UTAH STATE BOARD OF EDUCATION

BEFORE THE DUE PROCESS HEARING OFFICER

[redacted], by his parent, [redacted] Petitioner, v. UINTAH SCHOOL DISTRICT, Respondent.	**DECISION AND ORDER** Case No. DP-2526-03 (Hearing Officer Doug Larson)

A due-process hearing was held in the above referenced matter on December 10 and 11, 2025, in Vernal, Utah at the offices of Uintah School District (Hearing). Petitioner [redacted] [redacted] (formerly [redacted]) ("Ms. [redacted]" or "Petitioner") was present during the Hearing representing her minor child [redacted] ("[redacted] or "Student"). Ms. [redacted] was represented by counsel, William (Buddy) Pohl and Jared Allebest. Mr. Pohl attended in person and Mr. Allebest attended virtually via Zoom. Respondent, Uintah School District ("Uintah" or "the District"), was represented by counsel Paul Van Komen. Ryan Maughan, Special Programs Director ("Mr. Maughan"), and Zinna Eaton, Special Education Services Director ("Ms. Eaton"), were present on behalf of the District during the Hearing. Petitioners requested the Hearing be closed to the public. This matter was assigned to the undersigned Hearing Officer, Douglas Larson ("Hearing Officer"). The Hearing was held in accordance with the procedural requirements of the Individuals with Disabilities Education Act ("IDEA") (20 USC §1415 et seq., and 34 CFR §§300.507-515, and the Utah State Board of the Education ("USBE") Special Education Rules ("State Rules") IV.I-P, June 2023.

I. INTRODUCTION

On August 7, 2025, Petitioner filed a Due Process Hearing Complaint and Hearing Request ("Complaint") with the USBE stating Uintah violated the IDEA. In particular, Petitioner alleged in the Complaint that: (1) Uintah District denied a FAPE by allowing . to be physically assaulted, by being excluded from activities based on his disabilities, and by failing to intervene appropriately with 's behavior; (2) Uintah District denied . a FAPE by expelling him for a clear manifestation of his disability, placing him in a program that denied him an educational benefit, and failing to conduct MDRs; (3) Uintah District failed to assess . in all areas of need, which led to repeated removals; (4) Uintah District released . unsupervised, which resulted in injury; and (5) Uintah District failed to provide a FAPE during the 2024-2025 school year due to . not returning after his accident, and after returning in March 2025, despite being medically fragile, district staff allowed . to be assaulted by another student. The Complaint requested the following remedies: (1) the District provide an independent educational evaluation ("IEE") at the District's expense at Wasatch Pediatric Neuropsychology; (2) provide educational records prior to the Hearing; (3) residential treatment for student at Youth Care Education Program or Embark Behavioral Health; (4) provide for expenses associated with twice weekly visits to Student at his placement; and (5) pay attorney fees.

Uintah filed a timely Response to Petitioner's Complaint on August 17, 2025, denying that the District failed in any of its obligations under the IDEA. The Petitioner and Respondent ("the Parties") entered into the early resolution process and engaged in mediation to resolve the matter. On September 30, 2025, the Parties jointly requested a 30-day extension of the resolution period. The Hearing Officer held a prehearing conference with the Parties on October 30, 2025, and no resolution had been reached. The Parties agreed to Hearing dates of December 10 and 11, 2025. The Parties exchanged witness lists and document disclosures and filed prehearing briefs with the Hearing Officer.

The Hearing was held as scheduled on December 10 and 11, 2025. Petitioner called, in the order of appearance: Zinna Eaton, Uintah Special Education Services Director; Ryan Maughan, Uintah Special Programs Director of Students; , Uintah School Psychologist; and , .'s mother. At the close of testimony, Petitioner rested Petitioner's case. Respondents called in the order of appearance: , Uintah Life Skills Teacher and

Registered Behavioral Technician; [redacted], Former Uintah Special Education Teacher, Current Board Certified Behavior Analyst and Counselor in private practice; [redacted], Uintah High School Assistant Principal; [redacted], Uintah High School Principal; Zinna Eaton, Uintah Special Education Services Director (recalled); [redacted], former school teacher and administrator, current Duchesne County School District Special Education Director (expert witness); and Ryan Maughan, Uintah Special Programs Director of Students (recalled). At the request of the Hearing Officer, Petitioner called [redacted] for rebuttal purposes (recalled).

In addition to witness testimony, the Parties produced extensive documentary evidence in support of their positions. The Hearing Officer admitted into the Hearing record Petitioners' Exhibits 1 through 79. The Hearing Officer admitted into the Hearing record Respondent's Exhibits A through K. The Parties stipulated to all the exhibits. At the close of evidence, the Parties requested to conduct closing arguments on post-hearing briefs, and the Hearing Officer granted the request. The Parties jointly requested the Hearing Officer extend the 45-day window for adjudication. Subject to the December 22, 2026, Minute Entry, and based on Rule IV.J.10.c and Rule IV.P.2 of the Utah Special Education Rules ("SpEd Rules"), the Hearing Officer granted extensions of the 45-day timeline. A transcript of the record was completed and provided to the parties on or about January 1, 2026. The post-hearing briefs were submitted to the Hearing Officer on January 16, 2025. This final decision was sent on February 2, 2026.

