

**STATE OF MAINE
SPECIAL EDUCATION DUE PROCESS HEARING**

v.

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Hearing # 26.027H

ORDER

This decision is issued pursuant to Title 20-M.R.S.A. §7202 *et seq.*, Title 20 U.S.C. §1415 *et seq.* and accompanying regulations. A due process hearing was held on December 9, 10, 11, and 16, 2025, continuing on January 30 and March 2, 2026. The hearing was conducted via zoom videoconference. Those present for the entire proceeding were: _____ and _____, Parents; Keith Altman, Esq., *pro hac vice* attorney for Parents; Amie Baek, Esq., assistant to Keith Altman; _____, Director of Special Education for _____ (which includes _____); Rachel Sears, Esq. and Kelsey Cromie, Esq., attorneys for _____ (_____); Melanie Frazek, Esq., Hearing Officer. Richard O'Meara, Esq., local counsel for *pro hac vice* attorney Altman, was not required to attend the hearing.

Witnesses testifying at the hearing were:

	Student's Mother
	Student's Father
	Superintendent, _____ (includes _____)
	Director of Special Education,
	Head of _____ School
_____, Ph.D.	Expert Witness, Educational Psychologist
_____, Psy.D.	Licensed Psychologist, Certified School Psychologist,

All testimony was taken under oath.

I. PROCEDURAL BACKGROUND

On September 22, 2025 Parents filed a due process hearing request on behalf of their daughter,

(hereinafter, Student). On October 7, 2025, Parents filed a *Motion to Quash Subpoena Duces Tecum* issued by _____ asserting the subpoenaed information was unreasonable, oppressive, and not directly related to the matter at hand. _____ responded with its *Opposition to Motion to Quash Subpoena* followed by Parents' *Reply to Defendant's Opposition to Motion to Quash Subpoena*. Oral argument was held; the Hearing Officer denied Parents' *Motion to Quash* with minor exceptions, finding the subpoena not oppressive and being directly related to the instant case. *Order on Parents' Motion to Quash Subpoena Duces Tecum* (Nov. 10, 2025).

In the interim, the Hearing Officer required a current court order granting *pro hac vice* status to attorney Altman because the previous court order granting status was for the purpose of a separate case. Said *Order* was issued on October 27, 2025. *Amended Order on Motion to Admit Visiting Counsel Pro Hac Vice*, Washington County Superior Court Docket No. MACSC-CV-2025-12. Also during this time, Student attained 18 years of age on November 5, 2025. As a result, _____ argued Parents must have power of attorney to represent Student in this case. The power of attorney naming Parents as Student's agents was produced on November 25.

Also on November 25 a prehearing conference was held at which time _____ stated its intent to file a *Motion to Exclude Witness Report and Testimony* regarding Dr. _____, Parents' expert witness. In short, _____'s motion averred that Dr. _____ engaged in the practice of psychology when interviewing Student, Parents, and professionals in Maine and New Hampshire - states where she is not licensed as a psychologist, nor are there reciprocal compacts with California to practice in those states. (Dr. _____ is a licensed educational psychologist in California.) Parents argued Dr. _____ was not practicing psychology in that capacity and that her report was not the end result of an evaluation. *Response* and *Reply* memoranda were filed by the parties. The Hearing Officer granted the exclusion of Dr. _____'s report from evidence and imposed limitations on her testimony, ruling that her work in this case constituted the practice of psychology. *Order on*

's Motion to Exclude Witness Report and Testimony (Dec. 8, 2025). Parents' *Motion for Reconsideration* on the matter did not reverse or modify the Hearing Officer's ruling.

Although no formal motion was filed, Parents challenged the testimony and evaluation of Dr. [REDACTED], a private practice psychologist contracted by [REDACTED] to conduct the required psychological evaluation of Student. Parents questioned Dr. [REDACTED]'s temporary licensure in New Hampshire which is where she traveled to evaluate Student at the private school. A flurry of emails ensued and at least one conference addressing the matter. The Hearing Officer found contemporaneous evidence supporting the fact that Dr. [REDACTED] held New Hampshire licensure when she evaluated Student. Thus, her report and testimony remained admissible evidence. [Tr. 605]

After five days of hearing, Parents submitted *Complainants' Motion to Introduce a Rebuttal Witness* (Feb. 9, 2026). Dennysville responded with its *Opposition*, to which Parents filed their *Reply*. In short, Parents argued Student's primary therapist at the private school Student attended should be allowed to rebut the testimony of one of [REDACTED]'s witnesses. [REDACTED] argued that permitting an undisclosed witness to testify violated MUSER's five day rule of disclosing evidence and witnesses a minimum of five school days prior to hearing. (A December 2, 2025 due date for the exchange of discovery had been established at the prehearing conference.) Moreover, the Hearing Officer found that, considering the specific issues in this case, this proffered witness would have been one of Parents' prime witnesses from the beginning. Not listing this individual as a witness earlier in the proceedings resulted in an unfortunate consequence. The Hearing Officer denied Parents' (Complainants') motion. *Order on Complainants' Motion to Introduce a Rebuttal Witness* (Mar. 2, 2026).

