

STATE OF NEW HAMPSHIRE

STATE DEPARTMENT OF EDUCATION

██ School District

IDPH-FY-24-11-019

SCHOOL DISTRICT’S PROPOSED FINDINGS OF FACT AND RULINGS OF LAW

Proposed Findings of Fact

For a more in-depth chronology, the District directs the Hearing Officer to the District’s Response to the Parents’ Due Process Hearing Request and the affidavits of ██████████ at SD Doc H 001-16.

1) ██████████ is a 21-year-old (born ██████████) ██████████ who has been unilaterally placed at a residential facility located in ██████████. Parents’ Complaint (placement); SD Doc I 201 (birth certificate). Although ██████████ is an adult, ██████████ has delegated to ██████████ adoptive parents, ██████████ (the “Parents”), educational decision-making authority pursuant to a power of attorney. SD Doc A 077-80.

2) The ██████████ School District (the “District”) is a public school district responsible for the provision of special education and related services to its resident students. *See* RSA 186-C:7, :13

3) The Parents reside in ██████████, New Hampshire. The District is responsible for educating residents of ██████████ grades six through 12.

4) ██████████ was adopted by the Parents from ██████████ when ██████████ was nearly seven years old. ██████████’s developmental history is significant for profound neglect “with no running water or electricity,” “significant malnourishment,” and parental substance abuse. SD Doc A 035.

Consequently, ■ was diagnosed in ■ with “delayed intellect development.” SD Doc A 034.

5) ■’s last agreed-upon IEP (dated May 2, 2022 to May 1, 2023, as amended on June 7, 2022) identifies ■ primary disability as Emotional Disturbance; ■ secondary disability as Other Health Impairment (based on ADHD); and ■ tertiary disability as Specific Learning Disability. SD Doc A 188, 211.

6) At this point in time, ■ struggles most significantly with ADHD symptoms and social pragmatics. According to ■, M.D., Ed.D., a pediatric psychologist who evaluated ■ on two occasions and testified in this due process hearing:

The prominent clinical concern for ■ is that ■ lacks insight into (a) ■ difficulties with focus, concentration, sustained effort and ■ need for executive function skill practice; and (b) ■ difficulties with social pragmatic skills of age -similar peers and ■ practice with development of those skills.”

SD Doc B 082.

2020-2021 and 2021-2022 • Sophomore and Junior Years, Grove School

7) The District initially agreed to place ■ at ■ School in October 2020 in the midst of a “perfect storm.” Testimony of ■. While the District questioned whether ■ required residential placement in order to receive a free appropriate public education (“FAPE”), due to the circumstances (including the active Covid-19 pandemic, the limited availability of placement options, and the Parents’ representation that they would unilaterally place ■ there if the District did not), the District compromised and agreed to support this placement. SD Doc A 042.

8) The written prior notice from that IEP team meeting cautioned the Parents against

did not testify in this hearing).⁴ Testimony of Dr. [REDACTED]. *There is no published research or data regarding the efficacy of this treatment method. Id.*

14) On June 6, 2022, the Parents informed the District that they had spoken with [REDACTED] and thought it would be “a great fit for [REDACTED].” SD Doc J 058. However, the Parents were informed – both by [REDACTED] individually (SD Doc N 023), and the IEP team as a whole (SD Doc A 179) – that [REDACTED] is “a clinical program[,] not a school” and thus is not state-approved for publicly funded special education. SD Doc N 023. *See* 20 U.S.C. § 1401(9)(B)-(C), (27); RSA 186-C:5, :10.

15) [REDACTED] completed [REDACTED] School’s academic requirements in June 2022. This was consistent with the IEP [REDACTED] signed on July 27, 2022 (SD Doc A 211), which stated, “Anticipated graduation date/completion of program: 6/22/2022” (SD Doc A 197). According to [REDACTED] transcript, [REDACTED] earned primarily A’s and B’s, despite Specific Learning Disabilities in Mathematics and Written Expression. SD Doc A 214.

16) By that time, [REDACTED] had earned 117 of the 80 credits required to graduate with an [REDACTED] High School diploma. SD Doc B 131. [REDACTED] also participated in [REDACTED] School’s graduation ceremony and received a [REDACTED] School graduation certificate. SD Doc B 133-34.