II. BURDEN OF PROOF

Petitioner, as the party requesting a due process determination, is the party carrying the burden of proof by a preponderance of the evidence in this matter. *Thompson R2-J School Dist. v. Luke P.,* 540 R.3d 1143, 1148 (10th Cir. 2008) ("The burden of proof…rests with the party claiming a deficiency in the school district's efforts"); *Schaffer v. Weast,* 546 US 49, 57 (2005) ("The burden of proof in an administrative hearing [in the IDEA context] is properly placed upon the party seeking relief."). The Hearing Officer informed Petitioners at the pre-Hearing conference that they would have the burden of proof and the obligation to present evidence first at the Hearing.

III. FINDINGS FROM THE RECORD

The record was relatively unclear on ’s background, special education needs, and key incidents of the matter. Notwithstanding the underdeveloped record, the Hearing Officer makes the following factual findings:

1. . is an -grade student at Uintah School (Trans. 470:22).
2. Ms. testified that . is excellent with mechanics and building with his hands. He enjoys anything outdoors that keeps his hands moving. He loves riding and working on dirt bikes. He loves welding. He loves horseback riding (Trans. 188:2).
3. . is a student with an individualized education program (“IEP”). The eligibility category identified by the District has consistently been “Intellectual Disability” (Ex. B). . was identified with a disability in his earliest years of school and has been on an IEP throughout his school career.
4. . is a student with a full-scale IQ score of 46 at the >0.1 percentile rank. His math scores are generally on a second-grade level, and his reading is generally at a third-grade level, although the assessment warns that . intentionally performed poorly on his portion of the assessment (Ex. B).
5. In 2022, . was reevaluated for special education. The IEP signed by the team on September 19, 2022, listed services in Math, Reading, English, Functional Lifeskills, and Social Skills. He received 221 minutes of specialized services in those areas daily. Ms. and . signed that IEP along with seven other members of the team (Ex. 4).
6. . was also assessed for behavior needs in May 2022. The assessment concluded that . “would benefit from a program that teaches him how to replace maladaptive behaviors with positive social behavior so he can receive the positive social attention and tangibles he needs to be successful” (Ex. B).
7. In October 2022, . brought one or more knives to school that had a blade of three inches or more (Trans. 20:1; Ex. 5). On October 20, 2022, a safe school hearing was held, and it was determined that . committed a safe school violation for being “in possession of a weapon (knife) at school” (Ex. 6).

8. [redacted] School also conducted a Manifestation Determination Review ("MDR") related to that incident described above. It was determined by the MDR committee that [redacted].'s possession of a knife was not a manifestation of his disability. The determination stated, "His low academic, adaptive, and cognitive skills do not support initiation and/or continuation of bringing weapons to school. Having an intellectual disability does not contribute to the intent to bring dangerous weapons to school" (Ex. 5).

9. The MDR was signed by IEP team members including Ms. [redacted]. [redacted].'s grandmother also signed the MDR (Ex. 5).

10. The following year, [redacted]. was reassessed, and the results of his reassessment were discussed by the IEP team in a meeting on September 8, 2023. The Service and Placement form demonstrated [redacted]. had a "FUBA and BIP in place,"[1] and he was to receive 264 minutes of specialized instruction each day. The IEP with the same date outlined [redacted].'s specific goals. The IEP also contained an Individualized Postsecondary Transition Plan. The IEP team all signed the Service Placement for including Ms. [redacted] and [redacted]. (Ex. J, R-40 to R-60).

11. During the first few weeks of the following school year, [redacted]. engaged in inappropriate and disruptive behavior. He used harsh, offensive, and physically threatening language with peers, and such language was also directed at teachers and administrators at times. [redacted]. was prone to elope from class and from the school (Ex. D; Ex. J).

12. Behavior incident logs indicate that Ms. [redacted] reported multiple behavior incidents on September 19 and 20, 2023, which led to [redacted].'s safe school referral. The incident logs demonstrate that [redacted]. was capable of causing persistent disruption to the school.

    a. [redacted]. told his teacher to "f*** off" and indicated "he would hurt her if she tried to take his phone" according the logs.

    b. [redacted]. refused directives when playing loud, inappropriate music during lunch.

    c. [redacted]. put duct tape on a student's arm to "rip the hair off their arm," and he attempted to do the same on another student's leg. When asked by his teacher where he got the duct tape, he told his teacher to "f*** off…and he smiled."

---

[1] FUBA refers to the Functional Behavioral Assessment, and the BIP refers to the Behavior Intervention Plan. *See* Ex. C.

d. ███. wore spurs to school. When he was asked to remove them, according to school policy, ███. refused. He was told they were "considered a weapon." The spurs were confiscated.

e. ███. walked into Mr. ███'s office and took his spurs when Mr. ███ was not present. He was questioned by Ms. ███ and a separate employee in the office. ███ spotted the SRO and threatened Ms. ███ in his presence stating, "I'm going to deck you."

f. ███. was sent to the office by a teacher to have his backpack searched for cartridges. No cartridges were found, but while leaving the office and in front of the SRO again, he called Ms. ███ a "punk ███ ███," saying "f***" repeatedly (Ex. D).

