The University of the State of New York

The State Education Department
State Review Officer
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No. 18-121

Application of a STUDENT WITH A DISABILITY, by his parent, for review of a determination of a hearing officer relating to the provision of educational services by the New York City Department of Education

Appearances:
Howard Friedman, Special Assistant Corporation Counsel, attorneys for respondent, by Mary H. Park, Esq.

DECISION

I. Introduction

This proceeding arises under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400-1482) and Article 89 of the New York State Education Law. Petitioner (the parent) appeals from a decision of an impartial hearing officer (IHO) which determined that the respondent (the district) did not provide the student with special education services after the parent refused consent and denied the requested relief. The appeal must be dismissed.

II. Overview—Administrative Procedures

When a student in New York is eligible for special education services, the IDEA calls for the creation of an individualized education program (IEP), which is delegated to a local Committee on Special Education (CSE) that includes, but is not limited to, parents, teachers, a school psychologist, and a district representative (Educ. Law § 4402; see 20 U.S.C. § 1414[d][1][A]-[B]; 34 CFR 300.320, 300.321; 8 NYCRR 200.3, 200.4[d][2]). If disputes occur between parents and school districts, incorporated among the procedural protections is the opportunity to engage in mediation, present State complaints, and initiate an impartial due process hearing (20 U.S.C. §§ 1221e-3, 1415[e]-[f]; Educ. Law § 4404[1]; 34 CFR 300.151-300.152, 300.506, 300.511; 8 NYCRR 200.5[h]-[*l*]).

New York State has implemented a two-tiered system of administrative review to address disputed matters between parents and school districts regarding "any matter relating to the

identification, evaluation or educational placement of a student with a disability, or a student suspected of having a disability, or the provision of a free appropriate public education to such student" (8 NYCRR 200.5[i][1]; see 20 U.S.C. § 1415[b][6]-[7]; 34 CFR 300.503[a][1]-[2], 300.507[a][1]). First, after an opportunity to engage in a resolution process, the parties appear at an impartial hearing conducted at the local level before an IHO (Educ. Law § 4404[1][a]; 8 NYCRR 200.5[j]). An IHO typically conducts a trial-type hearing regarding the matters in dispute in which the parties have the right to be accompanied and advised by counsel and certain other individuals with special knowledge or training; present evidence and confront, cross-examine, and compel the attendance of witnesses; prohibit the introduction of any evidence at the hearing that has not been disclosed five business days before the hearing; and obtain a verbatim record of the proceeding (20 U.S.C. § 1415[f][2][A], [h][1]-[3]; 34 CFR 300.512[a][1]-[4]; 8 NYCRR 200.5[j][3][v], [vii], [xii]). The IHO must render and transmit a final written decision in the matter to the parties not later than 45 days after the expiration period or adjusted period for the resolution process (34 CFR 300.510[b][2], [c], 300.515[a]; 8 NYCRR 200.5[j][5]). A party may seek a specific extension of time of the 45-day timeline, which the IHO may grant in accordance with State and federal regulations (34 CFR 300.515[c]; 8 NYCRR 200.5[j][5]). The decision of the IHO is binding upon both parties unless appealed (Educ. Law § 4404[1]).

A party aggrieved by the decision of an IHO may subsequently appeal to a State Review Officer (SRO) (Educ. Law § 4404[2]; see 20 U.S.C. § 1415[g][1]; 34 CFR 300.514[b][1]; 8 NYCRR 200.5[k]). The appealing party or parties must identify the findings, conclusions, and orders of the IHO with which they disagree and indicate the relief that they would like the SRO to grant (8 NYCRR 279.4). The opposing party is entitled to respond to an appeal or cross-appeal in an answer (8 NYCRR 279.5). The SRO conducts an impartial review of the IHO's findings, conclusions, and decision and is required to examine the entire hearing record; ensure that the procedures at the hearing were consistent with the requirements of due process; seek additional evidence if necessary; and render an independent decision based upon the hearing record (34 CFR 300.514[b][2]; 8 NYCRR 279.12[a]). The SRO must ensure that a final decision is reached in the review and that a copy of the decision is mailed to each of the parties not later than 30 days after the receipt of a request for a review, except that a party may seek a specific extension of time of the 30-day timeline, which the SRO may grant in accordance with State and federal regulations (34 CFR 300.515[b], [c]; 8 NYCRR 200.5[k][2]).

III. Facts and Procedural History

While attending a district elementary school, the parent and school team referred the student to the CSE for an initial psychoeducational evaluation as well as a speech-language evaluation during the 2015-16 school year (third grade) (Parent Ex. A at pp. 9, 18). The parent

provided consent for the district to conduct initial evaluations of the student on April 18, 2016 (Parent Ex. F at p. 8).[1, 2]

On June 23, 2016, a CSE convened to discuss the results of the student's initial evaluations, determine his eligibility for special education services, and develop an IEP for the student (Parent Ex. A at pp. 22-34). The June 2016 CSE determined that the student was eligible for special education services as a student with a speech or language impairment and for the 2016-17 10-month school year, recommended that the student attend a general education classroom and receive integrated co-teaching (ICT) services for mathematics and English language arts (ELA) (id. at pp. 23, 28-29). Additionally, the CSE recommended two 30-minute sessions per week of group speech-language therapy, testing accommodations, as well as management needs strategies, annual goals, and modified promotion criteria (id. at pp. 25-29, 32).

In a letter from the parent to the district dated June 23, 2016, the parent indicated that she disagreed with the CSE's eligibility classification of the student as speech or language impaired, expressed her belief that the student did not require "any special education services at this moment," and declined all special education services (Parent Ex. A at pp. 35-36; see also Dist. Ex. 2 at pp. 1-2).[3, 4]

District records indicated that on June 27, 2016, due to the parent's refusal to consent to the recommended special education services, the student's special education case was closed (Parent Ex. A at p. 38). A notice from the district to the parent dated June 27, 2016 indicated that the district's records showed that the parent had refused to consent to the provision of special education services, therefore, the district proposed "to withdraw [the student] from the special education process" (Parent Ex. A at pp. 40; see also Dist. Ex. 4 at pp. 1-3).

