

**New York State Education Department  
Office of State Review  
Sample Narrative Request for Review  
of an Impartial Hearing Officer's Decision**

This is a sample a Request for Review in a narrative format which states the reasons that the parent is seeking review of the Impartial Hearing Officer's (IHO's) decision. If you choose to, you write your own request for review using a similar format. If you choose to use to use this format, please keep in mind the following:

- Make clear and concise statements of the issues/IHO rulings that you would like a State Review Officer to review and the reasons that the IHO's decision should be reversed or changed, with each issue/IHO ruling numbered separately. Any issue/IHO ruling that you do not identify in your Request for Review will not be addressed by a State Review Officer who will assume that you are abandoning the issue.
- Explain to the State Review Officer what part(s) of the IHO's decision you disagree with, and why you disagree with the IHO's decision. Also if you would like a State Review Officer to decide an issue that was not addressed by the hearing officer, explain the issue and the IHO's failure to or refusal to rule on/decide the issue. When possible, you should refer to the evidence in the hearing record, such as the page numbers from the written transcript of the hearing or written documents which were presented at the hearing, to support your argument.
- If you object to the way in which the IHO conducted the hearing, you should state your objection, and if possible, you should refer to any pages of the written record of the hearing which relate to your objection.
- Indicate what relief or remedy you are seeking by bringing the appeal. At the end of the Request for Review, you should explain to the State Review Officer what you would like to see happen. You may ask the State Review Officer to reverse or change the IHO's decision. You must decide what you believe the school district should be ordered to do to help your child and explain what you would like the State Review Officer to order.
- You are not required to refer to portions of federal or State laws or regulations to support your argument that the decision of the hearing officer should be overturned or amended; however, if you wish you may do so in the Request for Review.

**For Additional Information**

For additional information on the appeal process, please call the Office of State Review at (518) 485-9373 and refer to <https://www.sro.nysed.gov/book/overview-part-279-revised-effective-january-1-2017>

**Instructions: Complete the Request for Review and sign it. Then sign an Affidavit of Verification (Form D) in front of a Notary Public. Make two copies each of the Notice of Request for Review (Form B), Affidavit of Verification, and Request for Review.**

- ✓ Hand deliver a copy of the Request for Review (and a copy of both the Notice of Request for Review and Affidavit of Verification) to the school district.
- ✓ Within 2 calendar days of serving the Request for Review upon the school district, the **original** Notice of Intention to Seek Review and Case Information Statement, Notice of Request for Review, Request for Review, Affidavit of Verification, and Affidavit of Service must be mailed to the State Review Officer at the following address:

Office of State Review  
New York State Education Department  
80 Wolf Road, Suite 203  
Albany, NY 12205

- ✓ Keep a copy of all completed forms for your records.

**Form B**

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**IN THE MATTER OF THE APPEAL OF**

**D.V. and J.V.** \_\_\_\_\_

*(Name of Parent[s])*

on behalf of **T.V.** \_\_\_\_\_,

*(Name of Student with a Disability)*

**Petitioners,**

**-against-**

**The Woodlake Central School District,**

*(School District)*

**Respondent.**

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**NOTICE OF REQUEST  
FOR REVIEW**

**NOTICE:**

You are hereby required to appear in this review and may answer the allegations contained in this request for review. Your answer must conform with the provisions of the regulations of the Commissioner of Education relating to reviews of this nature, copies of which are available at [www.sro.nysed.gov](http://www.sro.nysed.gov) or from the Office of State Review of the New York State Education Department, 80 Wolf Road, Suite 203, Albany, NY 12205.

Please take notice that such regulations provide that an answer to the request for review may be served upon the petitioner, or if the petitioner is represented by counsel, upon such counsel, within 5 business days after the service of the request for review, and a copy of such answer must, within two days after such service, be filed with the Office of State Review of the New York State Education Department, 80 Wolf Road, Suite 203, Albany, NY 12205. Extensions of time to serve an answer may be granted upon a request that complies with the provisions of section 279.10(e) of the Regulations of the Commissioner.

The decision of the State Review Officer shall be based solely on the record before the State Review Officer and shall be final, unless an aggrieved party seeks judicial review.

Dated: February 1, 2018

*Dominic Vasquez and Jane Vasquez*

*(Signature)*

*(person who has initiated the appeal)*

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF STATE REVIEW

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**IN THE MATTER OF THE APPEAL OF**

D.V. and J.V.

*(Name of Parent[s])*

on behalf of T.V.,

*(Name of Student with a Disability)*

Petitioners,

-against-

**REQUEST FOR REVIEW**

The Woodlake Central School District,

*(School District)*

Respondent.