13. After the final exchange described above, Ms. ███ stated, "I gave him the choice to apologize and return to class or leave. He chose to leave." Ms. ███ called Ms. ███ and told her ███ left school (Ex. E).

14. During Ms. ███'s telephone conversation, Ms. ███ blamed Ms. ███ for "causing [███'s] behaviors." She told Ms. ███ to stay away from ███. Ms. ███ initiated the district's safe school process (Ex. 18; Ex. J; Trans. 449:8).

15. On September 26, 2023, a safe school hearing was held. School Service Director ███ ███ prepared a notice of the determination stating that ███. committed violations of the District's safe school and discipline policies when he "made significant threats to school staff" (Ex 6).

16. The letter further stated:

> In accordance with district policy and Utah Code 53-G-205 [sic], ███] shall be excluded for a period not less than one calendar year. The decision of the hearing officer with input from school administration will be to hold this exclusion as a plea in abeyance under the authority of Uintah ███ administration. [███.] will receive his educational services through Uintah Online for the remainder of the 2023-2024 school year and will be allowed on campus at scheduled times to ensure his special education services are met and to receive face-to-face instruction. If the IEP team reviews data and can develop a reintegration plan in which [███.] is not a threat to others, he will be allowed conditional reentry for traditional in-school instruction. Outside of

> these times, [redacted] is not allowed to attend any extracurricular or school events and is not allowed on any district property. If found in violation, he may be cited with trespassing (Ex. 6).

17. The safe school notice did not state the spurs were part of the findings, but the District later took the position that the spurs were a dangerous weapon, and the District defended that position at the Hearing (Trans. 351:10; Trans. 421:12; Trans. 637:7).

18. An MDR was held on the same day, September 26, 2023. The MDR concluded the conduct described above was not the direct result of the school's failure to implement the IEP, nor was the conduct in question a manifestation of [redacted]'s disability. The Manifestation Determination form states expressly, "[redacted]'s low academic, adaptive, and cognitive skills do not support initiation of and/or continuation of verbal threats (Ex. 5).

19. The MDR form also provided Prior Written Notice ("PWN") to the parent that detailed the IEP team's proposed actions. Those actions included:

    a. Student would enroll in Uintah Online for academic classes and coursework adjusted to meet his specific academic needs.

    b. All accommodations and modifications in the IEP would continue to be fulfilled.

    c. Special education services would be provided in person for one hour, two days a week after school hours from 2:30-3:30 p.m. where he would receive services from the school psychologist and BCBA.

    d. This plan was proposed due the fact that "[redacted].] has had 17 behavior log incidences alone since Aug 23, 2024 [sic]."

    e. The PWN also stated, "The BIP review has also been modified and adjusted every 2 to 4 weeks, and little growth has been made within the setting with peers" (Ex. 6).

20. The PWN rejected the proposal that kept [redacted]. on the same schedule at [redacted] School with no changes to his schedule. The rejection states:

> [T]his was rejected because data has shown that this is not the least restrictive environment for [redacted].]. He needs a higher level of support for behavioral and social skills. He needs one on one specialized instruction with the teacher/school psychologist/BCBA to help support the deficits in behavior and social interactions. All behavior has occurred when around peers (Ex. 6).

21. Ms. ███ signed and acknowledged the MDR (Ex. 5).

22. The record contains no evidence to suggest the MDR determination was appealed.

23. Also on September 26, 2023, the IEP team agreed to amendments to ███.'s IEP acknowledging that this was the "second safe-school violation within a calendar year." Indeed, the Amendment to IEP states ███. was "still technically subject to a safe-school violation contract from his previous safe-school hearing in 2022" (Ex. B; Trans. 99:3).

24. The action proposed was consistent with the PWN and the safe-school hearing determination, "[███.] will be getting academic support through Uintah Online and receiving in-person learning 2 hours weekly with his special education staff. [███.] will be receiving school psychology services and behavioral services once weekly" (Ex. B; Trans. 98:18).

25. The action of leaving ███ in his current placement was refused based on the determination that ███ "has several inappropriate behaviors that impact his success at school…display[ing] behaviors that are not positive." A long list of those behaviors were provided such as:

    a. "He does not raise his hand during instruction – 100% of the time."
    b. He wanders around the classroom and is unable to remain seated "93% of the time."
    c. "He is disruptive… – 90% of the time."
    d. He challenges authority using profane language.
    e. He seeks attention by acting out and is rarely on task.
    f. "He touches students inappropriately."
    g. He does not complete class assignments 95% of the time.
    h. He has made physical threats toward staff members.

26. As a result, the Amendment to the IEP added 20 minutes per week of behavior services to ███'s weekly service pattern, but it cut service minutes for Math to 65, minutes for English to 65, and minutes for Behavioral/Social to 20 per week (Ex. B).

