



Before the
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of #####, [Student]

DECISION

v.

DHA Case No. DPI-25-0022
DPI Case No. LEA-25-0021

[School District]

The PARTIES to this proceeding are:

#####, [Student], by

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[School District], by

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PROCEDURAL HISTORY

On May 14, 2025, ##### (Parent), on behalf of ##### (Student), filed a due process hearing request with the Department of Public Instruction (DPI) under the Individuals with Disabilities Education Act (IDEA) and Wis. Stats. Chapter 115 against the ##### (District). DPI referred the matter to the Wisconsin Division of Hearings and Appeals, and Senior Administrative Law Judge (ALJ) Sally Pederson was duly appointed to conduct a hearing.

On June 9 and 19, 2025, prehearing telephone conferences were held with the parties. The hearing was scheduled for July 21-22, 2025 at the District, and the decision deadline was extended for cause at the mutual request of the parties. The hearing was not completed on July 22, 2025, so an additional, partial day of hearing was held by videoconference on July 28, 2025. The parties timely filed post-hearing briefs and reply briefs on August 6 and 11, 2025. The decision in this matter is due on August 22, 2025.

ISSUES

1. In June 2025, did the District violate the Student's right to a free, appropriate public education by improperly changing their placement based upon District or school board policy rather than upon their individualized educational needs?
2. Did the District improperly predetermine the Student's placement prior to the IEP team meeting held in June 2025?

FINDINGS OF FACT

1. The Student is an eleven-year-old (d.o.b. #####) child with disabilities who resides in the District with their mother, father, an older sibling, and a younger sibling.
2. The Student meets the educational disability eligibility criteria for autism and visual impairment and needs special education services. (D. Ex. 1)¹
3. During elementary school, the Student attended ##### Charter School (Montessori), which is a District school for pre-kindergarteners through fifth graders. The Student's younger sibling also attended Montessori at the same time as the Student, but their older sibling did not. During the 2024-2025 school year, the Student was in fifth grade at Montessori and received educational services in both the general education and special education environments. (D. Ex. 3)
4. In early January 2025, the Student's special education teacher/case manager contacted the Parent to schedule an IEP team meeting for the annual development of the Student's IEP and determination of continuing placement for their upcoming sixth grade school year. (D. Ex. 4, p. 3; D. Ex. 7, p. 1)
5. On January 8, 2025, the Parent sent the Student's special education teacher/case manager an email stating that she would be asking the IEP team to place the Student at an alternate middle school, rather than the neighborhood middle school closest to their home. The Parent did not provide reasons in the email as to why she was requesting that the Student

¹ The District's exhibits will be referred to in this decision as "D. Ex." and the Student's exhibits will be referred to as "St. Ex."

attend an alternate middle school. The Parent noted that they had previously requested alternate school placement for her eldest child through the District's Alternate School Request (ASR) procedure, but upon having her ASR request denied, she had then requested that the IEP team determine that her child's medical needs necessitated an alternate school placement. (D. Ex. 7, pp. 3-4)

6. The District's ASR policy and procedure is applicable to all District students, both disabled and non disabled. The ASR policy states that students shall attend the school located within the attendance boundary of their primary residence, commonly referred to as a student's "neighborhood school." Under the ASR procedure, the District may grant a request for a student to attend a non-neighborhood school if one of three reasons exists: (1) the student moves out of their attendance boundary during the school year and wishes to attend the same school until the end of the school year; (2) a legal reason related to a court order or law enforcement requires a student to attend a non-neighborhood school; or (3) medical documentation shows that a student should attend a non-neighborhood school. The ASR procedure is completely separate from IEP team placement determinations and does not prevent or overrule an IEP team decision that a student's disability-related needs require the student to receive services/attend school at a non-neighborhood school. If the IEP team makes such a placement determination, an ASR request would be unnecessary. (St. Ex. 2, p. 5; Tr. 3, pp. 15-17)
7. On January 13, 2025, the Student's special education teacher/case manager forwarded the Parent's January 8th email to the District's special education program support employee (SE program support) who was assigned to Montessori. As part of her job duties, the SE program support answered questions and provided guidance to the special education teacher about the Student's program and needs, and she held weekly collaboration meetings with all special education staff at Montessori. (D. Ex. 7, p. 3; Tr. 2, pp. 7, 11, 20-23)
8. On January 15, 2025, the SE program support responded to the special education teacher's email, also forwarding the Parent's January 8th email to the District's director of special education and the Montessori school principal, who was the local educational agency (LEA) on the Student's IEP team. The SE program support stated that if the Parent wanted to request a non-neighborhood school for the Student, the Parent would need to complete an ASR. She stated that, "since South (Middle School) can provide the necessary services" for the Student, the IEP team would not consider other non-neighborhood middle schools. In conclusion, she stated that the LEA representative "would have the final say in case of any disagreements within the team, but [the Student's] needs can be met at South." (D. Ex. 7, p. 3)
9. On January 15, 2025, the District's director of special education responded to the SE program support's email, agreeing that the Parent's request appeared to be one that would