17) [REDACTED] could have received a diploma from either [REDACTED] School or [REDACTED] High School at that time. SD Doc J 313 (“[REDACTED] did not accept a diploma from [REDACTED], my understanding was it was coming from the district.”); SD Doc B 075.

18) *Yet the District gave the Parents a gift.* Despite having completed [REDACTED] secondary education, and despite having made satisfactory progress in [REDACTED] IEP goals, the District agreed to place [REDACTED] at [REDACTED] School’s Transition Program for one additional year. This was so [REDACTED] could

⁴ *Id.*

continue to “work on [REDACTED] very specific interest of agriculture and farming” as well as activities of daily living in an environment that was familiar to [REDACTED]. SD Doc A 185-86.

19) Accordingly, [REDACTED]’s IEP for the 2022-2023 school year addressed goals in the areas of transition, self-help, social/behavioral, and speech and language, and called for placement at [REDACTED] School.⁵ SD Doc A 188-212. The Parents fully consented to the District’s proposed IEP and placement on July 27, 2022. SD Doc A 211-12.

2022-2023 • Transition Year, Grove School

20) [REDACTED] School’s Transition Program is a residential program located separately from [REDACTED]’s secondary school. The Transition Program “is designed for post-graduate students that need more time in treatment to prepare for independent living.”⁶ “Students in this program are involved in community college classes, employment and vocational training[,]” while receiving instruction in independent living skills.⁷

21) [REDACTED]’s individualized program at the Transition Program included paid employment at a nearby farm (20 hours per week); instruction in executive functioning (3 hours per week); instruction in activities of daily living (daily); social pragmatics counseling (30 minutes per week); group therapy (1 hour per week); and individual therapy (2 hours per week). SD Doc A 213. [REDACTED] Comprehensive Service Plan for the 2022-2023 school year called for 32.5 hours of “instruction” per week. SD Doc A 217-19.

22) [REDACTED] did not take any high school classes or earn any additional secondary school credits at the Transition Program. *See, e.g.*, SD Doc A 245-46.

23) [REDACTED] also attended a community college course in child development during this

⁵ [REDACTED]’s IEP also included goals in Mathematics and Language Arts; however, these goals were merely holdovers from [REDACTED] School’s high school program. [REDACTED] did not take any academic courses at the Transition Program.

⁶ [REDACTED] School, *About Us: The Transition Program*. [REDACTED]

⁷ *Id.*

time. SD Doc A 215, 224. [REDACTED] later elected to attend the class “as an observer,” possibly because, as reported by [REDACTED] School, portions of the curriculum were “upsetting to [REDACTED],” rekindling [REDACTED] own past traumas. SD Doc A 244, 256.

24) As of February 23, 2023 (approximately five months into the Transition Program), [REDACTED] was making satisfactory progress in all IEP goal areas. SD Doc A 222-26. Based on [REDACTED]’s IEP goal progress, as well as positive reports from [REDACTED] School staff (SD Doc A 215-16), the District had minimal contact with the Parents during this time – aside from discussions surrounding community-based services available in New Hampshire. SD Doc J 114.

25) On April 7, 2023, [REDACTED] [REDACTED]⁸ emailed the Parents to inform them that [REDACTED] was planning an internal meeting with [REDACTED] School staff to discuss [REDACTED]’s progress and to plan “for [REDACTED]’s last few months of school.” SD Doc J 133. [REDACTED] responded, “that is fine.” *Id.* Notably, [REDACTED] inaccurately testified that [REDACTED] was unaware this internal meeting had occurred until after the fact. Testimony of [REDACTED].

26) As described in more detail at Paragraph 19 of [REDACTED]’s Second Affidavit, SD Doc H 008, the internal meeting was a positive one. According to [REDACTED] School staff, both the Parents and [REDACTED] expected that [REDACTED] would return home following completion of the Transition Program. SD Doc A 257. Consequently, the District had no reason to suspect the Parents were unhappy with the [REDACTED] School Transition Program until April 17, 2023 – *seven months into the Program.*

27) As testified by the Parents and exemplified through emails between the Parents and [REDACTED] School staff, however, the [REDACTED] were contemplating pulling [REDACTED] from the Transition Program following March 2023 break. *See, e.g.,* SD Doc K 033-37. *See also* SD Doc

⁸ [REDACTED] is the District’s Out-of-District Coordinator. [REDACTED] testified in this due process hearing.