27. Overall, however, the team reduced service minutes precipitously from 264 minutes daily to 34 minutes daily (Ex. B).

28. Ms. signed and acknowledged the Amendment to the IEP (Ex. 5).

29. The record contains no explanation for this reduction in service minutes. Ms. Eaton merely stated, "At this time, this was an appropriate change and amendment to his IEP." Counsel for Petitioner sought no further for an explanation (Trans. 51:21).

30. Some evidence was presented that . was hit by a car on August 29, 2023. Despite the inference that this accident was the fault of the school, . was on suspension at the time and off school grounds (Ex. Trans. 38; Trans. 246:8).

31. . was assigned courses on Uintah Online, which were accessible from home on a school-issued computer. He was to attend courses online during the day and receive his specialized instruction after school hours in person at the school. Ms. Zinna testified that Uintah Online did not constitute a change in placement because it is "still considered a public education setting" (Trans. 39:19).

32. Respondent took the position that . had access to the curriculum as Ms. Eaton testified that she had seen . "log in appropriately" and "access the Canvas course and stuff" (Trans. 43:21).

33. Predictably, however, with only one or two exceptions, . did not attend school or log onto Uintah Online thereafter (Ex. H).

34. . also did not go to the school after school hours to receive his specialized instruction. In December 2023, school and district personnel communicated with Ms. about the logistics of providing specialized instruction to about both times and locations. However, Ms. told the school . would not attend face-to-face instruction unless the school lifted trespass restrictions during school hours (Ex. J; Ex. 29, Ex. 30; Ex. 32; Trans. 524:12).

35. Ms. Zinna testified that the school reached out to Ms. ▇▇▇ and tried to provide "positive opportunities to encourage ▇▇. to attend school," but there was no articulation of those opportunities. Furthermore, in December 2023, school and district personnel discussed dropping ▇▇. from school because he had more than 30 days of unexcused absences (Ex. 26 to Ex. 32; Trans. 590:11).

36. The record is less than clear on the following point, but Petitioner filed for due process in December 2023, the parties engaged in a resolution meeting or a mediation, and the parties came to an agreement (Trans. 55:12; Trans. 592:3; Trans. 639: 15). ▇▇. was not dropped from school, and the IEP team developed a new plan for his service pattern. According to Ms. Zinna, Ms. ▇▇▇ had significant input on the new plan (Ex. J R184 to R191; Ex. 33; Trans. 526:9).

37. The new plan involved ▇▇. returning to the school for instruction on a reduced schedule for three class periods. The plan was highly prescriptive regarding the locations for instruction, check-in procedures that included regular searches, and detailed strategies for responding to maladaptive behaviors (Ex. 33).

38. Attendance records show that ▇▇. attended school for two weeks following winter break. However, from mid-January until the first week of February 2024, ▇▇. missed virtually every class period. (Ex. H). Petitioner made no particular claims and provided no significant evidence regarding the sufficiency of new instructional plan that had been put in place or regarding ▇▇.'s patterns of attendance thereafter.

39. Ms. ▇▇▇ wrote in an email dated February 4, 2024, "[▇▇.] is actively refusing to return to school. He is not articulate enough to explain why he is refusing, so I would like to get more information." She suggested a new IEP team meeting with her attorney (Ex. 38).

40. The IEP team members discussed via emails adding a fourth period to ▇▇.'s schedule in the third term[2] and discussed the need for more assessment data (Ex. J, R205 to R221). The IEP team conducted new assessments in March and April 2024 (Ex. 48, Ex. 53 to Ex. 55).

[2] A "term" refers to a trimester.

A new Functional Behavioral Assessment was finalized in April 2024, and a new Behavior Intervention Plan was finalized in May 2024 (Ex. C).

41. had some more behavior issues during the third term 2024 but was able to make it to the end of the school year (Ex. J, R205 to R221). However, Petitioner provided no significant evidence that was not receiving services or was denied a FAPE during the second and third terms of the 2023-2024 school year.

42. Ms. communicated with Ms. that she completed 's reevaluation on May 6, 2024, and she requested a meeting to discuss the results. Ms. had difficulty setting a time to meet with Ms. (Ex. J, R221 to R222).

43. . was injured on August 18, 2024 (Ex. 61). He fell onto some rebar According to Ms. . had multiple surgeries and had some significant complications. . was required to have a major surgery at Primary Children's Hospital in October 2024 (Ex. 61; Exhibit 64; Trans. 190:12; Trans 203:7 to Trans. 205:4).

44. During the first term of the 2024-2025 school year, Ms. did not want to attend school because of his accident and his surgeries (Trans: 201:8). . attended no school during the first term. The absences were "parent excused" or "unexcused." . missed all of the second term of the 2024-2025 school year. The attendance records demonstrate that was on home hospital during the second term (Ex. H).

45. Ms. was assigned to provide one-to-one services to . during the first and second terms of the 2024-2025 school year. An email indicates that . "was receiving services from her every day even on Saturday and Sunday" (Ex. 68). Ms. maintained service logs, but the record is not clear regarding which IEP was being applied during the 2024-2025 school year (Ex. 65; Ex. 66; Trans. 435:5; Trans. 488:24).