At the close of the hearing on March 2, the post-hearing briefs were scheduled as follows: post-hearing briefs due on April 16 and reply briefs due on May 7, 2026, the latter being the close of the record. The Hearing Officer's decision was to be issued May 29, 2026, but an extension to June 22, 2026 was allowed without objection by the parties.

II. ISSUES

1. Was _____'s evaluation of Student appropriate under the Individuals with Disabilities Education Act (IDEA) and the Maine Unified Special Education Regulations (MUSER)?
2. Is [Student] a student with an emotional disturbance as defined in the IDEA and MUSER who requires special education to access her educational program?
3. Did _____ deny Student a free, appropriate education (FAPE) by finding her ineligible for special education and related services at the IEP Team meeting on February 11, 2025?
4. a) Under IDEA, does Parents' unilateral placement of Student at _____ entitle them to reimbursement for costs?
b) Under IDEA, is Parents' unilateral placement at _____ proper to support compensatory education?
5. Did Parents provide proper notice to _____ of their reimbursement claim for Student's placement at _____ as required by the IDEA?

III. FINDINGS OF FACT

1. From kindergarten through part of sixth grade, Student attended _____ public school in the _____, of which _____ is the local education agency. [S-1-36]
2. Student's _____ records revealed satisfactory progress. *Id.* [Tr. 1155-1157; Testimony of _____]
3. Parents withdrew Student from _____ mid-November, 2019 when she was in sixth grade, reportedly due to Student's allegations of being bullied. [Tr. 338, 340-341, 643; Testimony of Mother; Parents' Exh. 2]
4. The evidentiary record showed no documentation or testimony of direct knowledge of Student having been bullied at _____. *Id.* [Tr. 508, 1154-1155; Testimony of Dr. _____]

_, [Tr. 646; S-173]

5. To the contrary, in a Facebook post dated November 15, 2019, Mother excitedly posted Parents' decision to fulfill their goal of home schooling Student until high school. The post included glowing praise for the [redacted] staff over the previous years. [Tr. 339-340; S-39]

6. Student was home schooled by Parents for the remainder of the 2019-2020 school year. [Tr. 339-340; Testimony of Mother]

7. In sixth grade, Student attempted to run away from home in the middle of the night and was brought home by the police. [Parents' Exh. 2, p.4; S-173, Tr. 646]

8. Parents enrolled Student in a virtual school, [redacted], for seventh grade (2020-2021). *Parents' Due Process Hearing Request* (Sept. 22, 2025); [Tr. 643; S-173]

9. For eighth grade (2021-2022), Parents enrolled Student in another virtual school, the [redacted]. *Parents' Due Process Hearing Request*. [Tr. 645; S-173]

10. For ninth grade (2022-2023), Parents enrolled Student in another virtual school, the [redacted] ([redacted]). *Id.*

11. Students' academic performance remained strong. [Parents' Exh. 2, p.5; Tr. 644-645, 1104, 1172]

12. In late May, 2023, at the end of ninth grade, Student and a boyfriend stole a car and were involved in a police car chase. [Tr. 232, 646; Testimony of Father; Parents' Exh. 2, p.5]

13. Father told Student she could not continue to see that boyfriend. *Id.*

14. Following Father's directive, Student engaged in self-harm in the form of "her wrists starting to be cut up" and was hospitalized for approximately two weeks at [redacted] Hospital. [Tr. 232-233 646; Testimony of Father]

15. During that summer of 2023, Student reconnected with boyfriend who sent a text threatening Student's Father. [Tr. 239-240, 647; Testimony of Father]

16. Student supported the boyfriend's text, attempted to cut herself, and was hospitalized again in July/August, 2023 for approximately two weeks for suicidal ideation and self-harm. [Tr. 240, 647; Testimony of Father]

17. For the 2023-2024 school year (10th grade), Parents enrolled Student at .

18. In November, 2023, upon the verge of being expelled from for behavioral incidents and substance abuse, Parents arranged for a withdrawal of Student from [S-73, S-174; Tr. 214, 250-251; Testimony of Father.]