go through the ASR process. However, the director also stated that the IEP team could discuss whether the Student's IEP needs could be met at their neighborhood school or not, and if the IEP team determined their needs could not be met there, then the IEP team could determine placement at a non-neighborhood school. The special education director noted that parents do not get to select their child's school. The director recommended that the IEP team focus their discussion on whether the supports and services in the Student's IEP can be provided at their neighborhood school, and if the answer is affirmative, then the Parent's request would be through the ASR process. (D. Ex. 7, p. 5)

10. On January 30, 2025, the District convened an individualized education program (IEP) team meeting to review/revise the Student's IEP and determine continuing placement. The Parent attended and participated in the meeting. (D. Ex. 4)
11. The Student's January IEP included 30 minutes once per week of adapted physical education and 65 minutes per day of specially designed instruction to be provided in the special education environment. The special education instruction related to their four annual goals in the areas of adapted physical education, executive functioning and social/emotional skills, social communication, and reading comprehension. The IEP also included speech and language services three times weekly and daily transportation, as well as various supplementary aids and services to be provided in the special education and general education environments. (D. Ex. 4, pp. 19-25)
12. Towards the end of the January 30th IEP meeting, the IEP team discussed the Student's placement changing from elementary school to middle school for sixth grade. The Parent asked that the Student be placed at ##### [requested middle school], rather than ##### [neighborhood middle school] which is the neighborhood school closest to their home. The Parent indicated that she did not want the Student to attend the same school as their older sibling, who would be in eighth grade at South in 2025-2026, because the two children have a "trauma bond" and a conflicted relationship that is negative for the Student. (D. Ex. 4, p. 5; Tr. 1, pp. 22-26, 80-81, 217-220; Tr. 2, pp. 98-199)²
13. In support of the position that the Student should not attend ##### [neighborhood middle school] with their older sibling, the Parent referenced a neuropsychological report regarding the Student. She provided copies of the neuropsychological report to the IEP team members after the IEP meeting, but the report was not offered as a hearing exhibit and is not part of the hearing record. (Tr. 1, pp. 81, 107, 218; Tr. 2, p. 86)
14. The January 30th IEP meeting ended abruptly during the discussion of the Student attending an alternate middle school because students began entering the classroom where the meeting was being held. The Parent and at least one other IEP team member

² The three volumes of transcript will be referred to as "Tr. 1," "Tr. 2," and "Tr. 3."

thought that the IEP meeting would be continued to finish the discussion and the IEP. (Tr. 1, p. 91; Tr. 2, pp. 83, 196)

15. Instead, the Student's case manager/special education teacher finished drafting the IEP after the January 30th meeting based upon the discussion that had occurred, and she sent the IEP to the Parent on March 6, 2025, along with an email stating that the LEA representative/Montessori principal and the IEP team agreed to "honor the [Parent's] alternate school request." (St. Ex. 1, p. 1; Tr. 1, pp. 82-83, 94-95, 221-222)
16. The placement determination in the January IEP states, "It was considered and rejected that [the Student] attend the same middle school as their older sibling. [The Student] will attend an alternate middle school per IEP team decision." The reasons listed for rejecting placement at the neighborhood middle school were: "See report from the Neuropsychologist. [The Student] is very close with their older sibling, and [the Parent] expressed concerns with frequent conflict and with them being susceptible to the older sibling's influence." (D. Ex. 4, p. 27)
17. Despite the neuropsychology report being referenced in the January IEP, the Student's special education teacher/case manager and the LEA representative/Montessori principal testified at the hearing that the report did not show that the Student's needs required them to attend a different school than their older sibling (Tr. 1, pp. 107, 218-219, 222)
18. In early to mid-March 2025, the SE program support held a collaboration meeting with special education staff at Montessori where they discussed legal compliance related to placement and neighborhood schools. Following the meeting, the Student's special education teacher/case manager spoke to the SE program support about whether the IEP team's decision to place the Student at an alternate, non-neighborhood school complied with legal requirements. Based upon their conversation, the SE program support believed that the IEP team's placement decision for the Student was not legally compliant because it was not based upon their disability-related needs, and she advised the District's director of special education of the situation. (Tr. 2, pp. 21-23, 66-68)
19. The director of special education then reviewed the Student's January IEP, and on March 12, 2025, she met with the LEA representative/Montessori principal and the District's executive director of student services and special education to discuss the basis for the IEP team's placement determination. (Tr. 1, pp. 89-90)
20. On March 13, 2025, the special education director mentioned the situation to a DPI compliance investigator who happened to be present at the District because DPI was conducting the District's special education legal compliance review for the 2024-2025 school year. The director testified that the DPI compliance investigator advised her that, if the placement decision had not been based upon the Student's individual educational