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[1] The IHO did not admit all of exhibit F into the record (Tr. pp. 54-57). The IHO, following an objection from the district, excluded the first two pages of exhibit F (Tr. p. 55). However, these pages were submitted to the SRO. Although the SRO received a copy of these two pages, the official certified hearing record does not include pages 1 and 2 of exhibit F, which begins with page 3, and they are not considered in this appeal (see Parent Ex. F).

[2] The hearing record contains a document titled "IEP Teacher Report" dated April 14, 2016 that included academic and performance information about the student, some of which is also found in the June 2016 IEP (compare Parent Ex. F at pp. 3-6, with Parent Ex. A at pp. 23-25). The hearing record indicated that a social history was completed on April 18, 2016 as part of the student's initial evaluation, yet it does not appear in the hearing record; however, a classroom observation dated June 1, 2016 was included in the hearing record (Parent Exs. A at pp. 1, 17; F at pp. 8-9). A psychoeducational evaluation of the student was completed on May 9, 2016, and a speech-language evaluation was completed on June 20, 2016 (see Parent Ex. A at pp. 8-16, 18-21).

[3] There are duplicate exhibits in the hearing record (compare e.g., Parent Ex. A with Dist. Ex. 2). The parties are encouraged to confer beforehand and submit joint exhibits to the extent practicable (8 NYCRR 200.5[j][3][xii][b]). The IHO is also reminded of her obligation to exclude from the hearing record any evidence she "determines to be irrelevant, immaterial, unreliable or unduly repetitious" (8 NYCRR 200.5[j][3][xii][c]). Unless otherwise specified, where exhibits are duplicated, the corresponding parent exhibit will be cited.

[4] In the June 23, 2016 letter, the parent also informed the district of her belief that the student needed a "second opinion evaluation," which she would obtain "at [her] own expense" (Parent Ex. A at p. 36).

In summer and fall 2017, the parent requested meetings with school personnel and a copy of the student's educational records (see Parent Ex. K at pp. 1, 3, 6). From October 2017 to January 2018, the parent corresponded with school personnel regarding various incidents involving the student (see Parent Exs. A at p. 43; D at pp. 7-11; K at pp. 7-8, 12-13). The parent began to home school the student on January 30, 2018 (Tr. p. 43).

A. Due Process Complaint Notice

By due process complaint notice dated June 7, 2018, the parent asserted that the district provided the student with special education services and made educational decisions without her consent (Due Proc. Compl. Not. at p. 1). The parent indicated she was "concern[ed] that those decisions ha[d] not provided [the student] with a Free and Appropriate Public Education (FAPE)" and the student "suffered a significant los[s] in education benefit" (id.). The parent contended that she repeatedly requested that the school provide her with information and the student's educational records; however, her requests were denied and the district withheld information, which she asserted was a violation of the IDEA, the No Child Left Behind Act of 2001, and the Family Educational Rights and Privacy Act (FERPA) (id.). Additionally, the parent asserted that she had "significant concerns" that the student's rights under the Americans with Disabilities Act (ADA) and section 504 of the Rehabilitation Act of 1973 (section 504) were violated (id.).

The parent contended that the student's case was predetermined and that her parental rights were denied (Due Proc. Compl. Not. at p. 1). Specifically, the parent alleged that the district denied her right to informed consent and failed to provide her with prior written notices regarding the evaluation, classification, and placement of the student (id.). The parent asserted that the district never sent her a copy of the student's IEP and she was not aware that there was an IEP (id.).[5] Further, the parent alleged that after she declined to consent to special education services, the student was not withdrawn from special education, and additional CSE meetings took place and additional IEPs were developed without her knowledge (id.).

The parent asserted that she was informed at the student's eligibility meeting in June 2016 that she had 10 days to consent to the special education services; however, the parent alleged she should have been given until the start of the 2016-17 school year to consent to services as the district was not required to have an IEP in effect until the beginning of the school year (Due Proc. Compl. Not. at p. 2). The parent alleged that the June 2016 CSE did not have relevant evaluative information, that she was not provided copies of the speech-language or psychoeducational evaluation reports at the meeting, and that she did not have a copy of the proposed IEP to review (id). The parent asserted that she expressed to the CSE that she needed more time to consider the information and "did[] not feel right accepting services without any relevant information" (id.).

Moreover, the parent reiterated that the district's failure to provide her with a copy of the IEP was a violation of the IDEA (Due Proc. Compl. Not. at p. 3). The parent asserted that she was led to believe no IEP was developed at the eligibility meeting and that once she declined to consent

[5] With regard to finalization of the IEP, the parent argued that she did not receive a prior written notice "that should have inform[ed] her of any or all evaluation tools or procedures that would be conducted on" the student (Due Proc. Compl. Not. at p. 2).

to services the case should have been closed, which the parent alleged did not happen (id.).[6] The parent alleged that she discovered that the student's IEP was "an active document" in January 2018 despite her lack of consent, and that she had been denied the right to participate as a member of the IEP team (id. at pp. 4-5).

The parent also raised numerous concerns regarding the student's educational records (Due Proc. Compl. Not. at pp. 1-2, 4, 5). The parent asserted that the district denied the parent access to the student's educational records, that the student's educational records included inaccurate and inconsistent information, that certain documents were missing from the student's educational records, and that certain documents that the parent never received—including the student's IEP—were included in the student's educational record (id. at p. 4). The parent further alleged that there were inconsistencies in the student's progress and education record (id. at p. 5). Additionally, the parent asserted that the district placed "[b]ehavioral infractions" in the student's educational record without her knowledge (id. at p. 2). The parent argued that the district "fail[ed] to review existing data on [the student's] progress and [] fail[ed] to keep a written record of the bullying and how it may have affected [the student] in receiving equal access to education" (id.). The parent alleged that the district withheld the student's IEP from her (id. at p. 4). Further, the parent contended that she never received the prior written notice withdrawing the student from special education services, even though it was in the student's educational record (id.).

The parent also alleged that the denial of her requests that the student be enrolled in summer school and that the student be placed in a summer academic enrichment program was a violation of the ADA and section 504 (Due Proc. Compl. Not. at p. 3).