19. Student was home for two weeks before she was readmitted to Hospital in December for substance abuse and suicidal thoughts. [C-284, Tr. 246-247; Testimony of Father]

20. Student was re-enrolled in the virtual in January, 2024 to finish 10th grade. [Parents' Exh. 2, p.5]

21. In the spring of 10th grade (March and April, 2024), Parents obtained a neuropsychological evaluation by , Ph.D. of the . [Parents' Exh. 2; J-13-31]]

22. Dr. s report of Student states a diagnosis of Other Specified Trauma and Stressor Related Disorder (Developmental Trauma) and Attention Deficit/Hyperactivity Disorder, Combined Type. [Parents' Exh. 2, p.17; J-27]. The trauma diagnosis is an "umbrella term" for "what trauma researchers call 'complex-PTSD'." *Id.*

23. From May 30 until mid-August, 2024 Student was admitted to Residential Treatment Facility () in Pennsylvania based upon Dr. 's report recommendations. [Tr. 209-210; Testimony of Father; Parents' Exh. 3]

24. In the interim (late July, 2024), Parents contacted , Director of Special Education for and , regarding special education for Student. Parents provided Dr. 's report to . [Tr. 75, 305, 1158-1159; Testimony of , Mother]

25. communicated with Parents that their inquiry started the initial referral process for special education eligibility. Parents and agreed that additional evaluations would need to be completed. [Tr. 1158-1159, 1161-1162; Testimony of]

26. Meanwhile, also during July, Parents completed the admissions process for in New Hampshire, and Student was accepted for the 2024-2025 school year (11th grade). [S-79-80]

27. Student left for school in New Hampshire in August, 2024. *Complainants' Post-Hearing Brief*, p.4.

28. Mother signed consent for to conduct its evaluations in late August, 2024. [Tr. 140; Testimony of] The form reflects her signature dated August 28 and received by on August 29, 2024. [F-25-26]

29. Student attended for 11th grade (2024-2025) and continued there for part of the fall semester of 12th grade (2025-2026).

30. Upon turning 18 years of age on November 5, 2025, Student decided to return home with the intent of finishing 12th grade through virtually. [Tr. 227-228, 323-324, 363; Testimony of Father, Mother]

Subsequent statements of fact are integrated in the analysis below as they are part and parcel of the issues presented *supra* and are more meaningfully recorded within context.

IV. LEGAL STANDARD AND ANALYSIS

A. Burden of Proof

Although the IDEA is silent on the allocation of the burden of proof, the Supreme Court has held that in an administrative hearing challenging an IEP, the burden of persuasion, determining which party loses “if the evidence is closely balanced,” lies with the party seeking relief. *Schaffer v. Weast*, 126 S.Ct. 528, 537 (2005). Therefore, Parents bear the burden of persuasion in this matter.

B. Analysis

Issue 1: Was _____'s evaluation of Student appropriate under IDEA and MUSER?

MUSER goes a step further than the IDEA regulations by mandating additional requirements for the standardized reports of evaluations used to determine special education eligibility. MUSER V.4. Among those requirements is the inclusion of an observation in the learning environment. MUSER V.4(C). _____ testified that upon receiving Dr. _____'s psychological report from Parents, and having checked previous school records received, there were no behavior rating scales completed by _____ (the last school attended at that point in time), no classroom observation, only selected subtests for some of the evaluations completed, and no information in the _____ records regarding Parents' report of bullying in the earlier grades. [Tr. 76-77, 1163-1164] _____ lacked the complete information necessary for the IEP Team to discuss and determine special education eligibility, so it took steps to obtain the additional information. Parents signed consent for _____ to conduct a psychological evaluation late in August, 2024. [Tr. 140]

Although not in conflict with the above paragraph, Parents assert a different provision in MUSER to ensure an evaluation is appropriate, *i.e.*, to carefully consider information from a variety of sources. MUSER V.(2)(F)(1). Parents argued Dr. _____ did not consider all the records in preparation for her evaluation of Student. *Complainants' Post-Hearing Brief*, p.7-8. However, Dr.