needs, the IEP team should reconvene for a review/revise meeting to clarify and discuss the Student's needs, because the District may not be in compliance with legal requirements if the Student was placed in a school that was not closest to their home and it was not necessary to meet their IEP needs. Consequently, the special education director emailed the LEA representative about reconvening the IEP team. (Tr. 1, pp. 300-301, 311-313; D. Ex. 7, p. 9)

21. On March 14, 2025, the LEA representative/Montessori principal emailed the Parent to ask what dates would work for an IEP meeting, stating that the IEP team needed to reconvene due to an "error" regarding the decision to place the Student at an alternate, non-neighborhood middle school. The LEA representative wrote that, "The IEP team cannot make that decision since Board Policy says it has to be decided through the alternate school request process." (St. Ex. 2, p. 1)
22. On March 14 and 15, 2025, the Parent and the LEA representative exchanged several more emails, with the Parent questioning the assertion that the IEP team could not make the decision to place the Student at an alternate school. The LEA representative responded that, "The team doesn't make the decision on alternate school requests so what we put in the IEP is not allowed." She further informed the Parent that the director of special education had consulted with a DPI compliance investigator and that "[t]here is no disability related need saying [the Student] needs to go to a different school than their sibling, so we need to reconvene the IEP team, and you'll need to go through the ASR process." (St. Ex. 2, pp. 2-4)
23. The District sent several more emails to the Parent in April and May 2025 attempting to schedule an IEP team meeting to review/revise the Student's IEP but was unable to establish an agreed-upon meeting date with the Parent. The District again contacted the Parent in June about scheduling an IEP meeting, and a June 12 meeting date was selected. (D. Ex. 5, pp. 2-3; D. Ex. 6; Tr. 1, p. 96, 313)
24. On June 12, 2025, the District held an IEP team meeting to review/revise the Student's IEP and determine continuing placement. The Parent attended and participated in the IEP meeting, which lasted approximately three hours. (D. Ex. 5; Tr. 1, pp. 229, 317)
25. At the June 12th meeting, the Parent expressed concerns about the Student attending ##### [neighborhood middle school] during sixth grade because their older sibling would be attending ##### [neighborhood middle school] as an eighth grader, and they requested that they be placed at an alternate middle school in the District. The Parent asserted that there is conflict between the siblings, and she was concerned that the Student would have a stress response if they encountered their sibling in school. The Parent was concerned that the Student's social interactions, choices, and emotional behavior would be negatively affected by their sibling and that they would be subjected to peer pressure from their sibling. None of the behavior described by the Parent had been observed

in the school setting, as the siblings had not attended the same school in the District. The Parent testified that at home the Student and their older sibling are always within sight or earshot of the Parents or another trusted adult as a matter of “emotional and physical safety concerns,” although she did not describe any physical violence between the siblings. (D. Ex. 5, pp. 31-32; Tr. 1, pp. 30, 101-102, 232, 316, 325-327; Tr. 2, pp. 192, 223-224)