46. Contact logs show that, in addition to Ms. 's provision of instruction and services, the school attempted to connect with Ms. roughly three times per month. Ms. indicated multiple times that "they didn't need anything and student was getting education services online every day from " (Ex. J, R245 to R248).

47. During the third term of 2025, ’s attendance was good for the first five weeks (Ex. H). However, on March 12, 2025, . was involved in an altercation with another student at school. The facts of the altercation are not clear, but the documents suggest . was the instigator (Ex. 74; Ex. 75). Ms. alleged that “the aids was attacking my son, [sic]” although there is no evidence supporting this allegation (Trans. 194:5).

48. With respect to the altercation, there is confusion in the record about any injuries. There is an allegation that . was hit in the stomach. However, Ms. took . to the Uintah Basin Medical Center where it appears from the portions of the medical records disclosed that . was treated for a head injury (Ex. 76; Trans. 205:6).

49. Starting on March 25, 2025, . did not come to school for the remainder of the third term. Petitioner suggested the absences were the result of injuries sustained by in the March 12, 2025, altercation. The record is vague and confusing, however, as . continued attending for two weeks immediately following the altercation (Ex. H).

50. At the request of Ms. , there is evidence that Ms. again provided instruction and services virtually during the third term (Ex. 79; Trans. 514:19).

51. Petitioner provided no significant evidence that . was not receiving services or was denied a FAPE during the 2024-2025 school year.

52. The Complaint was filed on August 7, 2025.

53. On September 11, 2025, the team signed the new IEP, including and Ms. . This IEP included an eligibility reevaluation. It maintained a shortened school day, although the schedule was modified. ’s schedule was loosened and he was able to attend additional classes such as P.E. At mother’s request, a 1:1 aid was also identified to accompany . to all regular education classes (Ex. B; Trans 273:19).

54. Petitioner made an inference that an additional surgery was required in October 2025 because . had been punched in the stomach in March 2025, but there is no evidence to support that claim (Trans. 205:6; 235:16).

55. As for the 2025-2026 school year, ███.'s attendance during the first term has been excellent compared to previous years. Ms. ██████ testified extensively that ███ has been progressing rapidly in his academics. He is also making significant progress regarding the "behavior and social things [he has been] working on." ███. is participating in P.E. and is regularly participating with peers, including a close friend. Ms. ██████ testified that staff have noticed a dramatic shift in ███.'s attitude, and staff members comment, "Oh my gosh, I don't even recognize this kid" (Trans 277:23; Trans 278:23; Trans 286:4).

56. Ms. █████ indicated that the school is an appropriate placement for ███ (Trans. 279:8).

57. Indeed, ███. was anxious to return to school after another surgery in or around October 2025. Ms. ██████ called Ms. █████ and expressed concern that he was at school so soon after his surgery. Ms. █████ responded, "[H]e just really wanted to be there" (Trans. 280:24). After the most recent surgery, ███. transitioned to virtual learning for a time, again with Ms. █████ (Trans. 291:3).

58. Ms. ██████ and other staff members agreed ███. gave no indication that he was medically fragile (Trans: 282:20; Trans. 470:22).

IV. DISCUSSION

The complaint was filed on August 7, 2025. For the purpose of due-process hearings generally, hearing officers only consider the issues raised in the due-process complaint. *See, e.g., I.K. v. Montclair Bd. Of Educ.,* 72 IDELR 101 (D.N.J. 2018, unpublished). The claims asserted in the Complaint included:

1. Uintah denied ███. a FAPE by allowing ███. to be physically assaulted and excluded from activities based on his disabilities, and failing to intervene appropriately with ███.'s behavior;
2. Uintah denied ███ a FAPE by expelling him for a clear manifestation of his disability, placing him in a program that denied him an educational benefit, and failing to conduct MDRs;
3. Uintah failed to assess ███. in all areas of need, which led to repeated removals;

4. Uintah released ███. unsupervised, which resulted in injury; and
5. Uintah failed to provide a FAPE during the 2024-2025 school year due to ███. not returning after his accident, and after returning in March 2025, despite being medically fragile, district staff allowed ███. to be assaulted by another student.

The Petitioner did not call ███. to testify regarding the claims made in the Complaint. Rather, Petitioner relied on her own testimony and school officials, whose testimony was generally adverse to all the claims made in the Complaint. The resulting record is scant with evidence supporting the foregoing claims. Thus, the Hearing Officer drew heavily from the documents entered as evidence to make findings and conclusions.

A. Statute of Limitation

State law considers it "in the best interest of students with disabilities [] to provide for a prompt and fair final resolution of disputes which may arise over educational programs and rights and responsibilities of students with disabilities, their parent(s), and public schools." Utah Code § 53E-7208(1). Federal regulations require a "due process complaint must allege a violation that occurred not more than two years before the date the parent or student who is an adult or LEA knew or should have known about the alleged action that forms the basis of the due process complaint." 34 CFR § 300.507. The Parties recognized this requirement and stipulated that the Hearing Officer would only make conclusions of law related to events that occurred during the two years prior to the date the Complaint was filed, August 8, 2025.