_____ 's attempts to obtain records - with the appropriate parental releases - from both _____ and _____ were not comprehensively fulfilled by those entities. [Tr. 999, 1001; Testimony of Dr. _____] Without receiving what would be expected to be complete records, Dr. _____ testified she did not know what records might be missing. [Tr. 999] Interestingly, Parents' expert witness, Dr. _____, testified that she could not get access to _____'s records either. [Tr. 456] If Parents' premise that by not reviewing *all* the records renders an evaluation incomplete, then Dr. _____'s review of Student's records - minus _____'s - would likewise render her review incomplete and her opinions

questionable.

Notwithstanding that contradiction, upon reviewing the additional records then available for hearing, Dr. testified the additional information corroborated her understanding of Student.

[Tr. 1041]

“I didn’t encounter anything that I regretted not having had or thought that would have led me in a different direction. Despite not having all of those things, I had a tremendous amount of information about [Student]. I spent a lot of time with her parents, I spent a full day at her school, I spent dozens of hours on this evaluation, I collected my own information and triangulated all the information that I could. So there’s nothing in those records that changed my thinking about [Student] or the conclusions that I drew in my evaluation.”

Id. [Testimony of Dr.]

The Hearing Officer does not find this statement to be self-serving. Rather, the corroboration between her own evaluation findings and previous records, without the benefit of having those certain records beforehand, demonstrated Dr. ’s evaluation was on the mark and certainly comprehensive. [F-68-91]

Next, IDEA and MUSER specify evaluation requirements. 20 USC §§1414(b), 1414(c); 34 CFR §§300.304, 300.305; MUSER V.2(B), V.2(C). In pertinent part, the regulations require the evaluation be “administered by trained and knowledgeable personnel.” 20 USC §1414(b); 34 CFR §300.304; MUSER V.2(C)(1)(d). Additionally, the evaluation shall be conducted using a variety of technically sound (valid, reliable, and normed) assessment measures to assess the “relevant functional, developmental, and academic information, including information provided by the parent.” 20 USC §1414(b); 34 CFR §300.304; MUSER V.2(B)(1-3); *See South Kingstown Sch. Comm. v. Joanna S.*, 773 F.3d 344, 352 (1st Cir. 2014).

There is no question Dr. is a qualified, licensed, and experienced evaluator. [S-259-268] She testified she holds a bachelor’s and master’s degree in sociology and a Psy.D. (doctorate in psychology) in school psychology. She is a psychologist licensed by the Maine Board of Examiners of Psychologists, also holds national Board certification as a doctoral level behavior analyst, is a

nationally certified school psychologist, and a Maine certified doctoral level school psychologist. [Tr. 625-626] Dr. testified she has prior experience working for MaineHealth Developmental Pediatrics, for special purpose private schools, and for special purpose public schools. [Tr. 627-628] She currently owns a private practice, . [Tr. 628] Within her practice and pertinent to this case, Dr. testified her work includes program development for students with emotional and behavioral disorders, diagnostic evaluations, safety assessments, psychosexual evaluations, suicide risk assessments, independent educational evaluations, and private evaluations. [Tr. 629-630] She testified she has conducted approximately 350 of these specialized evaluations and “supervised at least that many while training pre-doctoral and post-doctoral interns.” [Tr. 630] Dr.

has the training, licensing, knowledge, and experience to be a qualified evaluator of Student.

Secondly, as stated above, the evaluation assessment measures must demonstrate validity and reliability of that which they assess. They must address relevant functional, developmental, and academic information, and not to be forgotten, include input from parents. Dr. testified she selects the testing instruments carefully and “always look[s] to the research on their psychometric properties to ensure that I’m using the best options.” [Tr.631] She testified all of the tests she uses are psychometrically sound. [Tr. 829] Her professional responsibility is to know the psychometrics of the evaluation instruments and review the manual. *Id.* [Testimony of Dr.]

Regarding the variety of instruments used to obtain relevant functional, developmental, academic, and parental information, Dr. used the following evaluation procedures:

- Interviews and record review including:
 - Clinical interviews with Student, her parents, her educators, and her past and current therapists,
 - Review of developmental history questionnaire completed by [Mother],
 - Review of available education records, and
 - Review of a school functioning questionnaire completed by (of).
- Behavioral observations, including:
 - Observations in the assessment environment, and
 - Observations in the learning environment.