26. The IEP team discussed the Parent’s concerns and, in response, made some revisions and added some services to the Student’s June IEP. First, with regard to their annual goal related to executive functioning and social emotional skills, the IEP team added language that the Student “would increase their awareness of social consequences and the implications of the choices they make.” In addition, language was added to the baseline of that goal and to the level of attainment to measure the Student’s progress when presented with a challenging situation involving peer interaction or unexpected events. (D. Ex. 5, p. 21; Tr. 2, pp. 139)
27. Also in response to the Parent’s concerns, the IEP team noted that the Student’s IEP already included adult support during transition times in school, including check-in, lunch, and recess. However, the IEP team also added additional supplementary services to the June IEP to provide adult support during other unstructured times, such as field trips and extra-curricular clubs and activities. The IEP team discussed that sixth graders and eighth graders generally do not come in much contact, if at all, based upon how the middle school system is structured. The IEP team concluded that the Student’s adult support staff will be in close enough proximity to observe the Student’s behavior and coping skills if they do come into contact with their sibling at school and can intervene if the Student needs assistance. (D. Ex. 5, pp. 25; Tr. 1, pp. 99, 104, 229, 232-234, 325-328, 334-335)
28. All of the District IEP team members were of the opinion that the Student’s disability-related needs could be provided for at South, their neighborhood middle school. The Parent did not agree. Because there was not team consensus regarding placement, the LEA representative was responsible for ultimately making the placement determination. The LEA representative decided that ##### [neighborhood middle school] was the appropriate placement for the Student in the LRE, based upon the IEP team’s discussion that the educational evidence about the Student showed that their IEP could be implemented at South to meet their needs. (Tr. 1, pp. 105, 107, 332)
29. Consequently, the placement determination in the Student’s June 2025 IEP states that the IEP will be implemented at ##### [neighborhood middle school] and that, “It was considered and rejected to place [the Student] at an alternate middle school from their sibling.” The IEP includes a list of eight detailed reasons explaining why an alternate school placement was rejected, as follows:

- [The Student's] neighborhood school, South Middle School, is the closest school for them to attend.
- [The Student's] same-age, same-grade level peers from their neighborhood will attend ##### [neighborhood] Middle School keeping them in a less restrictive environment.
- Considering a continuum of supports and services, team members agreed that [the Student]'s disability related needs can be met at their neighborhood school.
- Considering a continuum of supports and services, team members reviewed where [the Student] falls on the continuum (instruction in addition to the universal), and an alternative site is significantly more restrictive than [the Student's] current needs suggest. There are other things that could be tried within their neighborhood school before suggesting an alternative site.
- Parent shared information that was considered in determining an alternative middle school placement relative to conflict between [the Student] and their older sibling. This has not been observed in the school setting as [the Student] and their older sibling do not attend school together. Given observations in the school setting of other possibly relatable situations, the school has not observed similar concerns to what the parent noted. Additionally, the information [the Parent] shared was from 8-months ago and older. There was no current evidence.
- Having [the Student] attend a different middle school would place them in a more restrictive environment for transportation. [The Student] currently rides the general education bus for their transportation; attending a different school outside of their neighborhood school boundaries would require specialized transportation, which is a more restrictive placement.
- Removing [the Student] from their sibling will not provide the real time opportunities for [the Student] to develop coping skills, resist peer pressure, develop independence, and individualism based upon [the Student]'s learning style of having skills instruction with multiple opportunities to practice. [The Parent] previously noted that [the Student] benefits from 'real time' experiences and teachings. Additionally, all IEP team members agreed that they are a quick learner. So, if they attended an alternate middle school, it would prolong their ability to actually apply their skills until high school when they would be in the same building as their sibling. [The Parent's] statement about them needing to learn in the moment of actual experiences seems to be in direct conflict of her request to place them in a different building
- When the IEP team was asked why their perspective has changed from when the first discussion was had at the annual IEP meeting, the individuals (LEA, General Education Teacher, and Special Education Teacher) noted that the questions asked around evidence to support the need and LRE have caused them to change their perspective. Additionally, the team recognized the disconnect between [the

Student's] disability related needs and the placement in a non-neighborhood school. The decision was initially based on assumptions of how they will respond in their new middle school. There was no actual evidence that suggests [the Student] will respond negatively or have a need for additional support. The initial decision at the annual IEP meeting was not based on [the Student's] disability related needs. Additionally, there is no current evidence to suggest there is a need for a different school placement. (D. Ex. 5, pp. 28-29; Tr. 1, p. 232; Tr. 2, p. 126)

DISCUSSION

Jurisdiction

The undersigned ALJ has authority to preside over this due process proceeding pursuant to Wis. Stat. § 115.80(2).