The parent made several allegations regarding bullying and the student's educational records (Due Proc. Compl. Not. at pp. 7-9). Notably, the parent argued that the district failed to properly document complaints of bullying raised by the student and the parent, the district failed to intervene or produce an intervention plan, documented infractions by the student without the parent's knowledge, ignored the student's fear as a victim of bullying, and failed to protect the student in school (id. at pp. 7-9). The parent alleged that the student's issues with school were directly correlated with the bullying and that the district's actions and failure to act violated the student's right to a FAPE, as well as violated section 504 and the ADA (id.).

The parent asserted that the district's actions denied her of the right to participate, consent, and receive notice of special education, which violated the IDEA (Due Proc. Compl. Not. at p. 9). As relief, the parent requested an extension of the two-year statute of limitations, "to amend [the student's] record and stop documents, reimbursement of the homeschooling curriculum, [and] for the student to be provided with private counseling at parent's choice, including monetary compensation" (id. at p. 9).

B. Impartial Hearing Officer Decision

The parties proceeded to an impartial hearing on August 27, 2018 (see Tr. pp. 1-148). The IHO, by decision dated September 12, 2018, denied the parent's request for relief (IHO Decision

[6] The parent asserted that the presence of an IEP in the student's educational record, which she did not receive until June 2017, was a clear indication that the IEP was predetermined (Due Proc. Compl. Not. at p. 4).

at p. 4). The IHO found that the parent refused special education services and that the student was never provided with special education services (id. at p. 2).

The IHO held that "the district completed evaluations, previously consented to by the parent, classified the student with a disability and had an IEP meeting, where the parent was present" (IHO Decision at p. 3). The IHO noted that the parent withdrew her consent to have the student evaluated, although the evaluations had already been completed (id. at p. 3). The IHO determined that "[a]lthough the parent ha[d] refused special educational services, it does not follow that the student is no longer classified or that the IEP is expunged. It simply means the student will not receive any services" (id.). The IHO further indicated that the parent during the hearing "renewed her refusal for special education services" (id.).

The IHO denied the parent's request for reimbursement for homeschooling, finding that the student's IEP was never implemented and that the parent did not provide evidence or testimony as to the cost or appropriateness of homeschooling (IHO Decision at p. 3). Moreover, the IHO noted that the parent requested private counseling, but denied the parent's request indicating that the parent had not disagreed with the district's evaluations or the services on the IEP, rather, the parent "simply refused services" (id.). Further, the IHO noted there was no evidence or testimony provided as to counseling (id.).

The IHO held that she had no authority to modify the statute of limitations and there was no evidence regarding the parent's request to extend the statute of limitations (IHO Decision at p. 4). Additionally, the IHO found that she had no authority to amend or expunge the student's educational records per the parent's request (id.).

IV. Appeal for State-Level Review

The parent appeals. The parent argues that the IHO erred by denying her claims and requests that the IHO decision be reversed.

The parent argues that the IHO was incapable of being impartial. The parent alleges that the IHO "led and misled the witnesses at the defense of [the district]," aggressively defended the district, did not allow the parent to question a witness regarding her knowledge of ICT "classes" by objecting to the parent's line of questioning, and "badger[ed]" a witness by repeating the same question until she got an answer she wanted.[7] Further, the parent asserts that the IHO ignored evidence that proved the district implemented the student's IEP.

The parent objects to a number of the IHO's factual findings. The parent asserts that the IHO's statement that the "parent refused services, and the student was never provided with services" was "not a fact whatsoever." The parent asserts that she presented evidence at the impartial hearing that indicated the student was provided with special education services without her knowledge or consent. The parent contends that the district retaliated against her by calling

[7] Additionally, the parent alleges that the IHO made a factually erroneous statement that "from September 2016 [un]til[] January 2018 the student attended [a specific district school]" although the student had transferred to a different school in December 2017.

"ACS" after she spoke out about the student being bullied.[8] The parent also makes allegations regarding a "cap code" as evidence that the student was provided with special education. She asserts that the "cap code" used by the district for the student is only used for "homeschooling students receiving special education services."

The parent alleges that the IHO's statement that "an IEP was created based on the meeting and dated June 23, 2016" failed to address the evidence that demonstrated the IEP was finalized on June 27, 2016. Moreover, the parent alleges that the IHO failed to address the fact that the parent never received a copy of the IEP and that the IEP was placed in the student's educational record.

Further, the parent asserts that the IHO's statement that "[t]he parent on June 21, 2018 withdrew her consent to have the student evaluated although evaluations had already been completed" was a misrepresentation. The parent indicated that the district conducted "only [] 1 psychological evaluation" of the student in 2016, and the parent withdrew her request for an independent educational evaluation (IEE) in 2018.[9] The parent contends that the IHO failed to address that the district's Special Education Student Information System (SESIS) improperly rejected the closing of the student's case in June 2016.[10] The parent argues that these procedural violations denied her of the right to participate in the decision-making process.

The parent alleges that the IHO erred in finding that she did not present evidence regarding private counseling. The parent maintains that she explained at the hearing that the student was receiving counseling and that the student's psychological diagnoses were related to the bullying he experienced in the district. The parent argues that the bullying the student experienced "substantially restricted" his educational opportunity and a FAPE.

The parent asserts that the IHO misinterpreted her request regarding the statute of limitations. The parent contends that her due process complaint notice was timely, and she only requested an extension "so that the hearing officer could apply the law within the circumstances of this case." The parent notes that there are exceptions to the statute of limitations.

The parent argues that the IHO erred in her finding regarding the parent's request "to amend and stop[] the educational records that were release[d] without her consent." The parent asserts that under FERPA, an IEP is an educational record that can be amended or destroyed. The parent

[8]According to the parent, ACS is an acronym for the Administration for Children's Services (see Due Proc. Compl. Not. at p. 8; Req. for Rev at ¶ 9).

[9] The parent asserts that she withdrew her request for an IEE at the request of a district special education administrator.

[10] According to the assistant principal, SESIS is a system the district uses to "see what cases are pending, what cases are open, what cases are finalized, [and] what cases have been closed to make sure that we're keeping up with compliance" (Tr. pp. 106, 114). The parent alleges that the district did not properly close the student's case in 2016 because the parent's letter refusing special education services was improperly processed as a revocation of consent for an assessment and, as a result, SESIS rejected the case closing because an assessment was already completed in 2016.

contends that the district released the IEP without her consent in violation of privacy rights.[11] The parent contends that her rights, as well as the student's rights, were violated and not protected by the district.