- Indirect assessment including:
 - The Behavior Assessment System for Children, Third Edition (BASC-3), a broad rating scale designed to assess a variety of emotional and behavioral difficulties,
 - The Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2), a narrow rating scale designed to indirectly assess specific aspects of behavior commonly thought to relate to executive functioning and Attention-Deficit/Hyperactivity Disorder,
 - The Child and Adolescent Trauma Screen (CATS), a DSM-5 based checklist that includes potentially traumatic events, as well as posttraumatic stress symptoms and their potential impact,
 - The Feifer Assessment of Childhood Trauma (FACT), a narrow rating scale that measures how stress and trauma impact children at school from educators' perspectives, and
 - The General Behavior Inventory, Parent Version (PGBI) – a validated instrument designed to serve as a diagnostic aid for assessing bipolar spectrum disorders in children and adolescents.
- Clinical assessment comprising:
 - The Millon Adolescent Clinical Inventory, Second Edition (MACI-II), a personality assessment designed to evaluate the mental health and behavior of adolescents, and
 - The Clinical Interview for Borderline Personality Disorder for Adolescents (CI-BOR-A), a clinical interview designed to assess borderline personality disorder in adolescents.
- Direct testing including:
 - The Kaufman Test of Educational Achievement, Third Edition (KTEA-3), a direct assessment of academic skills.”

[F-68-69]

Dr. _____'s report was detailed and comprehensively explained the results of the above measures. [F-68-91] The report included a summary and diagnostic conceptualization of her findings. [F-87-89] Based upon her findings, the report included recommendations. [F-90] Dr. _____'s lengthy testimony at hearing likewise provided in-depth descriptions, explanations, results, and conclusions of her evaluation of Student. Dr. _____ presented as a very credible, ethical witness.

Finally, Parents' expert witness, Dr. _____, testified that the psychological evaluation conducted by Dr. _____ was appropriate under the IDEA. [S-530] She acknowledged the appropriateness of each of the component areas addressed in Dr. _____'s evaluation and the assessment tools used for the evaluation. [Tr. 526-528; Testimony of Dr. _____; See F-68-91]

For the record, the procedural 45 school-day timeline for completing an evaluation is not in dispute. Parents had placed Student in an out of state school right after the referral process was

initiated and let about a month lapse before signing the consent form. went above and beyond any obligation to find, and send, a qualified evaluator to New Hampshire to accommodate Student. [Tr. 1165] Parents did not produce Student to be evaluated locally. [Tr. 1164]

The Hearing Officer finds 's evaluation of Student to be more than adequate and certainly appropriate under the IDEA and MUSER.

Issue 2: Is [Student] a student with an emotional disturbance as defined in the IDEA and MUSER who requires special education to access her educational program?

The IDEA and MUSER define emotional disability as follows:

“Emotional disability means a condition which exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child’s educational performance:

- (a) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (c) Inappropriate types of behaviors or feelings under normal circumstances;
- (d) A general pervasive mood of unhappiness or depression;
- (e) A tendency to develop physical symptoms or fears associated with personal or school problems.”

34 CFR §300.8(c)(4); MUSER VII.2(E).

Additionally, part of the eligibility for special education requires a determination that the disability has an adverse effect on educational performance. MUSER VII.3. To adversely affect educational performance is defined as “to have a negative impact that is more than a minor or transient hindrance, evidenced by findings and observations based on data sources and objective assessments with replicable results.” MUSER II.3. Educational performance is not restricted to academic grades.

Student reported she had been depressed on and off since nine years of age but never got help. [F-71, J-14; Tr. 640-641; Parents’ Exh. 3, p.22] Her three hospitalizations as a teenager were precipitated by issues with boyfriends and parental control. The first hospitalization in 9th grade (June, 2023) was the result of self-cutting in response to Father telling her she could not longer see the

boyfriend with whom she stole a car and ran away. [Tr. 232-233, 646; Testimony of Father; S-173-174]

Student stated she would stay hospitalized until Parents let her have her I-phone back. [C-11]

The second hospitalization occurred a few months later (summer, 2023) when Student reconnected with the boyfriend who then wrote a threatening text against Father. Again, when Father exercised parental judgment and set boundaries, Student stated she didn't want to live with Parents and began self-harming. [Tr. 240, 647; Testimony of Father; S-174] Student reported to the hospital that her Father's action constituted mental abuse. [Tr. 241, 656]

The self-harm resulting in the third hospitalization (10th grade, December, 2023) was again precipitated by boyfriend issues. Student learned a boyfriend cheated on her. [S-174]

Overall, Student does not respond well to parental authority when it goes against what she wants. Mother testified that telling Student, "No," is a trigger. [Tr. 297; C-148] Parents described their main concerns about Student in Dr. [redacted]'s intake questionnaire as: "behavioral issues, stealing, lying, impulsivity, negative personal relationships, substance abuse, and lack of parental respect." [J-2]