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The parents, Dominic Vasquez and Jane Vasquez, on behalf of their son, Tony Vasquez, seek review of the Decision of IHO Kenneth Li dated November 30, 2018 which denied our requests for make-up services for the 2016-17 school year and tuition reimbursement for the XYZ school for the 2017-18 school year.

**STATEMENT OF ISSUES**

1. The IHO incorrectly found that the 2016-17 IEP was appropriate even though our son wasn't given any speech-language services, and the IHO incorrectly denied our claim for eighty hours of make-up speech-language services.
2. The IHO should have found that the district violated our rights by not scheduling a second CSE meeting in January 2017 after we asked for one.
3. The IHO incorrectly found that a general education placement for the 2017-18 school year was appropriate and would meet our son's needs.

4. The IHO erred in finding the XYZ private school was too restrictive and should have found that the private school we sent our son to for the 2017-18 school year is appropriate for our son.
5. The IHO improperly barred our documents that showed that the private school was appropriate.
6. The IHO should not have found that we do not want to work with the district.

#### **BRIEF STATEMENT OF FACTS**

Our son Tony is currently in sixth-grade at the XYZ private school. (Transcript p. 77). He was with the District from kindergarten through fifth grade. (Parent A at p. 3). He has had an IEP for all those years because he is classified as a student with autism. (Dist. 39 at p. 1; 44 at pp. 3–4). For kindergarten through fourth grade he was in a special education class with 12 students and two teachers and also received speech-language therapy. (Transcript p. 55).

A CSE meeting was held on June 12, 2016, to create an IEP for Tony for fifth-grade school year (2016-17). (Dist. 3 at pp. 1–10). At that meeting, the District recommended general education with a one-to-one aide. The one-to-one aide would help Tony in math, science, social studies and English. (Dist. 3 at p. 10) The CSE did not recommend speech-language therapy. After the CSE meeting, we wrote a letter to the District, expressing our concerns with the changes made to the IEP. (Parent D at p. 1). We requested that Tony be given a more supportive program, and that he be given speech-language therapy twice a week. The District rejected our request, and Tony attended the general education class for the 2016-17 school year without this support. (Dist. 38, Transcript p. 150). He struggled all through fifth grade and he did not make any progress with his communication skills. We asked for a CSE meeting in January 2017 to again discuss adding

speech-language therapy back into his IEP, but the CSE never held another meeting until closer to the end of the school year to start planning for sixth grade (Parent I).

The school called a CSE meeting on May 6, 2017, to create a new IEP for Tony's 2017-18 school year (sixth grade). (Dist. 41). The District ended up recommending the same general education program as in fifth grade, which we did not believe would meet Tony's needs. (Dist. 41). It was at that time that we told the District that we planned to place our son at the XYZ private school because we disagreed with the IEP. (Dist. 41 at p. 1, Parent R). We also told the District that we intended to seek tuition reimbursement. (Parent R). Our son attended XYZ for the 2017-18 school year. (Transcript 299; Parent T, U).

On June 10, 2016, we filed our due process complaint. (Parent Z). We asked for 80 hours of speech-language therapy to make up for the sessions Tony did not get during the fifth grade because we disagreed with the District's decision to discontinue speech-language therapy. In our complaint we also asked for tuition reimbursement for XYZ during the 2017-18 school year because we did not think a general education class was appropriate. The IHO's decision stated that the 2016-17 and 2017-18 IEPs were appropriate and denied our requests for speech-language services and tuition reimbursement. (IHO Decision pp. 19–21). For the reasons below, we do not agree with the IHO's decision.

**1. The IHO incorrectly denied our request for eighty hours of speech-language services**

The IHO found that the 2016-17 IEP was appropriate, even though our son wasn't receiving speech-language therapy. (IHO Decision at p. 20). The IHO relied on testimony provided by Ms.

Smith, the District's speech-language therapist, that he no longer needed speech-language therapy. (IHO Decision at p. 11; Transcript pp. 301-333). The IHO also relied on the District's January 10, 2014 speech-language evaluation (Dist. 34). The IHO did not consider the testimony of Mrs. Fuller, our son's former private speech-language therapist, who testified that he needs at least two therapy sessions per week. (Transcript at pp. 450-455). Mrs. Williams, Tony's teacher during the 2016-17 school year, also reported that Tony had speech-language issues (Parent B). The IHO only considered Ms. Smith's testimony, and did not consider other evidence, which supports our position. Also, the January 10, 2014 speech-language evaluation is old and does not give a good description of our son. We ask that the IHO's decision be reversed and eighty hours of speech-language services be given to our son.