Burden of Proof

The U.S. Supreme Court has ruled that the burden of proof in an administrative hearing challenging an IEP is on the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005). As the complainants in this matter, the burden of proof is on the Parents of the Student. The burden of proof is a preponderance of the evidence. Wis. Stat. § 115.80(5)(b).

Free, Appropriate Public Education and Placement

The IDEA requires that all children with disabilities are offered a free, appropriate public education (FAPE) that meets their individual needs. 20 USC § 1400 (d); 34 CFR § 300.1. In *Andrew F. v. Douglas Co. Sch. Dist. RE-1*, 137 S.Ct. 988 (2017), the U.S. Supreme Court ruled that the IDEA requires a school district to offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child's unique circumstances.

A school district must ensure that an educational placement is provided to implement a child's IEP and that a child with a disability is educated with nondisabled children to the maximum extent appropriate. 20 USC § 1412 (a)(5); Wis. Stat. § 115.79(1)(b) and (c). This is commonly referred to as the "least restrictive environment" (LRE) requirement. See 34 CFR § 300.114 (a)(2)(i).

In addition, a school district must ensure that a child's placement is based on the child's IEP and is as close as possible to the child's home. 34 CFR § 300.116 (b)(2) and (3). When an IEP team is determining a child's placement, "[u]nless the IEP of a child with a disability requires some other arrangement, the child [must be] educated in the school that he or she would attend if nondisabled." 34 CFR § 300.116 (c).

Here, the Parent alleges that the District improperly changed the Student's placement in their June IEP by basing the decision on District or Board policy rather than on their individualized educational needs. There is no question that some District staff email communications and testimony were unclear, subject to misinterpretation, or simply incorrect with regard to District policy and/or the authority of the IEP team in determining placement. The record as a whole, however, shows that the IEP team properly changed the Student's placement in June 2025 based upon a determination that their disability-related needs could be met and their IEP implemented at ##### [neighborhood middle school], which is the middle school closest to their home that they would attend if nondisabled.

During her testimony, the SE program support admitted that her January 15, 2025 email about the Parent's anticipated request for alternate school placement was subject to misinterpretation and sounded like she was directing the IEP team to determine that the Student's disability-related needs could be met at ##### [neighborhood middle school]. (Tr. 2, pp. 15-17, 55-56) As she acknowledged, her email was poorly worded.

However, the director of special education followed up with an email, which accurately stated that the IEP team could discuss whether the Student's IEP needs could be met at their neighborhood school, and if the IEP team determined their needs could not be met there, then the IEP team could determine placement at a non-neighborhood school. (D. Ex. 7, p. 5) Moreover, the SE program support's email obviously did not govern the IEP team's decision in January, because the IEP that resulted from that meeting granted the Parent's request to place the Student at an alternate middle school based upon her concerns about him attending the same school as their older sibling.

The special education teacher/case manager credibly testified that, at the January 2025 IEP meeting, the IEP team did not discuss whether the Student's disability-related needs required them to attend an alternate middle school. (Tr. 1, p. 222) The January IEP contained little information in support of the placement determination, other than a brief reference to a neuropsychological report and the Parent's concern about conflict between the siblings. The Student's special education teacher and the LEA representative testified that the neuropsychological report provided by the Parent did not support a conclusion that the Student needed to be placed at a school where their older sibling would not be present. The special education teacher testified that the report included one line about the history of the Student's sibling interactions, without details. (Tr. 1, pp. 107, 218-219, 222)

Subsequently, District special education staff became concerned that the IEP team had not properly considered legal requirements when making the January placement decision, such as whether the Student's IEP needs could be met at the school closest to their home. The District's director of special education confirmed the validity of those concerns after consulting with a DPI compliance investigator about the January placement decision. Accordingly, the District appropriately decided to reconvene a review/revise IEP meeting so that the IEP team could discuss whether the Student's IEP and disability-related needs required them to be placed at an alternate school.

Unfortunately, the LEA representative's March 14, 2025 email to the Parent about convening another IEP meeting contained inaccurate information about the IEP team's authority to place a student in an alternate school setting. The LEA representative stated that the IEP team could not place the Student in a non-neighborhood school because Board policy dictated that those decisions are made through the ASR process. The email was incorrect about an IEP team's authority to determine placement, and it also misstated the District's ASR policy, which does not prohibit IEP teams from determining that a student's needs require placement in a non-neighborhood school. However, the LEA representative did send a more accurate follow-up email to the Parent stating that the January IEP team had not determined the Student had a disability-related need that required him to be placed at a different school than their sibling.