As relief, the parent requests that all of the IHO's decisions be changed and reversed.

In its answer, the district requests that the parent's request for review be dismissed as facially deficient under 8 NYCRR 279. Further, the district contends that the parent refused special education services and therefore the district was absolved from any obligation to provide "special education and related services" and from any claim for failing to provide a FAPE, thus the student is not entitled to the relief sought by the parent. The district asserts that the IHO was fair and impartial throughout the hearing. Finally, the district argues that the parent raised claims outside the jurisdiction of the SRO and that her claims relating to FERPA should not be reviewed on appeal.

V. Applicable Standards

Two purposes of the IDEA (20 U.S.C. §§ 1400-1482) are (1) to ensure that students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and (2) to ensure that the rights of students with disabilities and parents of such students are protected (20 U.S.C. § 1400[d][1][A]-[B]; see generally Forest Grove Sch. Dist. v. T.A., 557 U.S. 230, 239 [2009]; Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176, 206-07 [1982]).

A FAPE is offered to a student when (a) the board of education complies with the procedural requirements set forth in the IDEA, and (b) the IEP developed by its CSE through the IDEA's procedures is reasonably calculated to enable the student to receive educational benefits (Rowley, 458 U.S. at 206-07; T.M. v. Cornwall Cent. Sch. Dist., 752 F.3d 145, 151, 160 [2d Cir. 2014]; R.E. v. New York City Dep't of Educ., 694 F.3d 167, 189-90 [2d Cir. 2012]; M.H. v. New York City Dep't of Educ., 685 F.3d 217, 245 [2d Cir. 2012]; Cerra v. Pawling Cent. Sch. Dist., 427 F.3d 186, 192 [2d Cir. 2005]). "'[A]dequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP'" (Walczak v. Fla. Union Free Sch. Dist., 142 F.3d 119, 129 [2d Cir. 1998], quoting Rowley, 458 U.S. at 206; see T.P. v. Mamaroneck Union Free Sch. Dist., 554 F.3d 247, 253 [2d Cir. 2009]). The Supreme Court has indicated that "[t]he IEP must aim to enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement" (Endrew F. v. Douglas Cty. Sch. Dist. RE-1, 580 U.S. __, 137 S. Ct. 988, 999 [2017]). While the Second Circuit has emphasized that school districts must comply with the checklist of procedures for developing a student's IEP and indicated that "[m]ultiple procedural violations may cumulatively result in the denial of a FAPE even if the violations considered individually do not" (R.E., 694 F.3d at 190-91), the Court has also explained that not all procedural

[11] For the first time on appeal the parent alleges that the district released the student's IEP without her consent. It is unclear from the request for review, to whom or when the IEP was released without parental consent. However, the parent has consistently asserted that although she believed the student's case was closed she learned the IEP was "active" sometime in January 2018 after the student switched schools.

errors render an IEP legally inadequate under the IDEA (M.H., 685 F.3d at 245; A.C. v. Bd. of Educ. of the Chappaqua Cent. Sch. Dist., 553 F.3d 165, 172 [2d Cir. 2009]; Grim v. Rhinebeck Cent. Sch. Dist., 346 F.3d 377, 381 [2d Cir. 2003]). Under the IDEA, if procedural violations are alleged, an administrative officer may find that a student did not receive a FAPE only if the procedural inadequacies (a) impeded the student's right to a FAPE, (b) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or (c) caused a deprivation of educational benefits (20 U.S.C. § 1415[f][3][E][ii]; 34 CFR 300.513[a][2]; 8 NYCRR 200.5[j][4][ii]; Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 [2007]; R.E., 694 F.3d at 190; M.H., 685 F.3d at 245).

The IDEA directs that, in general, an IHO's decision must be made on substantive grounds based on a determination of whether the student received a FAPE (20 U.S.C. § 1415[f][3][E][i]). A school district offers a FAPE "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction" (Rowley, 458 U.S. at 203). However, the "IDEA does not itself articulate any specific level of educational benefits that must be provided through an IEP" (Walczak, 142 F.3d at 130; see Rowley, 458 U.S. at 189). "The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created" (Endrew F., 137 S. Ct. at 1001). The statute ensures an "appropriate" education, "not one that provides everything that might be thought desirable by loving parents" (Walczak, 142 F.3d at 132, quoting Tucker v. Bay Shore Union Free Sch. Dist., 873 F.2d 563, 567 [2d Cir. 1989] [citations omitted]; see Grim, 346 F.3d at 379). Additionally, school districts are not required to "maximize" the potential of students with disabilities (Rowley, 458 U.S. at 189, 199; Grim, 346 F.3d at 379; Walczak, 142 F.3d at 132). Nonetheless, a school district must provide "an IEP that is 'likely to produce progress, not regression,' and . . . affords the student with an opportunity greater than mere 'trivial advancement'" (Cerra, 427 F.3d at 195, quoting Walczak, 142 F.3d at 130 [citations omitted]; see T.P., 554 F.3d at 254; P. v. Newington Bd. of Educ., 546 F.3d 111, 118-19 [2d Cir. 2008]). The IEP must be "reasonably calculated to provide some 'meaningful' benefit" (Mrs. B. v. Milford Bd. of Educ., 103 F.3d 1114, 1120 [2d Cir. 1997]; see Endrew F., 137 S. Ct. at 1001 [holding that the IDEA "requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances"]; Rowley, 458 U.S. at 192). The student's recommended program must also be provided in the least restrictive environment (LRE) (20 U.S.C. § 1412[a][5][A]; 34 CFR 300.114[a][2][i], 300.116[a][2]; 8 NYCRR 200.1[cc], 200.6[a][1]; see Newington, 546 F.3d at 114; Gagliardo v. Arlington Cent. Sch. Dist., 489 F.3d 105, 108 [2d Cir. 2007]; Walczak, 142 F.3d at 132).