K 051. For example, in a February 1, 2023 email to ██████'s counselor, ██████ wrote:

██████ knows that ██████ must work on 3 goals prior to the March break: daily showers, 3 to 4 well balanced meals that ██████ prepares & getting a job. We were very clear that *if ██████ chose not to meet these goals, we would have to seriously reconsider the transition program.* ██████ repeatedly says that ██████ will do these things but the follow through just isn't there. I could remind ██████ that *we will pull ██████ from the program* is ██████ continues this pattern but I think that will lead to a spiral and ██████'ll shut down completely.

SD Doc K 034 (emphasis added).

28) On April 17, 2023, ██████ informed the District for the first time that ██████ was "not happy" with ██████'s placement (as testified by ██████, ██████'s actual words were "this year has been bulls**t"). According to ██████ ██████, the Transition Program was lackluster because "there has been little follow through on IEP objectives[,] "they were going to allow ██████ to drop community college course[,] and the Parents "want[ed] to see more career exploration and practice with job soft skills." SD Doc A 259.

29) ██████'s perceptions of the Transition Program were misguided. In actuality, ██████ was making satisfactory progress in all IEP goal areas but one – the goal pertaining to participation in a community college class (SD Doc A 240-54); ██████ elected to audit the class rather than attend for credit because of triggering subject matter (SD Doc A 256); and ██████ was actively interviewing for jobs while working at a local farm (e.g., SD Doc K 034-36, 43, 62). Additionally, ██████'s career exploration efforts were further hindered by the Parents' reluctance to support ██████ interests (see SD Doc H 009).

30) Consequently, the District elected not to amend the goals or services in ██████'s

annual IEP. On April 20, 2023, the District issued a written prior notice proposing the same goals and services as ██████'s previous IEP, and further proposing that ██████ remain placed at ██████ School until August 11, 2023 (the final day of the Transition Program), at which point ██████ would receive ██████ High School diploma. SD Doc A 285. The IEP that was issued in conjunction with this written prior notice was dated May 1, 2023 to August 11, 2023. SD Doc A 261.

31) As explained in more detail in the Second Affidavit of ██████, SD Doc H 009-11, the Parents did not respond to the District's proposals until May 25, 2023, when they "partially consented" to the proposed IEP and rejected the District's proposed placement. SD Doc A 297-98. The Parents rejected the proposed placement because it did not include an "out of district placement for 2023-2024." SD Doc A 298. Although represented by legal counsel, the parents failed to comply with Ed 1120.04(a), which required that they "specify, in writing, the items [in the IEP] that they [were] refusing or requesting."

32) The District was not made aware of the Parents' desire for another year of residential placement until April 27, 2023 (after the proposed IEP had been issued), when ██████ requested a meeting with ██████ "to discuss out of district placement options for ██████ after ██████." Testimony of ██████; SD Doc A 287.

33) Behind the scenes, however, the Parents had been researching postsecondary residential placement options since at least March 2023. SD Doc O 020; *see also* SD Doc H 010, ¶ 26. While the Parents continuously checked in with ██████ School staff regarding their placement search, the District was not copied on those emails or invited to those placement meetings. SD Doc O 020, SD Doc O 104.

34) In response to the Parents' partial consent to the IEP and rejection of the proposed placement, the District convened an IEP team meeting on June 9, 2023. During the meeting,

█████ School staff reported that █████ had made “slow and steady progress” over the past year, but had recently “plateaued” at the Transition Program. SD Doc A 315-17. The Parents then announced, “it is not our intent for █████ to come back home” citing a “lack of independent living and skills” and a feeling that “█████ being at home would be too isolating because █████ has no peers in the area.” *Id.*

35) As testified by █████ and exemplified by IEP progress reports (SD Doc A 240-54), the District had not received any data or information indicating a “plateau” at █████ School. Accordingly, following the June 9, 2023 IEP team meeting, the District sent an email to █████ School requesting “the data supporting █████’s position that █████ has not been making progress on █████ IEP goals” as well as “documentation of how █████ has been supporting █████ and the family in █████ upcoming discharge from █████.” SD Doc A 213.