After Student's first hospitalization in June, 2023, providers repeatedly recommended therapy for Student and Parents. The therapist at [redacted] was recommended, but because that provider was backlogged until late July, Mother sought no one further. [Tr. 320; Testimony of Mother] That same therapist provided contact information for Outpatient Program ([redacted]) and [redacted] Day Treatment Program. [G-1] Mother testified to a variety of reasons why those suggestions were not pursued (*e.g.*, Student was hospitalized again, [redacted] was two hours away, and "everything was so backlogged in Maine"). [Tr. 343-346]

An [redacted] Hospital behavioral health note dated July 25, 2023 also recommended individual and family therapy upon Student's discharge. [C-132]

Then, after Student left [redacted] in the fall of 10th grade (2023) and was hospitalized

the third time, an [redacted] Hospital behavioral health note dated December 18, 2023 documented that Parents wanted Student to go to a residential placement, but the providers recommended a “less restrictive discharge plan” and in-home family therapy. [C-301] Mother testified that Student was at that time seeing a therapist named [redacted] whom she had seen while at [redacted]; the sessions were via telehealth. [Tr. 347] However, Mother testified [redacted]’s services did not address family therapy. [Tr. 347] Mother testified she couldn’t get in-home therapy. [Tr. 349] It begs the question, though, why Parents apparently did not research family therapy via telehealth.

Parents contacted the family’s primary care physician (PCP) who met with Student biweekly. [Tr. 249-250] Although reportedly helpful, the family’s PCP is not a therapist. Notwithstanding, did his willingness to “check-in” with Student indicate he did not believe her to be significantly suicidal or at risk of self-harm? On the other hand, if he did believe Student was seriously at risk, as a medical professional would he not have had the duty to obtain a higher level of care for her?

Dr. [redacted]’s neuropsychological evaluation report strongly advised the family be involved in the transition from [redacted]’s recommended intensive residential treatment program (which ultimately took place at [redacted]) to a less intensive treatment program (*e.g.*, [redacted]). [J-30]

Lastly on the subject of pursuing family therapy, Dr. [redacted]’s report recommended “community-based intervention known as parent training, focusing on helping parents to build authoritative relationships and influence the behavior of their children with strategies...” [S-191; Tr. 360, 793-794] Somewhat surprisingly, at hearing Mother responded, “We didn’t need it.” [S-361] She also stated that the family PCP would have told them if they needed that kind of training. [Tr. 360] The Hearing Officer finds that reliance on the PCP misguided.

Now the Hearing Officer will transition to pertinent points of what the evaluators found, ultimately relating it to special education eligibility. (To elaborate on each and every assessment administered would be technically detailed, burdensome, and oppressive.)

Dr. [redacted] diagnosed Student with Other Specified Trauma and Stressor Related Disorder (Developmental Trauma), also referred to as C-PTSD, and Attention Deficit/Hyperactivity Disorder, Combined Type (ADHD). [J-27] Dr. [redacted] stated that the recent inpatient hospitalizations were “too brief to dig deeply into therapeutic treatment.” [J-29] Thus, her recommendations included a residential treatment facility providing intense supervision and therapeutic intervention. [J-29] The concerns expressed by Dr. [redacted] focused on treatment for Student’s mental health, not for any educational reasons. In fact, Dr. [redacted]’s report stated, “Academically, [Student] has strong foundational academic scores that are consistent with her cognitive profile.” [J-27] The point being, Student’s emotional issues did not preclude her from making academic progress. Moreover, Dr. [redacted] affirmed that Dr. [redacted]’s recommendation was for intensive treatment in a setting where mental health services are primary; education would be a much lesser, secondary purpose in the setting. [Tr. 664]

Student’s attendance at [redacted] provided the intensive treatment Student required. Dr. [redacted] interviewed [redacted], [redacted]’s social worker and Student’s therapist, as part of her evaluation. Dr. [redacted] testified she distinctly remembered [redacted] informing her that she saw no evidence of depression in Student while Student was at [redacted]. [Tr. 878, 1013] Nor did [redacted] tell Dr. [redacted] that Student was recommended by [redacted] to have an “out-of-home residential treatment placement.” [Tr. 684] Parents produced a letter written by [redacted] “To Whom It May Concern” which contradicted Dr. [redacted]’s testimony. [Parents’ Exh. 43; Tr. 983] Dr. [redacted] had questions about the letter being somewhat atypical with the usual manner of recommendations being written and by whom. [Tr. 994] Nonetheless, the Hearing Officer believes this to be a “he said, she said” situation, and the burden is on Parents to prove the veracity of [redacted]’s letter dated September 9, 2024. [Tr. 921] Again, considering the weight Parents put on the [redacted] records to advance their case, [redacted] would have been an important witness, yet Parents did not call her to testify.

