90 minutes to only 15 minutes) was not appropriate. The evidence showed that although the Student's reading performance continues to lag behind Student's grade level, Student did make some progress in reading under the IEP for the 2022-2023 school year while receiving 90 minutes of reading instruction in the *** setting. The evidence further showed that Student would have been likely to continue to make progress in the 2023-2024 school year (and, in fact, did make such progress) with a program that included 90 minutes of *** reading instruction.

The District's argument that Student would make better progress in reading if Student spent more time in the general education setting with inclusion support was not supported by credible evidence.

On the production of the prod

safeguards.	The deliberations of	of the ARD meets	ings indicate tha	t the Parents fully	y participated in the

the goals and objectives set forth in the proposed IEP, or make progress in reading.

The evidence supports Student's claim that Student was denied FAPE because Student's proposed August ***, 2023 IEP would not be appropriate.

V. Conclusion

When looking at the totality of the Michael F. factors as applied to the proposed IEP at issue here, the evidence showed that the IEP