36) The update provided by █████ School stated that █████ made “progress overall towards █████ goals and objectives” in the Transition Program, but had been demonstrating “limited progress” as of late. SD Doc A 319-24.

37) It was later clarified by █████ █████⁹ at █████ School that █████’s alleged plateau was caused by █████ anxiety about leaving █████ and about not being able to meet █████ parents’ expectations when █████ returned home – *not by a lack of services*. SD Doc C 009:21-24; SD Doc C 014:6-13. In fact, as testified by █████, █████ School’s Transition Program provided all the services promised in █████’s IEP, and █████ made progress there overall.

38) In response to this new information, as well as the Parents’ recently elucidated concerns, the District proposed placement in a community-based or day program for the 2023-2024 school year. SD Doc A 325-26. As the District explained in its written prior notice, “[w]hile

⁹ █████ was █████’s Advisor and Treatment Team Coordinator at █████ School’s Transition Program. █████ testified in this due process hearing.

█████ does have deficits in █████ independent living skills . . . these deficits do not pose a risk to █████'s health or safety and do not require a residential setting to be addressed.” *Id.* In addition, “[c]ontinued residential placement would not allow █████ to increase █████ community connection[s]” and would not be the least restrictive environment for █████ to receive a FAPE. *Id.*

39) Since an agreement was not reached regarding █████'s placement at the June 9, 2023 IEP team meeting, the District scheduled a follow-up meeting for August 9, 2023. SD Doc A 328. The District expected that that the meeting would entail (a) a review of █████'s overall progress at █████ School; (b) a discussion of █████'s transition goals in the context of a community-based or day placement; and (c) a proposal for triennial reevaluations (which were due and necessary for █████ to continue to receive special education, *see* 34 C.F.R. § 300.302(b)(2)). Testimony of █████. *See also* SD Doc B 008 (agenda); SD Doc H 013-14 (affidavit).

40) Unfortunately, however, the Parents resolved to place █████ residentially at █████ before the District had a chance to propose (and begin exploring) any less restrictive community-based or day placements.

41) The Parents submitted an application to █████ on June 28, 2023. SD Doc R 004-06.¹⁰ They flew to █████ with █████ to tour the facility on June 30, 2023. SD Doc L 017 (plane tickets); SD Doc R 013 (email exchange). They purchased airline tickets to █████ again on July 30, 2023 – this time a roundtrip for the Parents, but a one-way trip for █████. SD Doc L 025-31. They approved of █████' proposed service plan for █████ on August 4,

¹⁰ Notably, █████ wrote on the application that █████ has graduated from high school and that “the student plan[s] on attending in the next 3 months[.]” SD Doc R 005.

needs could be assessed.

SD Doc B 022; SD Doc C 045-47.

45) In response, the Parents' advocate protested that the District's offerings were too vague. SD Doc C 055:20-25. But the District's proposals did not identify more specific providers or service hours because the Parents refused to disclose where they planned for ██████ to live.¹² See SD Doc C 006-07; SD Doc B 021-23. To the contrary, the Parents stated that ██████ returning home "is not an option" because ██████ is "on an airplane once a week[,] ██████ "puts in 15-hour days[,] and "managing ██████ is a full-time job." See SD Doc C 006:22-25; SD Doc C 007:1-16.

46) The District also proposed at the August 9 meeting to conduct triennial reevaluations (as well as an Autism inventory) and continued placement at ██████ School until ██████'s 21st birthday (January 26, 2024) while the evaluations were being completed. SD Doc C 024:16-25; SD Doc C 025-26; SD Doc B 021. This proposal would have allowed the District "to consider whether ██████ remain[ed] eligible for special education services beyond ██████ twenty-first birthday and . . . whether to transfer ██████ to an appropriate community-based or day program" SD Doc B 021.