An appropriate educational program begins with an IEP that includes a statement of the student's present levels of academic achievement and functional performance (see 34 CFR 300.320[a][1]; 8 NYCRR 200.4[d][2][i]), establishes annual goals designed to meet the student's needs resulting from the student's disability and enable him or her to make progress in the general education curriculum (see 34 CFR 300.320[a][2][i], [2][i][A]; 8 NYCRR 200.4[d][2][iii]), and provides for the use of appropriate special education services (see 34 CFR 300.320[a][4]; 8 NYCRR 200.4[d][2][v]).[12]

[12] The Supreme Court has stated that even if it is unreasonable to expect a student to attend a regular education setting and achieve on grade level, the educational program set forth in the student's IEP "must be appropriately ambitious in light of his [or her] circumstances, just as advancement from grade to grade is appropriately

A board of education may be required to reimburse parents for their expenditures for private educational services obtained for a student by his or her parents, if the services offered by the board of education were inadequate or inappropriate, the services selected by the parents were appropriate, and equitable considerations support the parents' claim (Florence County Sch. Dist. Four v. Carter, 510 U.S. 7 [1993]; Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 369-70 [1985]; R.E., 694 F.3d at 184-85; T.P., 554 F.3d at 252). In Burlington, the Court found that Congress intended retroactive reimbursement to parents by school officials as an available remedy in a proper case under the IDEA (471 U.S. at 370-71; see Gagliardo, 489 F.3d at 111; Cerra, 427 F.3d at 192). "Reimbursement merely requires [a district] to belatedly pay expenses that it should have paid all along and would have borne in the first instance" had it offered the student a FAPE (Burlington, 471 U.S. at 370-71; see 20 U.S.C. § 1412[a][10][C][ii]; 34 CFR 300.148).

The burden of proof is on the school district during an impartial hearing, except that a parent seeking tuition reimbursement for a unilateral placement has the burden of proof regarding the appropriateness of such placement (Educ. Law § 4404[1][c]; see R.E., 694 F.3d at 184-85).

VI. Discussion

A. Preliminary Matters

1. Compliance with Practice Regulations

I will first address the district's assertion that the parent's request for review must be dismissed for failing to comply with the form requirements for pleadings (8 NYCRR 279.4[a]; 279.8[c][2]-[3]). Specifically, the district argues that the parent failed to clearly specify her reasons for challenging the IHO's decision, failed to clearly identify the precise rulings she is contesting, and failed to include citations to the record (Answer at p. 4). Further, the district contends that it is unclear what relief the parent is seeking and the request for review is not specific enough to allow the district to formulate an answer to the issues raised on appeal (id.).

The parent's request for review does include statements that number and identify the rulings with which the parent disagrees. While her allegations may not be as artfully drawn as those that might be prepared by a skilled attorney practicing in the field of special education law, the numbered issues identify the parent's areas of dissatisfaction with particular points in the IHO's decision in clear sentences which are not difficult to follow. Additionally, the parent references exhibits in the hearing record and transcript pages. Although she does not properly cite to the IHO's decision, she clearly indicates what findings she is objecting to by putting the IHO's statements in quotations. While the request for review is certainly not pristine, such a high standard is not required, especially from a pro se parent. The request for review is a functional pleading and, as a matter within my discretion, I find that the district's argument that it must be dismissed for noncompliance with Part 279 is rejected.

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ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives" (Endrew F., 137 S. Ct. at 1000).

Although I decline to dismiss the parent's request for review for non-compliance with the form requirements governing such pleadings (see 8 NYCRR 279.4 and 279.8), the parent's reply submitted in rebuttal to the district's answer does not fully comply with the form requirements and will not be considered to the extent that it does not comply (see 8 NYCRR 279.6).[13] The only aspect of the reply that has been considered is the parent's rebuttal to the district's procedural defense that the request for review should be dismissed as facially deficient. Otherwise, the parent's reply does not comply with the form requirements as it does not relate to any claims raised for review in the answer that were not addressed in the request for review, or to any additional documentary evidence served with the answer (8 NYCRR 279.6[a]).

2. Additional Evidence

Additional evidence that was not entered into the hearing record by the IHO was submitted to the SRO by the parent with her request for review and her reply. The additional evidence includes pages of exhibits that the IHO clearly declined to enter into the hearing record, in addition to correspondence and other documents that the parent submitted with her reply, as well as audio recordings.

Notably, submitted to the SRO were pages from Parent exhibits D, F, and G, which the IHO specifically declined to enter into the hearing record (Tr. pp. 44-61).[14] Included in the pages excluded from Parent exhibit D was a "S[afety] [A]ssessment," which the parent had initially redacted when presented during the impartial hearing (Tr. pp. 50-52).[15] However, an unredacted copy of the safety assessment was submitted to the SRO along with the rest of the exhibits and with the parent's reply. The parent cites to this document in her request for review (Req. for Rev at ¶¶ 9, 18). Additionally, an audio recording of the student's eligibility meeting and an end of the year assessment meeting were submitted to the SRO and the parent cites to these recordings in her request for review (Req. for Rev at ¶¶ 5, 11). Additionally, the parent submitted correspondence with the district that was not presented during the impartial hearing.

Generally, documentary evidence not presented at an impartial hearing may be considered in an appeal from an IHO's decision only if such additional evidence could not have been offered at the time of the impartial hearing and the evidence is necessary in order to render a decision (see, e.g., Application of a Student with a Disability, Appeal No. 08-030; Application of a Student with

[13] While the parent submitted a reply, proof of service was not filed with the reply as required by State regulation (8 NYCRR 279.6[b]).

[14] The hearing transcript clearly indicates which pages and exhibits were not entered into the record (Tr. pp. 44-61). However, the IHO failed to identify, in the exhibit list annexed to her decision, the number of pages pages admitted into evidence for Parent exhibits D and F or that Parent exhibit G was not admitted (IHO Decision at p. 5). The IHO is reminded that she is responsible for maintaining the hearing record and a list identifying each exhibit admitted into evidence, that identifies "each exhibit by date, number of pages, and exhibit number or letter" (8 NYCRR 200.5[j][5][v]). Further, the IHO failed to enter the parent's due process complaint notice into the hearing record, which is required by regulation (8 NYCRR 200.5[j][5[vi][a]).