Nevertheless, the Parent, who is an intelligent and well-informed parent of children with disabilities, was upset by the March 14, 2025 email, disagreed with the information contained therein, and consequently filed a request for a due process hearing on the grounds that the District was going to change the Student's placement based on District policy, rather than on the Student's needs and IEP.

At the hearing, the LEA representative gave conflicting testimony regarding her understanding of whether an IEP team could place a student with a disability at an alternate school, outside of the ASR process. She testified that an IEP team did not have the authority to do so, but later testified that if there was a connection with a student's disability needs, the IEP team could decide to place a student at a non-neighborhood school. (Tr. 1, pp. 96-97, 109) Her apparent confusion regarding an IEP team's authority and the ASR process is concerning, particularly since, as the LEA representative, she ultimately had to make the placement decision in June because the IEP team did not reach consensus. (Tr. 1, p. 107)

Notably, the LEA representative testified that the decision to change the Student's placement to ##### [neighborhood middle school] was based upon it being the LRE where the Student's IEP and goals could be implemented. (Tr. 1, p. 105) The somewhat questionable testimony of the LEA representative was bolstered by the credible testimony of the other District IEP team members who confirmed that the LEA representative agreed with them that the Student's IEP needs could be met at ##### [neighborhood middle school]. (Tr. 1, p. 32, 332) The Student's special education and regular education teachers who were on their IEP team in both January and June 2025, as well as the director of special education who was on the June IEP team, credibly testified that there were no disability-related reasons that necessitated placing the Student at an alternate middle school, rather than at their neighborhood school. (Tr. 1, pp. 32, 236, 334)

The IEP team added language to one of the Student's annual goals to address the Parent's concerns about them making "safe" choices and their awareness of social consequences. The IEP team also added supplementary services to increase adult support and supervision of the Student during unstructured time at school. The evidence shows that the IEP team considered the Student's educational needs and their IEP services and supports and reasonably determined that South was an appropriate placement. The IEP team noted that there was no evidence that the

Parent's concerns about conflict between the Student and their older sibling would actually occur in the school setting, that the Student's IEP had supports to address such interactions if they occurred, and that the IEP and placement could be revised in the future if the Student's needs in middle school warranted it.

Based on this record, the Parent failed to meet her burden of establishing that the District's decision to change the Student's placement in June 2025 from an alternate middle school to South was improperly based on Board or District policy, in violation of the Student's right to FAPE. Rather, a preponderance of the credible evidence shows that the District acted in accordance with the law when the IEP team revised the Student's IEP to change their placement to ##### [neighborhood middle school], the school closest to their home, based upon their disability-related needs and IEP.

Predetermination of Placement

Under the IDEA, school districts must ensure that parents have an active and meaningful role in the development of modification of their child's IEP. 34 CFR § 300.116 (a)(1).

The Parent alleges that the District had predetermined the Student's placement prior to the June 2025 IEP meeting. If true, this would be a procedural violation of the parental participation requirement. *See Bd. of Educ. of Township High Sch. Dist. No. 211 v. Ross*, 486 F.3d 267, 271 (7th Cir. 2007) (citing *Deal v. Hamilton County Bd. of Educ.*, 392 F.3d 840, 857 (6th Cir. 2004)).

However, procedural violations do not necessarily constitute a denial of FAPE. *See Hjortness v. Neenah Joint Sch. Dist.*, 507 F.3d 1060, 1065 (7th Cir. 2007). In cases involving an alleged procedural violation, a hearing officer may find that a student did not receive FAPE only if the procedural inadequacy: (1) impeded the student's right to FAPE; (2) significantly impeded the parent's opportunity to participate in the decision-making process; or (3) caused a deprivation of educational benefits. 20 USC § 1415(f)(3)(E)(ii).

As noted previously, the LEA representative sent the Parent an email on March 14, 2025 stating that the IEP team "cannot make that decision (to place the Student at an alternate middle school) since Board Policy says it has to be decided through the alternate school request process." (St. Ex. 2, p. 1) At the hearing, the LEA representative gave conflicting testimony as to whether an IEP team could place a student at an alternate school if it determined that the Student's needs required it. The Parent relied primarily on the LEA representative's statements in arguing that the District had predetermined that the Student would not be placed at an alternate middle school prior to the June 2025 IEP meeting.