**2. The IHO should have found that the District did not conduct a second CSE meeting in the 2016-17 school year**

The IHO should have found that the District failed to schedule a CSE meeting upon receipt of our January 2017 letter. (IHO Decision at p. 17; Parent I). We requested that the CSE meet to consider whether our son should receive speech-language therapy. (Parent I.) A March 4, 2016 report from Ms. Fuller, which recommended that our son continue to receive speech-language therapy in school, was included with our letter. (Parent K at p. 2). No CSE meeting was ever held to address our concerns in the letter or to consider Mrs. Fuller's report. (Transcript pp. 190-193). Tony did not make progress in his speech-language skills during the 2016-17 school year (Dist. 13).

**3. The IHO incorrectly found that the general education placement recommended for the 2017-18 school year would meet Tony's needs**

The IHO incorrectly found that the District's 2017-18 IEP was appropriate and that the general education program, with a one-to-one aide, was appropriate for our son. At the May 6, 2017 CSE meeting, the CSE considered our report from the private neuropsychological evaluation conducted by Dr. Jones. (Transcript at pp. 477-499; Dist. 41 at p. 2; Parent X). Dr. Jones said that our son did not to make progress in the general education program during the 2016-17 school year, and felt that Tony should be placed in a small special education class for the 2017-18 school year. (Parent X at p. 9). The District's professionals disagreed with Dr. Jones. They recommended the same general education program for the 2017-18 school year, even though he did not make progress in that placement during the 2016-17 school year. (Dist. 41; 23).

The IHO did not consider the testimony from Mr. Johnson, our son's current teacher at XYZ, who stated that a general education class was too large for Tony and that he could not make progress. (Transcript pp. 123, 234, 333-38).

The evidence shows that the class size in the general education classroom was not appropriate. The IHO failed to consider all the evidence and testimony to the contrary.

**4. The IHO erred in ruling that the XYZ School was not appropriate because it was too restrictive**

The IHO went on to find that XYZ was not appropriate because the small class Tony was in was too restrictive for our son. The IHO felt that the small class size of six students and three adults was unnecessary. The IHO focused only on the number of students and teachers rather than considering that the students in the class were being instructed on our son's level. Mr. Johnson

testified that because of the small number of students to teachers at XYZ, all students were supported as best as possible. Also, the material taught in the class was appropriate for our son, and it challenged him. The IHO should not have focused only on the class size.

**5. The IHO improperly barred our documents about the XYZ school and would not consider them**

During the hearing held on November 10th the IHO refused to accept Tony's progress reports and report card from first marking period at the XYZ school because it was not available at the time of our due process complaint (Transcript pp. 508-512). The IHO should have taken the documents and ruled that Tony's progress at XYZ supports our argument that XYZ is an appropriate placement for him. We are submitting those progress reports and report cards with this request for review because it is necessary for the SRO to review the three documents we tried to give to the IHO. They are labeled "Additional Evidence" I-III and are attached to the Request for Review. The IHO also ruled that the brochures about the school were too general and not specific or relevant to our son and would not accept them (Transcript pp. 515). We disagree with the IHO on that point too and have attached the brochures as Additional Evidence IV.

**6. The IHO incorrectly found that we would not work with the district**

The IHO also found that we did not work with the District because we paid a substantially sized deposit and signed the XYZ enrollment contract on April 21, 2017 (IHO Decision at p. 21). The IHO was wrong. We had to comply with XYZ's May 1st deadline or we would have had to forfeit our son's spot for the 2017-18 school year (Parent M). We testified at the hearing that if the CSE gave us an IEP that was appropriate for our son we would have kept him in the District (Transcript pages 552-556). We participated in the CSE meeting and tried to get the CSE to change



the IEP to a special class instead of general education. It was only when we learned that the CSE's recommendations remained the same as the prior school year that we paid the remaining balance of the XYZ tuition and fully committed to having Tony attend the XYZ school for the 2017-18 school year (Transcript p. 558).

For all of these reasons, we ask that the SRO reverse the IHO decision and find that the District should provide Tony with 80 hours of speech-language therapy to make up for the sessions he should have received during the 2016-17 school year, and reimburse us for the tuition we paid to XYZ for the 2017-18 school year.

Date: January 1, 2018

*Dominic Vasquez and Jane Vasquez*

Dominic Vasquez and Jane Vasquez  
Parents of Tony V.  
1234 Main Street, #56  
Anytown, NY 10001  
(999) 555-1234