Following Student's treatment at _____, Parents relied heavily on Dr. _____'s evaluation to support their position that Student needed to be placed in a residential school with therapeutic services as well as to challenge _____'s psychological evaluation. Here again, if Dr. _____'s evaluation and report was so critical to Parents' case, it begs the question why Parents removed Dr. _____ from their witness list for hearing. *Email from A. Baek on behalf of Parents (12/3/25).*

Nonetheless, Dr. _____'s report specifically recommended highly qualified therapists for Student. [J-30] After _____, for 11th grade (2023-2024) Parents placed Student at _____ in New Hampshire, a school which does not have credentialed special education teachers and is not approved by either Maine or New Hampshire as a special education school. [Tr. 421-422, 405, 411; Testimony of _____] The counselors are not licensed clinicians. [Tr. 402] However, Student did well and Parents were very pleased. [Tr. 213, 299; Testimony of Father, Mother] Dr. _____'s interviews of Student's teachers reported her to be "outgoing and bubbly". [Tr. 693] They reported Student was doing well in her classes. [Tr. 694]

The components of Dr. _____'s psychological evaluation are listed *supra*. From the multitude of assessments she administered, she found nothing to support a diagnosis of ADHD either in her own evaluation results or in her analysis of Dr. _____'s results. [S-189-190; Tr. 786-787] Dr.

_____ explained in her testimony how she found no evidence to support a post-traumatic stress disorder or a diagnosis of any stress disorder. [Tr. 777-783] Further, Dr. _____'s report explains that Dr. _____'s diagnosis of trauma is deficient in that Dr. _____ made her diagnosis solely upon information from Student and her parents; she did not include "a review of records or input from educators or providers." [S-190] Additionally, Dr. _____'s evaluation "did not include assessments specifically designed to evaluate for the signs and symptoms of traumatic stress." *Id.* Finally, Dr.

_____ 's evaluation found no evidence to support special education services. [Tr. 795, 798-799]

Although there was lengthy testimony comparing academic grades from one year to the next, by

all reports Student maintained decent, respectable grades. At no time did they plummet as a result of her emotional state.

The brunt of Student's issues result from family dynamics. As stated above, she is highly resistant to parental authority. An Hospital behavioral health note documented "[t]here are ongoing parent-child dynamics that are impacting her mental well-being. [C-301] A separate note reported Student did not want to be discharged home. [C-132]

It must be heartbreaking for Parents, and for Student, to experience this significant tension among the three of them. There is no question that Parents have been extremely concerned about their daughter and have acted in what they believed to be the best interests of her.

In weighing all the information presented at hearing and related above, the Hearing Officer finds that Student is not a student with an emotional disability pursuant to the IDEA and MUSER definition. The Hearing Officer has also carefully considered the fact that an adverse effect on educational performance is not restricted to academic factors, but rather encompasses a broader realm of an educational experience. While the Hearing Officer acknowledges that Student has mental health issues which needed, and most likely continue to need to be addressed, those issues have not had an adverse effect on Student's educational performance.

In further support of those findings, the Hearing Officer cites *Kruelle v. New Castle Cty. Sch. Dist.* which stated, "Analysis must focus, then, on whether full-time placement may be considered necessary for educational purposes, or whether the residential placement is a response to medical, social, or emotional problems that are segregable from the learning process." *Kruelle*, 642 F.2d 687, 693 (3d Cir. 1981). It is only when the needs are so intertwined to be unseparable that "the services are an essential prerequisite for learning." *Id.* at 694. Secondly, *Gonzalez v. P.R. Dep't of Educ.* provides additional support wherein the Court affirmed the U.S. District Court's ruling that Student's behavior problems at home were segregable from his educational problems, and therefore residential placement

was not justified, at least not at public expense. *Gonzalez*, 254 F.3d 350, 352 (1st Cir. 2001). Clearly, in the instant case Student's educational performance was not in jeopardy or diminished by her mental health needs. Her education has not been so intertwined with her emotional issues that they cannot be separated. In fact, it appears Student presented with a happier disposition at school with teachers and peers than at home. That is difficult to write, but it reinforces the fact that Student's serious mental health issues did not adversely affect her educational performance.