[15] The "Safety Assessment" is the title provided on the document. The parent refers to these pages in the request for review as ACS documents (Req. for Rev. at ¶¶ 9, 18). For the sake of consistency and clarity, these two pages will be referred to as the "safety assessment".

a Disability, Appeal No. 08-003; see also 8 NYCRR 279.10[b]; L.K. v. Ne. Sch. Dist., 932 F. Supp. 2d 467, 488-89 [S.D.N.Y. 2013] [holding that additional evidence is necessary only if, without such evidence, the SRO is unable to render a decision]). All of the additional evidence submitted to the Office of State Review could have been offered at the time of the impartial hearing in the present proceeding, and was either not offered, or was explicitly not entered into the hearing record by the IHO (Tr. pp. 44-61, 86). However, while SROs have considered the factor of whether the additional evidence was available or could have been offered at the time of the impartial hearing, this factor is not necessarily dispositive in every case (Application of the Department of Education, Appeal No. 16-017; Application of a Student with a Disability, Appeal No. 08-030). This factor serves to encourage full development of an adequate hearing record at the first tier to enable an IHO to make a correct and well-supported determination, and to prevent the party submitting the additional evidence from "sandbagging"—that is, withholding relevant evidence during the impartial hearing, thereby shielding the additional evidence from cross-examination and later springing it on the opposing party, effectively distorting the State-level administrative review and transforming it into a trial de novo (see M.B. v. New York City Dep't of Educ., 2015 WL 6472824, at *2-*3 [S.D.N.Y. Oct. 27, 2015]; A.W. v. Bd. of Educ. of the Wallkill Cent. Sch. Dist., 2015 WL 1579186, at *2-*4 [N.D.N.Y. Apr. 9, 2015]).

Other than as discussed below, with respect to the parent's arguments related to the safety assessment, the parties have not presented any coherent arguments as to why the additional evidence should be considered and therefore, to the additional evidence is not considered as it is not necessary to render a decision on the issues raised by the parent in the request for review.

3. IHO Bias & Conduct

The parent in the request for review contends that the IHO was incapable of being impartial and lacked neutrality. The parent asserts that the IHO was biased, claiming that the IHO led and misled the witnesses at the defense of the district, defended the district throughout the hearing, refused to allow the parent to question her witness about ICT classes, and badgered a witness (Req. for Rev. at pp. 9-10).

It is well settled that an IHO must be fair and impartial and must avoid even the appearance of impropriety or prejudice (see, e.g., Application of a Student with a Disability, Appeal No. 12-066). Moreover, an IHO, like a judge, must be patient, dignified, and courteous in dealings with litigants and others with whom the IHO interacts in an official capacity and must perform all duties without bias or prejudice against or in favor of any person, according each party the right to be heard, and shall not, by words or conduct, manifest bias or prejudice (e.g., Application of a Student with a Disability, Appeal No. 12-064). An IHO may not be an employee of the district that is involved in the education or care of the child, may not have any personal or professional interest that conflicts with the IHO's objectivity, must be knowledgeable of the provisions of the IDEA and State and federal regulations and the legal interpretations of the IDEA and its implementing regulations, and must possess the knowledge and ability to conduct hearings and render and write decisions in accordance with appropriate, standard legal practice (20 U.S.C. § 1415[f][3][A]; 34 CFR 300.511[c][1]; 8 NYCRR 200.1[x]). A review of the transcript reveals that both parties were treated fairly, with courtesy and respect by the IHO during the impartial hearing (see generally Tr. pp. 1-148). The hearing record does not support the parent's contentions raised in the request for review. An IHO can question witnesses for the purpose of clarification or completeness of the

record (8 NYCRR 200.5[j][3][vii]). A review of the hearing record does not demonstrate that the IHO abused this discretion.[16]

4. Scope of Review

The parent argues that under FERPA, she can request that the student's educational record be amended or destroyed, and that the IHO erred in finding that she had no authority to amend or expunge those documents.

Initially, it is noted that State law does not make provision for review of section 504, ADA, the No Child Left Behind Act of 2001, or FERPA claims through the appeal process authorized by the IDEA and the Education Law (see Educ. Law § 4404[2]; A.M. v. New York City Dep't of Educ., 840 F. Supp. 2d 660, 672 n.17 [E.D.N.Y. 2012]). ["Under New York State education law, the SRO's jurisdiction is limited to matters arising under the IDEA or its State counterpart"]).[17] The IDEA provides for impartial hearings and State-level reviews in matters relating to the identification, evaluation or educational placement of students, or the provision of a FAPE (20 U.S.C. § 1415[b][6][A]; 34 CFR 300.507[a][1]; 8 NYCRR 200.5[i][1], [j][1]). A separate portion of the IDEA (20 U.S.C. § 1417[c]) requires the Secretary of Education to promulgate regulations for the protection of the rights and privacy of parents and students in accordance with the provisions of FERPA (see 20 U.S.C. § 1232g). The relevant federal regulations under the IDEA prescribe a specific procedure for challenging alleged inaccuracies in a student's educational records (34 CFR 300.618-300.621). However, IDEA regulations provide that such hearings are to be conducted in accordance with the procedures specified in 34 CFR 99.22, rather than an impartial due process hearing under 34 CFR § 300.511 (see 34 CFR 300.621; see also Amendment of Records at Parent's Request [§ 300.618] and Opportunity for a Hearing [§ 300.619], 71 Fed. Reg. 46735-36 [Aug. 14, 2006]).[18] In this case, the allegations in the parent's due process complaint notice—which sought to expunge and amend parts of the student's educational record—do not constitute matters relating to the identification, evaluation or educational placement of the student, or the provision of a FAPE to the student and, as the IHO correctly found, she had no authority to amend or expunge those documents (see IHO Decision at p. 4; see also Due Proc. Compl. Not. at

[16] The parent contends that the IHO lacked impartiality when the IHO refused to allow the parent to question a witness regarding an ICT "class" (Tr. pp. 124-25). Although the IHO did not allow the parent to question the witness regarding what an ICT class was, this did not violate the parent's due process rights or demonstrate a lack of impartiality as the parent has not alleged that the student should have been in an ICT class and the issue was not relevant to the proceedings. Further, ICT services are statutorily defined (see 8 NYCRR 200.6[g]).

[17] It is noted that the parent also raised claims in her due process complaint notice relating to the ADA and section 504 (see generally Due Proc. Compl. Not.). The IHO did not specifically address the parent's claims regarding these statutes and the parent did not raise these issues in her request for review. Additionally, as discussed above, the SRO lacks jurisdiction over these claims.