47) The District's proposal that ██████ remain placed at ██████ School was also influenced by its reasoning that "extending that placement will hopefully relieve ██████'s anxieties that caused her to plateau during the spring of 2023." SD Doc A 023. As testified by Dr. ██████, this proposal was reasonable based on ██████'s profile and reports from ██████ School.¹³

¹² To complicate matters further, during ██████ interview with Dr. ██████, ██████ stated that once ██████ leaves ██████ ██████ in ██████, ██████ plans to live somewhere in the Northeast, but not with the Parents in the District. SD Doc B 074; Testimony of Dr. ██████.

¹³ Additionally, given the parties' inability to come to an agreement on ██████'s program for the 2023-2024 school year, stay-put would have allowed ██████ to remain in ██████ current placement at ██████ School pending resolution of the graduation issue. See Ed 1120.04(g).

48) On August 17, 2023, [REDACTED] signed a six-month residential lease agreement with [REDACTED], [REDACTED] dated August 9, 2023 (to begin August 21, 2023). SD Doc B 026.

49) The following day, the Parents signed consent for the District to conduct triennial reevaluations. SD Doc B 057-58. However, they relocated [REDACTED] to [REDACTED] on August 20, 2023, before evaluations could begin.

2023-2024 • New Directions

50) The Parents prevented the District from completing the majority of [REDACTED]'s triennial reevaluations. They relocated [REDACTED] to [REDACTED] three days after signing a consent to evaluate. *See id.* When asked when [REDACTED] could come to the School Administrative Unit or [REDACTED] High School to complete the portions of the evaluation that Dr. [REDACTED] was not conducting, [REDACTED] [REDACTED] responded, “[REDACTED] ... will not be home until Thanksgiving. There is a distinct possibility that we [the Parents] will be traveling to [REDACTED] for that holiday, at which point [REDACTED] will not be home until Christmas.” SD Doc B 087.

51) On September 29, 2023, the School District sought parental consent to extend by 30 days the 60-day deadline to complete the triennial evaluation, as Ed 1107.01 (d) and (e) allow. SD Doc B 112. On October 9, 2023, [REDACTED] replied, “[W]e see no reason why the district cannot complete its evaluation in the required time frame.” (SD Doc B 128.) [REDACTED] did not consent to the proposed extension.

52) The District later learned through discovery that [REDACTED] visited [REDACTED] parents' home in [REDACTED] from November 18 to November 27, 2023 for the Thanksgiving holiday and that they purchased airline tickets for that trip on November 7, 2023. SD Doc L 002-05. As testified by

██████████,¹⁴ District personnel could (and would) have evaluated ██████████ during that time. However, the Parents did not notify the District that ██████████ was visiting ██████████ for the holiday. Testimony of ██████████.

53) The District also explored sending District staff to ██████████ to evaluate ██████████ at ██████████. Testimony of ██████████; SD Doc J 299-302; SD Doc B 190. “However, obstacles to accomplishing that included staff members’ schedules, their family commitments, and concerns that their licensing laws and binding codes of ethics did not allow them to evaluate ██████████ in ██████████.” SD Doc B 190; SD Doc J 299-302.

54) ██████████ evaluated ██████████ remotely on August 31, 2023. SD Doc B 074. ██████████ evaluation included remote interviews of ██████████, the Parents, and personnel from ██████████ School and ██████████, but noted repeatedly that personnel from ██████████ had not had any engagement with ██████████ School or the District. SD Doc B 074-86 (full report); SD Doc B 186 (Oct. 18, 2023 Addendum to Dr. ██████████’s report)

55) Dr. ██████████, the psychologist who owns and operates ██████████ (SD Docs E 03 - E 010), did not respond to Dr. ██████████’s requests for information. (██████████ testimony; SD Doc B 133.)

56) Most importantly, Dr. ██████████ recommended the “System of Care principles described by the U.S. Dept. of Health and Human Services Substance Abuse & Mental Health Services Administration (SAMHSA),” which are “favored practices” within the psychological community. SD Doc B 085; Testimony of Dr. ██████████.¹⁵

57) According to Dr. ██████████, the standard of care within the national psychological

¹⁴ ██████████ is a School Psychologist at the District. ██████████ testified in this due process hearing.

¹⁵ For a summary of Dr. ██████████’s evaluation report, see Paragraphs 37-39 of the District’s Response to the Parents’ Due Process Hearing Request.

community (and embraced by SAMHSA) favors “community-based” placement that is family-driven and youth-guided; individualized, strengths-based, and evidence informed; accessible and affordable; culturally and linguistically competent; and collaborative and coordinated across an interagency network. SD Doc B 085-86; Testimony of Dr. [REDACTED].