B. Denial of FAPE

The bulk of this matter comes down to allegations regarding the denial of a FAPE. The unique needs of each eligible student determine the contours of an appropriate education under the IDEA. *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley,* 458 U.S. 176 (1982); *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch*. Dist. RE-1, 580 U.S. 386 (2017). The consideration of whether a student receives FAPE begins with an appreciation that the IEP does not provide ideal education but instead requires an analysis of whether the IEP is reasonable considering the unique circumstances of the student. *Endrew F.,* 580 U.S. 386, 397 (2017). To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Id.* "A hearing

officer's determination of whether the student received a FAPE must be based on substantive grounds." However, procedural inadequacies may demonstrate a denial of FAPE if they impede the student's right to the FAPE, impede the parent's opportunity to be part of the decision-making process, or cause a deprivation of educational benefit. SpEd Rules. IV.M.; 34 CFR § 300.513.

1. 2023-2024 School Year

In the Complaint, Petitioner broadly claimed that . was expelled for a clear manifestation of his disability that did not involve a weapon, which constituted a violation of the IDEA. On September 26, 2023, was suspended and subjected to a safe-school process for violations of district policies. In sum, . used highly offensive language and made physical threats toward a teacher and an administrator. He wore spurs to school, which were confiscated. . later took the spurs without permission from an administrator's office. The safe-school notice signed by Mr. did not include a consideration that the spurs were a dangerous weapon, but Respondent later took that position and defended it at the Hearing. The outcome of the safe-school process was a determination that . would be "excluded for a period not less than one calendar year for making threats to school staff." The notice letter also stated, however, "The decision of the hearing officer with input from school administration will be to hold this exclusion as a plea in abeyance under the authority of Uintah administration" (SOF 15 to SOF 17).

It is unclear what the term "plea in abeyance" means in the safe-school determination context; that term is not mentioned in District policies. More importantly, it is unclear why, if Uintah District indeed considered the spur a dangerous weapon, it did not include it in the safe-school notice, and it did not comply with Utah Code § 53G-8-205, which requires a suspension or expulsion for one year under such circumstances ("A student who commits a violation…involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year"). In any event, rather than exclude . from school, Uintah District determined to hold the determination to exclude in abeyance. Rather than impose the exclusion for one year, the District assigned . to attend school via Uintah Online, where would attend virtually from home on a laptop computer (SOF 31).

Despite 's safe-school violation, the record is clear that . was not expelled from school as the Complaint alleged. However, Petitioner also argued at the Hearing that Uintah Online was a substantial change in placement which denied . all educational benefit.

Respondent contended that Uintah Online is simply another public school setting and did not constitute a change in placement (SOF 32). Even if it was a change in placement, Respondent argued in the closing brief, then the placement in Uintah Online was justified because the MDR determined that the change was not a manifestation of ███.'s disability. Finally, Respondent argued in the briefing that a 45-day interim alternative placement is allowed under the law, and ███'s alternative placement technically only lasted 55 days because he was returned to the school setting for instruction and services after the winter break.

With respect to MDRs, Petitioner made a broad allegation in the Complaint that the District failed to conduct an MDR pursuant to 34 CFR 300.530 on two separate occasions. With respect to the September 2023 safe-school determination, that claim was clearly erroneous. In addition to the safe-school hearing, an MDR was held on September 26, 2023, which concluded that ███'s conduct violations were not a manifestation of his disability. The MDR concluded, "███.'s low academic, adaptive, and cognitive skills do not support initiation of and/or continuation of verbal threats" (SOF 18). Petitioner disputed the sufficiency of that decision. The allegation about a second MDR was also erroneous as it involved a circumstance where ███. was merely precluded from a field trip to the movie house, and that preclusion did warrant an MDR.

Under the IDEA, a district may not suspend a student with a disability for more than ten consecutive school days for conduct that is a manifestation of a child's disability. A district contemplating such action must first conduct an MDR. Under the IDEA, the behavior is a manifestation of the child's disability "if the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or if the conduct in question was the direct result of the district's failure to implement the IEP." V.E.; 34 CFR § 300.530(e). Of course, even if the District found the conduct was a manifestation of ███'s disability, the parent and the District can agree to a change of placement as part of the modification of the BIP. 34 CFR 300.530 (g). The decision was not challenged at the time, and Ms. ███ agreed with the MDR decision as evidence by her signature. However, the record is not clear that it was the intent of Ms. ███ to agree to moving ███. to Uintah Online as a modification of the BIP.