[18] Although, I lack jurisdiction to make a determination regarding the parent's FERPA claims, it is noted that the IDEA does contain a confidentiality section which deals with requests for destruction of a student's educational record (see 34 CFR 300.610-627). As discussed above, this section of the law allows for the parties to conduct a hearing regarding such requests; however, this hearing is not an impartial hearing, but a hearing conducted by a district staff member (see 34 CFR 300.619-621 and 34 CFR 99.22).

pp. 2, 9). Accordingly, neither the IHO, nor the SRO, has jurisdiction over the allegations set forth in the due process complaint notice.

Further, the parent in the due process complaint notice requested that the IHO grant an extension of time of the two year statute of limitations, which the IHO found she did not have the authority to do (IHO Decision at p. 4). It is noted that the parent's due process complaint notice was timely filed within two years from when the June 2016 CSEconvened to discuss the student's initial evaluations, determine his eligibility and develop anIEP, and no extension of the statute of limitations was necessary.

B. Refusal of Consent for the Provision of Special Education and Related Services

According to the IDEA and federal and State regulations, a district "must obtain informed consent" from the parent of a student with a disability "before the initial provision of special education and related services" to the student (20 U.S.C. § 1414[a][1][D][i][II]; 34 CFR 300.300[b][1]; 8 NYCRR 200.5[b][1][ii]). In addition, the district must make "reasonable efforts to obtain informed consent" from the parent, which requires that the district keep a record of attempts to secure such consent through "detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parent and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits" (34 CFR 300.300[b][2], [d][5]; 300.322[d]; see 8 NYCRR 200.5[b][1]; Parental Consent for Services, 71 Fed. Reg. 46633-34 [Aug. 14, 2006]). When a parent fails to respond to a request for consent or refuses to consent to the provision of special education and related services, the district will not be considered to be in violation of the requirement to make a FAPE available to the student because of the failure of the district to provide the student with the special education and related services for which district sought consent or to develop an IEP for the student (20 U.S.C. § 1414 [a][1][D][ii][III][aa]; 34 CFR 300.300[b][3][ii]; 8 NYCRR 200.5[b][4][i]).

After the June 2016 CSE meeting, the parent sent a letter dated June 23, 2016 to the district refusing all special education services (Parent Ex. A at pp. 35-36; see Tr. pp. 127-31). On appeal, the parent contends that at that time she did not receive copies of the results of the evaluations relied on by the June 2016 CSE, and did not receive a copy of the draft or final June 2016 IEP, or a prior written notice requesting parental consent for the provision of special education services (Req. for Rev. ¶ 6).[19] Additionally, consistent with her June 23, 2016 letter, the parent contends that she was only given 10 days from the date of the CSE meeting to make a decision to refuse or accept special education services (id. at ¶ 5; see Parent Ex. A at p. 1). Under the circumstances presented by the parent, at the time she sent the letter refusing services, it is possible that her refusal to consent to the provision of any special education services may not have been informed, as required by State and federal regulation.[20] However, any such procedural failure does not rise to

[19] The hearing record includes a prior written notice dated June 27, 2016 indicating that the parent refused special education services and the district intended to withdraw the student from the special education process (Dist. Ex. 4 at p. 1). The hearing record also includes an unsigned consent form for the initial provision of special education services dated June 27, 2016 (Parent Ex. A at p. 41).

[20] As defined in federal and State regulations, consent means: the parents have been informed of all relevant

the level of a denial of FAPE as it did not impede the student's right to a FAPE, significantly impede the parents' opportunity to participate in the decision-making process, or cause a deprivation of educational benefits (see 20 U.S.C. § 1415[f][3][E][ii]; 34 CFR 300.513[a][2]; 8 NYCRR 200.5 [j][4][ii]), as during the impartial hearing, the parent reiterated that she never consented to special education services and instead repeatedly requested that the student be declassified (Tr. pp. 71, 142, 144).

The parent's main concern throughout the hearing and on appeal appears to be that she believes the district did not properly close the student's special education case (Req. for Rev. ¶¶ 7-8, 14). However, testimony by the school staff shows that after the parent refused all special education services, the district complied with the parent's request and did not provide the student with special education services (Tr. pp. 77, 79, 89-90, 94-95, 109-14, 121-23, 129, 134-35). Although testimony indicates that the student was not provided with special education services, the hearing record demonstrates—as the parent alleges—that an IEP was "finalized" in the district's SESIS on June 27, 2016 (Dist. Ex. 7 at p. 7; see Parent Ex. A at pp. 23-34). There is conflicting testimony regarding whether or not an IEP should have been created in SESIS after the parent refused special education services (Tr. pp. 94-95, 109-13); however, there was no testimony indicating an IEP was ever implemented. Accordingly, the existence of the IEP in SESIS alone does not support the parent's contention that the district then implemented the IEP without her knowledge or consent, or that the student received special education services.

The parent points to two other documents as indicating that the student received special education services (Req. for Rev. ¶ 9). The first is a January 2018 entry on the SESIS event log, indicating that SESIS interpreted the entry of the parent's June 2016 letter refusing special education services as a consent for services and that it remained open (Dist. Ex. 7 at pp. 5-6). While this is evidence that the district made an error in its system, it does not indicate that the student's IEP was ever implemented, and as discussed above, district staff testified that the IEP was not implemented. The parent referred to the safety assessment as indicating that the student had an IEP during the 2016-17 school year (Req. for Rev. ¶ 9).[21] However, the document referred to by the parent is not a part of the hearing record because the IHO decided not to admit the document into evidence because part of it was redacted (Tr. pp. 51-52). While the parent submitted an unredacted copy of the document with her request for review, the district has not had an opportunity to rebut it and there is no indication as to where the information in the report came from. Accordingly, the parent has not pointed to evidence showing that the student was ever provided with special education services.

information in their native language or other mode of communication, that they understand and agree in writing to the activity for which consent is sought, that the written consent form fully describes the activity for which consent is sought, lists any records that will be released and the people to whom any records will be released, and further that the parent must be aware that the consent is voluntary, may be revoked at any time, and if revoked, that revocation is not retroactive (34 CFR 300.9; 8 NYCRR 200.1[l]).