58) Dr. [REDACTED], Clinical Director at [REDACTED], testified that [REDACTED] has never heard of the SAMHSA System of Care principles. Testimony of Dr. [REDACTED].

59) The Parents filed their Request for Due Process Hearing on November 14, 2023, after the District proposed on October 23, 2023 (a) to terminate [REDACTED]’s eligibility for special education and related services due to [REDACTED] having earned a regular high school diploma; and (b) to discharge [REDACTED] from special education because [REDACTED] was no longer a resident of the District (this was following an IEP team meeting to review Dr. [REDACTED]’s evaluation and discuss the ongoing disagreement regarding [REDACTED]’s educational programming). SD Doc B 173. For more information regarding how the District reached its conclusion to terminate [REDACTED]’s eligibility for special education and related services, the District directs the Hearing Officer to the written prior notice from that meeting, at SD Doc B 173-74.

60) The Parties began discovery on December 10, 2023. SD Doc B 223-226 (District’s Initial Discovery Requests). The Parents submitted some of their responses on January 26, 2024. SD Doc K 008.

61) At the hearing, counsel for the parties agreed that the [REDACTED]’ responses to the School Districts discovery requests, which should have included all communications with [REDACTED] School since 2022, omitted emails [REDACTED] exchanged on July 31, 2022 with [REDACTED], [REDACTED]’s advisor at [REDACTED] School’s Transition Program. These emails reveal that the family had decided by July 31 that [REDACTED] was moving to [REDACTED] and [REDACTED] “begrudgingly” accepted

this decision SD Doc B 002.

62) The District later discovered that, when disclosing through discovery their communications with ██████████, the Parents' the Parents withheld the following emails:

- a) June 1, 2022, ██████████ to Dr. ██████ at ██████████. SD Doc R 002.
- b) June 23, 2023, ██████████ at ██████████ to ██████████. SD Doc R 003.
- c) July 13, 2023, between the Parents, ██████████, and ██████████ at ██████████. SD Doc R 11.
- d) July 18, 2023, Parents to Dr. ██████ at ██████████. SD Doc R 013.
- e) July 20-21, 2023, between the Parents and ██████████. SD Doc R 014-15.
- f) July 26, 2023, ██████████ to ██████████. Sd Doc R 017.
- g) July 30-31, 2023, between ██████████ and the Parents. SD Doc R 025.
- h) July 31, 2023, between ██████████ and ██████████. SD Doc B 002.
- i) August 18, 2023, 12:14 p.m. and 1:14 p.m., between ██████████ and the Parents. SD Doc R 059, R 063.

63) ██████ has been living at ██████████ since August 21, 2023.

64) Upon review of the “progress notes” provided to the District from ██████████, it is unclear whether ██████ has made any documentable progress. Testimony of Dr. ██████. *See generally* SD Doc Q 001-55. Indeed, ██████████’ progress notes contain no data, no clarity as to ██████’s progression or regression, no sense of trajectory, and no information on the treatment methodologies employed by ██████████ staff. *See, e.g.*, SD Doc Q 16-53. *See* Testimony of Dr. ██████.¹⁶

65) ██████’s initial service plan at ██████████ (P-077), as well as the current one

¹⁶ The District also received a “behavior plan” from ██████████ through discovery. *See* Testimony of Dr. ██████. The one-page behavior plan, dated November 7, 2023, states that “██████ must attend 3 social events or █████ getting [sic] only half of █████ allowance.” *See id.* The behavior plan was not preceded by a functional behavioral assessment, was not created by a Board Certified Behavior Analyst (BCBA), is not monitored by a BCBA or Registered Behavior Technician (RBT), and includes no data collection. *See id.* Additionally, the plan was signed off on by ██████████ at ██████████, who is the Financial Coordinator there and has no training in psychology or education. *See id.*

(P-091), could have been implemented in a community-based setting orchestrated (and funded) by the District. Testimony of [REDACTED]. It is worth noting that [REDACTED]'s current service plan represents an overall decrease in social activities – despite the fact that social pragmatics is one of [REDACTED]'s areas of need. SD Doc B 082.