The reasonableness or unreasonableness of the MDR determination notwithstanding, Petitioner is on more solid ground arguing that Uintah Online, where ███. would receive his academic instruction remotely at home, was a change in placement, and the placement deprived

[REDACTED]. of an educational benefit. Respondent countered that Uintah Online is simply an alternate, albeit separate, public education setting (SOF 31 to SOF 32). While true that a change in location is not always a change in placement, a change in location may give rise to a change in placement if the change in location substantially alters the student's educational program. *Salt Lake City Sch. Dist.*, 122 LRP 10085 (SEA UT 11/10/21). Indeed, a school district should consider multiple factors: "whether the educational program set out in the child's IEP has been revised; whether the child will be able to be educated with nondisabled children to the same extent; whether the child will have the same opportunities to participate in nonacademic and extracurricular services; and whether the new placement option is the same option on the continuum of alternative placements." *Id.*

As difficult as factual findings are to make in this matter, [REDACTED].'s relegation to Uintah Online by the District was clearly a change in placement. The IEP team amended [REDACTED]'s IEP on the same day, September 26, 2023, and inexplicably slashed the number of service minutes. [REDACTED] was excluded from the school altogether during school hours and was only allowed in-person specialized instruction after school hours. He was excluded from all extracurricular and school events (SOF 23 to SOF 29).

Moreover, while in an alternate setting, [REDACTED]. was entitled to special education services, and the change in placement should not have interfered with participation in general education. The Utah Special Education rules provide:

> A student with a disability who is removed from the student's current placement must: Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and receive, as appropriate, an FBA, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur. SpEd Rules V.C.; 34 CFR § 300.530(D). *See also Malvern Sch. Dist.*, 124 LRP 22110 (SEA AR 06/02/24) (finding that an Arkansas district denied an eighth-grader FAPE by failing to implement her IEP during a disciplinary removal).

As stated above, [REDACTED]s service minutes were cut to two after-school hours a week. In addition, while testimony was heard that [REDACTED]. understood how to access the online curriculum for his general education, there is significant evidence in the record that [REDACTED]. was not likely to do so on his own. Predictably, [REDACTED] stopped attending any school and stopped receiving specialized

instruction and services for several weeks (SOF 33). As cited in Respondent's briefing, to provide a FAPE, a school need only provide the child the "basic floor of opportunity." *Rowley,* 458 U.S. 176 at 189. However, based on the totality of the record, it is simply not reasonable that the school would expect any other outcome with this placement, which does not reach the floor of opportunity. Placing ███. in Uintah Online while simultaneously slashing special education services was not a reasonably calculated decision to help ███. make progress in light of his circumstances. *Endrew F.,* 580 U.S. at 397.

With respect to providing a FAPE during the remainder of the year, the record is, at best, murky. Email communications demonstrated that school officials were discussing dropping ███. from school for non-attendance. That issue was a red herring, however, because ███. was never, in fact, dropped. Instead, in December 2023, while no details were introduced, the record demonstrates the parties found a resolution to the conflict over assigning ███. to Uintah Online, and ███ was allowed to return to school under a new education plan. The new education plan was articulated in an email communication dated December 22, 2023, although it is unclear why the new plan was not included as an amendment to the IEP or formalized in some other way (SOF 33 to SOF 37).

███ started attending school for a few weeks after the winter break. He stopped coming again for four to five weeks in January and February, but Ms. █████ was unable to explain to the school the reason for the absences. School officials discussed what else ███. needed to be successful and contemplated adding another regular education class. Attendance improved again at the end of the second term and for the first half of the third term. During the spring of 2024, the school conducted assessments and developed new FUBA and a new BIP. The school attempted to communicate with Ms. █████ to meet and share the results, which proved difficult (SOF 38 to SOF 42). In opposition to these scant facts, Petitioner provide little more than conjecture about unsupported allegations. Based on the dearth of information in the record, there is insufficient evidence to show the sporadic attendance pattern was due to a failure in providing adequate services, or that ███ was unable to make progress in light of his circumstances.

2. The 2024-2025 School Year

On August 18, 2024, ███. had a serious accident that involved a piece of ████████████ █████ (SOF 43). That fact is significant because ███. received no instruction or services at the

school during the first two terms of the 2024-2025 school year. Evidence in the record showed that Ms. was assigned to ., and she provided instruction and services virtually. Ms. requested the assignment, and the school communicated with Ms. three or more times per month during that timeframe (SOF 45-46). There is little suggestion in the record that the school failed to provide adequate instruction and services during this timeframe based on the circumstances of 's serious injury.

For the third term, . came back to school and attended and participated fully for the first half of the term. However, . was involved in a physical altercation on March 12, 2025. Petitioner spent a significant amount of time during the Hearing trying to establish that the school failed to prevent the fight. In general, however, the record demonstrates that . was carefully supervised. Further, it is unclear what .'s injuries were as the documentation from the Uintah Basin Medical Center suggested that . may have suffered an injury to his head, but Ms. contended that he had been punched in the stomach, which caused the need for a separate surgery in October 2025 (SOF 47 to SOF 51). There was little or no evidence to support these claims, and the record does not demonstrate a denial of FAPE because . initiated a fight with other students resulting in his own injuries. Moreover, the Hearing Officer declines to make any determination that is not related to the IDEA such as claims of negligence or claims sounding in tort for bodily injury; those are not claims over which the Hearing Officer has any authority.

3. 2025-2026 School Year

The only potentially cognizable claim that could flow from the 2025-2026 school year would be time lost due to surgery caused by failures to serve . The finding above resolves that issue, and the Hearing Officer is unwilling to consider allegations of remote harm caused by previous injuries that are not subject to an IDEA claim. This is particularly true where the evidence suggests that . is making significant progress this year and enjoying school (SOF 54 to SOF 57).