Issue 3: Did _____ deny Student a free, appropriate education (FAPE) by finding her ineligible for special education and related services at the IEP Team meeting on February 11, 2025?

The Hearing Officer incorporates by reference the information under Issues 1 and 2 herein.

Attending the IEP Team meeting on February 11, 2025 were: _____, Parents and their advocate, _____'s attorney, a special education teacher, the speech-language pathologist, and Dr.

_____. [Tr. 120-121] The speech-language pathologist presented her evaluation. [Tr.121] Dr.

_____ presented her report which was then discussed and considered by the IEP Team. [Tr. 797]

Because there was no consensus among the team members regarding Student's eligibility for special education services, _____ made the final decision. [Tr. 124] _____ testified she decided Student was ineligible for special education services based upon Dr. _____'s explanation of her evaluation, the Team's discussion, and all the other information available to the Team. *Id.*

The Hearing Officer has also determined that Student was not eligible for special education services *supra*, finding that Student did not meet the criteria for an emotional disability and was not experiencing an adverse impact on her educational performance as a result of her mental health issues. Therefore, the Hearing Officer finds that _____ did not deny Student a free, appropriate education by finding her ineligible for special education at the February 11, 2025 IEP Team meeting.

Issue 4: a) Under IDEA, does Parents' unilateral placement of Student at

entitle them to reimbursement for costs?

Consistent with the Hearing Officer's findings above, Parents are not entitled to reimbursement for costs incurred by their unilateral placement of Student at _____ beyond what any resident student in _____ is entitled to pursuant to _____'s policy of school choice. [Tr. 51-52]

According to the testimony of Superintendent _____, the reimbursement amount for the 2025-2026 school year is \$14,800.00. [Tr. 52] In the event Student did not finish the first semester of her 12th grade virtually when she returned home in November, 2025 and/or if she did not finish 12th grade through the spring semester of 2026, then the reimbursement amount shall be adjusted in the same manner _____ would adjust reimbursement for any other student that does not complete a semester. The exact amount of reimbursement under the school choice policy for the 2024-2025 year was not known. That amount shall be determined and applied to Student's 11th grade year at _____. In the event Parents have already received reimbursement under the school choice policy for either school year, this order by the Hearing Officer becomes moot.

b) Under IDEA, is Parents' unilateral placement at _____ proper to support compensatory education?

Consistent with the Hearing Officer's findings that Student is not eligible for special education, consideration of compensatory education is not warranted.

Issue 5: Did Parents provide proper notice to _____ of their reimbursement claim for Student's placement at _____ as required by IDEA?

Consistent with the Hearing Officer's findings that Student is not eligible for special education, consideration of proper notice of a reimbursement claim is not warranted.

V. ORDER

1. _____'s evaluation of Student was appropriate under the IDEA and MUSER.
2. Parents have not met their burden of proving that Student is a student with an emotional

disability under the IDEA and MUSER requiring special education.

3. did not deny Student a free, appropriate public education by finding Student ineligible for special education at the IEP Team meeting on February 11, 2025.

4. Parents are not entitled to reimbursement for their unilateral placement at other than the reimbursement allowed them under 's school choice policy and as further stipulated under Issue 4 above.

Dated: June 22, 2026



Melanie Frazek, Esq.
Hearing Officer

Memorandum

To: Keith Altman, Esq.
Rachel Sears, Esq.
Kelsey Cromie, Esq.
Amie Baek, Esq.

From: Melanie Frazek, Esq.
Hearing Officer

Date: June 22, 2026

Attached is the decision in the Special Education Due Process Case No. 26.027H, v. . Either party may appeal this decision by filing a Petition for Review in Maine Superior Court or Federal District Court within 90 days from receipt of the decision. The Petition for Review in Maine Superior Court may be filed either in the county in which the student resides or the county in which the school administrative unit is located.

Parties to this hearing should note that Section 504 of the Rehabilitation Act at 34 CFR §104.11 and the Americans with Disabilities Act at 28 CFR §35.134 prohibits harassment, retaliation or intimidation against individuals who file a due process hearing request or participate in a due process hearing. Parties may file a complaint alleging retaliation, harassment or intimidation with the Office for Office Rights, McCormack POCH, Room 222, Boston, MA 02109.

Any questions regarding this decision, or about the record of this hearing, should be directed to Leigh Lardieri, Ph.D. at:

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