Proposed Rulings of Law

1) The District had no obligation to provide a FAPE during the 2022-2023 school year because [REDACTED] was no longer eligible for special education and related services due to [REDACTED] having earned a regular high school diploma. *See* 34 C.F.R. § 300.102(a)(3); RSA 186-C:9.

2) The fact that a student has not acquired sufficient skills to live independently does not warrant compelling a school district to provide or fund special education beyond the date the student earns a high school diploma or reaches the maximum age for special education. Some students who qualify for special education, such as those with intellectual disabilities or autism, will never acquire the skills to live independently.

3) The District had no obligation to offer a FAPE for the 2023-2024 school year because [REDACTED] was no longer eligible for special education and related services due to [REDACTED] having earned a regular high school diploma. *See* 34 C.F.R. § 300.102(a)(3); RSA 186-C:9.

4) The District had no obligation to provide a FAPE during the 2022-2023 school year because [REDACTED] did not reside in the District. *See* 20 U.S.C. § 1412(a)(1)(A); RSA 186-C:7, I; 186-C:13, I; RSA 21:6-a. *See also* RSA 193:12, I, III.

5) The District had no obligation to offer a FAPE for the 2023-2024 school year because [REDACTED] does not reside in the District. *See* 20 U.S.C. § 1412(a)(1)(A); RSA 186-C:7, I; 186-C:13, I.

6) [REDACTED] is not entitled to compensatory education for the 2022-2023 school year,

since ■■■ received a FAPE at ■■■ School's Transition Program that school year. *See Andrew F. v. Douglas County School District*, RE-1, 137 S. Ct. 988, 1001 (2017).

7) The Parents are not entitled to reimbursement for the unilateral placement they made at ■■■ for the 2023-2024 school year because, even if ■■■ remained eligible for special education, the District offered a FAPE. *See C.G. v. Five Town Community School District*, 513 F.3d 279 (1st Cir. 2008).

8) By refusing to cooperate with the triennial evaluation during the autumn of 2023, ■■■'s parents forfeited any right ■■■ had to receive special education. 20 U.S.C. § 1412(a)(10)(C)(iii)(II); RSA 186-C:16-b, VI. *See Patricia P. v. Board of Educ. of Oak Park*, 203 F.3d 462, 468 (7th Cir. 2000), quoting *Andress v. Cleveland Indep. Sch. Dist.*, 64 F3d 176, 178-79 (5th Cir. 1995). Accord, *Gregory K. v. Longview Sch. Dist.*, 811 F.2d 1307, 1315 (9th Cir. 1987).

9) Compensatory education is an equitable remedy. The equities do not support an award of compensatory education in this case.

10) Reimbursement is an equitable remedy. The equities do not support an award of reimbursement in this case.

11) The Parents' reimbursement claim is barred by New Hampshire's statute of limitations governing such claims, RSA 186-C:16-b, II.

12) The Parents' reimbursement and compensatory education claims are barred by laches. The parents unreasonably delayed filing for due process and the School District was prejudiced by that delay.

13) The Parents's compensatory education claim is barred by estoppel. They did not inform the School District in a timely manner of their concerns with ■■■ School's Transition

Program. The School District was prejudiced by that delay.

14) The Parents bear the burden of persuasion on all issues. RSA 186-C:16-b, III-a violates Part 1, Article 28-a of the New Hampshire Constitution.

15) [REDACTED] is not entitled to compensatory education.

16) The School District has no duty to provide or fund compensatory education at [REDACTED].

17) The School District has no duty to reimburse [REDACTED]'s parents for expenditures they made related to [REDACTED] attendance at [REDACTED].

18) [REDACTED] is needlessly expensive.

19) The School District has no duty to reimburse [REDACTED]'s parents for medical services at [REDACTED].

March 13, 2024

By: /s/ [REDACTED]
and [REDACTED]
Attorneys for the [REDACTED] School
District

I certify that on this 13th day of March, 2024, I mailed a copy of the within Requests for Findings and Rulings to [REDACTED], Esq., counsel for [REDACTED]'s parents.

By: /s/ [REDACTED]