4. Miscellaneous Claims

The Complaint contains other miscellaneous claims that were resolved, unfounded, or will not be heard by the Hearing Officer. For instance, Petitioner's counsel recanted and proffered at the Hearing that the District has, indeed, been forthcoming with records. Thus, that claim is mute.

In addition, the Complaint lists or alludes to other claims sounding in tort, discrimination claims under the Americans with Disabilities Act, and Section 504 claims under the Rehabilitation Act, a claim under the Family and Education Rights in Privacy Act ("FERPA'). The Hearing Officer has no authority to address these issues as they lie well outside the purview of the IDEA and will not be addressed further.

C. Attorney Fees

Petitioners have requested reimbursement for attorney fees in the Complaint. In matters governed by the IDEA, federal district courts have jurisdiction over attorney fees claims. *See* 20 U.S.C. § 1415(i)(3). That section states in part:

> The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy….In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs. *Id*

Thus, the Hearing Officer will not address the issue of attorney fees any further.

V. LEGAL CONCLUSIONS

The following are legal conclusions of the Hearing Officer:

1. Uintah District did not deny ██. a FAPE by allowing ██ to be physically assaulted, or excluded from activities based on his disabilities, or by failing to intervene appropriately with ██.'s behavior. The record does not establish a preponderance of evidence to support this claim.

2. Uintah District did not deny ██. a FAPE by expelling him for a clear manifestation of his disability. The reassignment to Uintah Online was not an expulsion, and the record does not establish a preponderance of evidence to support this claim.

3. Uintah District did not fail to conduct appropriate MDRs. No procedural errors were made according to the law with respect to the MDRs. SpEd Rules V.C. to V.E; 34 CFR § 300.530.

4. Uintah District denied ██. a FAPE for a limited timeframe in violation of SpEd Rules V.C. to V.E; 34 CFR § 300.530 because it chose to change ██.'s placement to a virtual learning program while simultaneously slashing special education services,

which was a decision not reasonably calculated to help ███. make progress in light of his circumstances. *Endrew F.,* 580 U.S. at 397.

5. Uintah District did not fail to assess ███ in all areas of need, and the record does not establish a preponderance of evidence to support this claim. Independent Educational Evaluations, however, are available at public expense upon request. SpEd Rules IV.B.
6. Uintah District did not release ███. unsupervised resulting in injury. The record does not establish a preponderance of evidence to support this claim, and to the extent it is a tort claim for damages, it lies outside the scope of this due process proceeding.
7. Uintah District did not fail to provide a FAPE during the 2024-2025 school year due to ███ not returning after his accident, and after returning in March 2025, despite being medically fragile, district staff allowed ███. to be assaulted by another student. The record does not establish a preponderance of evidence to support this claim.

VI. ORDER

Based upon the foregoing findings of fact and conclusions of law, the Hearing Officer HEARBY ORDERS an award of compensatory education for ███. in an amount up to 264 hours divided up proportionally based on services required in the September 11, 2025, IEP. These hours are calculated by counting 60 days missed of specialized instruction and services during the time ███ was assigned to Uintah Online multiplied by 264 minutes per day using the specialized services minutes required in the September 8, 2023, IEP before the Amendment to the IEP was made. The parties shall work out a schedule for ███ to receive these compensatory education hours during the next four years while ███. is still in ███ school or during the time when the District is providing transition services. The District shall also work with Petitioner to obtain an appropriate independent evaluation at the expense of the District. All other requests for relief in the Complaint, or any other remedies are HEREBY DENIED.

If the Parties mutually agree in writing that ███. has made sufficient progress, or for some other reason ███ no longer needs the compensatory education services, the hours may be reduced by mutual consent. Uintah, at its sole discretion, can determine how to provide the compensatory education services, or it can contract for a qualified third party to provide the services. If Petitioner refuses services, this Order shall no longer have any force or effect.

Dated this 2nd day of February 2026.

/s/ Douglas R. Larson________
Douglas R. Larson
Hearing Officer

CERTIFICATE OF SERVICE

On the 2nd day of February 2026 a copy of the foregoing **Decision and Order** was sent by electronic email to the following:

Attorney for Parents:
William N. Pohl
3214 N. University Ave, Ste 445
Provo, UT 84604
(801) 900-3909
buddy@mylawyerbuddy.com

Attorney for LEA:
Paul Van Komen
9067 South 1300 West, Suite 302
West Jordan, Utah 84088
Telephone: (385) 831-1300
pvankomen@bvktslaw.com
ptanner@bvktslaw.com

USBE:
Jessica Lamb
Special Education Dispute Resolution
Utah State Board of Education
250 East 500 South
Salt Lake City, UT 841144-4200
(385) 295-7873
Jessica.lamb@schools.utah.gov

Cindy Poulson
Special Education Dispute Resolution
Utah State Board of Education
250 East 500 South
Salt Lake City, UT 841144-4200
(801) 538-7820

By: /s/ Douglas R. Larson
Hearing Officer
801-783-8626
douglarson70@gmail.com