[21] The parent points to the safety assessment, which is not in the hearing record to support her contention that the IEP was implemented without her knowledge or consent (Req. for Rev. ¶ 9). However, the testimony of the parent's own witnesses demonstrated that the student did not receive special education services while he was attending the district's school (Tr. pp. 77, 79, 90, 94-95, 113-14, 121-23, 129).

In addition, I have reviewed all of the evidence in the hearing record and there are only a few documents that could be construed as supporting the parent's position that the student received special education services. Even though the parent does not point to these pages to support her argument, they are discussed for the sake of thoroughness. In particular, there are two pages in the hearing record which demonstrate that the student received Response to Intervention (RtI) services during the 2016-17 school year (Parent Ex. A at pp. 6-7).

The student participated in the district's RtI process during the 2016-17 school year from November 16, 2016 to January 20, 2017 (cycle 1), then again from February 8, 2017 to March 24, 2017 (cycle 2) (Parent Ex. A at pp. 6-7). The student was "chosen" for RtI group, cycle 1, and guided reading interventions because the student presented with the following needs: his independent reading level was two levels below "where it should be at the start of 3rd grade"; and he struggled to read fluently, paused often, was not chunking words together, and was not using punctuation to know when to pause or continue reading (id. at p. 6). Further, the student read 54 words per minute, answered comprehension questions without details, and omitted the ending of the story (id.). The student was chosen for the second cycle of RtI because his reading fluency was not consistent; his answers were without details; he needed to work on including the ending of stories/central messages and identifying character change; and he did not answer with specificity when asked questions about text evidence (id. at pp. 6-7).

State guidance describes RtI as "a school process used to determine if a student is responding to classroom instruction and progressing as expected." It further indicates, "a student who is struggling receives additional instructional support provided by matching instruction to a student's individual needs through a multi-tier instructional model" ("Response to Intervention, A Parent's Guide to Response to Intervention," Office of Special Educ., at p. 1 [April 2010], available at http://www.p12.nysed.gov/specialed/RTI/rti-pamphlet.pdf). Pertinently, State regulation provides that a school district's process to determine if a student responds to scientific, research-based instruction shall include instruction matched to student need with increasingly intensive levels of targeted intervention and instruction for students who do not make satisfactory progress in their levels of performance and/or in their rate of learning to meet age or grade level standards (8 NYCRR 100.2[ii][1][iii]).[22] RtI is a school-wide approach utilized prior to referral for special education (see 8 NYCRR 100.2[ii][1][i], 200.2[b][7]).

While the targeted interventions provided as a part of an RtI process may appear similar to specially designed instruction delivered as part of a special education program,[23] as discussed above, RtI is a general education service available to all students. State law and regulation

[22] State regulation further mandates that school districts shall select and define the specific structure and components of its RtI program, including, but not limited to, the criteria for determining the levels and types of intervention to be provided to students, the amount and nature of student performance data to be collected and the manner and frequency for progress monitoring; and to set forth the implementation of its RtI process in a written policy (8 NYCRR 100.2[ii][2], see 200.2[b][7]).

[23] Regulations define specially designed instruction, in part, as "adapting, as appropriate to the needs of an eligible student under this Part, the content, methodology, or delivery of instruction to address the unique needs that result from the student's disability" (8 NYCRR 200.1[vv]; see 34 CFR 300.39[b][3]).

specifically contemplate the provision of academic intervention services (AIS), RtI support, or "additional general education support services" to students in the general education setting (see Educ. Law §4401-a[3]; 8 NYCRR 100.1[g]; 100.2[ee], [ii]; 200.4[a][9]). Based on the foregoing, the record does not support the parent's contention that the student received special education services.

C. Request for Relief

The parent requests reversal of all the IHO's findings and decisions, including the finding that the parent is not eligible for reimbursement of private counseling or for the costs of homeschooling the student.[24]

As discussed above, an SRO does not have jurisdiction to address the parent's claims regarding the ADA, section 504, or FERPA. An SRO can only determine matters relating to the identification, evaluation or educational placement of students, or the provision of a FAPE (20 U.S.C. § 1415[b][6][A]; 34 CFR 300.507[a][1]; 8 NYCRR 200.5[i][1], [j][1]). However, because the parent refused consent for all special education services, the district cannot be considered in violation of the requirement to provide the student with a FAPE (34 CFR § 300.300[b][4][i]; 8 NYCRR 200.5[b][4][i]). Therefore, because there is no denial of a FAPE, the parent cannot be granted relief, including her request regarding reimbursement for private counseling services or costs associated with homeschooling (see Fry v. Napoleon Community Schools, 137 S. Ct. 743, 747 [2017] ["Any decision by a hearing officer on a request for substantive relief 'shall' be 'based on a determination of whether the child received a free appropriate public education.'] citing 20 U.S.C. § 1415[f][3][E][i]).

However, the parent maintains her ability to re-refer the student for special education services, should she be inclined to do so in the future. Moreover, the parent asserted several facts relating to the student being bullied at school (see generally Due Proc. Compl. Not.). Going forward, the parent and district may take note of the New York State Dignity for All Students Act, which went into effect July 1, 2012 and which intends to prevent and prohibit "harassment" and "bullying," defined as "the creation of a hostile environment by conduct or by threats, intimidation or abuse . . . that," among other things, "has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being" (Educ. Law §§ 10, 11[7]; see generally Educ. Law §§ 10-17). Among other things, the Dignity for All Students Act requires that a district create "[p]olicies and procedures intended to create a school environment that is free from harassment, bullying and discrimination," which included, but are not limited to policies directed to the reporting, investigation, elimination, and prevention of bullying and harassment (id.).

VII. Conclusion

In summary, having determined that the evidence in the hearing record establishes that the district did not provide the student with special education services after the parent refused consent and that the requested relief is not available because the district is not required to provide a FAPE

[24] Although not specifically mentioned in the request for review, the IHO denied the parent's request for homeschooling at the district's expense raised in the due process complaint notice.

to the student due to the parent's refusal to consent to special education services, the necessary inquiry is at an end.

THE APPEAL IS DISMISSED.

Dated: **Albany, New York**
December 13, 2018

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STEVEN KROLAK
STATE REVIEW OFFICER