Again as noted previously, the LEA representative's inaccurate statements and conflicting testimony about an IEP team's authority to determine placement and the District's ASR process are quite concerning. Based on the record overall, it seems that the LEA representative adopted the misleading and somewhat inaccurate language from the SE program

support's email back in January 2025, rather than the more nuanced and accurate information later relayed by the director of special education in subsequent emails and conversations. Nevertheless, the LEA representative did testify that she kept an open mind that the Student might need to go to a non-neighborhood school due to their disability-related needs and that she did not predetermine the Student's placement prior to the June IEP meeting. (Tr. 1, p. 106)

The reliability of the LEA representative's testimony was greatly strengthened by the credible testimony of the other District IEP team members. The Student's special education teacher/case manager was a very credible witness. She testified that she understood the IEP team was meeting in June 2025 in order to consider the Student's disability-related needs as it related to the Parent's request that they be placed in an alternate school and that she was never told by the District that the IEP team could not determine the Student's placement or what school they should attend. (Tr. 1, pp. 227, 237) Both the Student's special education and regular education teachers credibly testified that they did not predetermine what school the Student should be placed at prior to the June IEP meeting. (Tr. 1, pp. 35, 228)

It is also significant that the Parent attended and fully participated in the June 2025 IEP meeting, which lasted for at least three hours. (Tr. 1, p. 317) The Parent raised numerous concerns about placing the Student at South, which were noted in the IEP and the placement determination. The IEP team discussed those concerns and the Student's educational needs and added language and services to the IEP to address the Parent's concerns. Moreover, the IEP listed eight detailed reasons why the Parent's request for an alternate school placement was rejected. (D. Ex. 5, pp. 28-29)

For these reasons, the record does not support the Parent's contention that the District had predetermined the Student's placement prior to the June IEP meeting. However, even if the LEA representative (or other IEP team members) had predetermined that the Student should be placed at ##### [neighborhood middle school], it did not constitute a denial of FAPE requiring a remedy. This is because the evidence shows that the Student's IEP and disability-related needs can be provided for at ##### [neighborhood middle school], the school closest to their home. Therefore, the June placement decision did not impede their right to FAPE or deprive him of educational benefits. In addition, the record shows that the Parent's opportunity to participate in the decision-making process regarding placement was not significantly impeded.

All of the arguments presented by the parties were considered by the undersigned ALJ. An administrative decision-maker "is not required to make findings that respond to every issue [a party] raised in its request." *Peace Lutheran Church & Acad. v. Vill. of Sussex*, 2001 WI App 139, ¶ 33, 246 Wis. 2d 502, 631 N.W.2d 229.

CONCLUSIONS OF LAW

1. The undersigned ALJ has authority to conduct a hearing and issue a decision in this matter, pursuant to Wis. Stat. § 115.80 and the IDEA.

2. In June 2025, the District properly changed the Student's placement based upon their individualized educational needs to the middle school located closest to their home that they would attend if nondisabled, in accordance with 34 CFR § 300.116 (b) and (c).
3. In June 2025, the District did not violate the Student's right to a free, appropriate public education by improperly changing the Student's placement based upon District or school board policy rather than upon their individualized educational needs.
4. The District did not deny the Student a free, appropriate public education by improperly predetermining their placement prior to the June 2025 IEP team meeting.

ORDER

For the reasons set forth above, IT IS HEREBY ORDERED that the due process hearing request is dismissed.

Dated at Madison, Wisconsin on August 22, 2025.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, 5th Floor North
Madison, Wisconsin 53705-5400
EMAIL: Sally.Pederson@wisconsin.gov

By: _____


Sally Pederson

Senior Administrative Law Judge

APPEAL RIGHTS FOLLOW ON NEXT PAGE

NOTICE OF APPEAL RIGHTS

Any party aggrieved by the attached decision of the administrative law judge may file a civil action in the circuit court for the county in which the child resides or in federal district court, pursuant to Wis. Stat. § 115.80(7), 20 USC § 1415, and 34 CFR § 300.512. The court action must be filed within 45 days after service of the decision by the Division of Hearings and Appeals.

It is the responsibility of the appealing party to send a copy of the appeal to the Director of Special Education, Special Education Team, Department of Public Instruction, 201 West Washington Avenue, Madison, WI 53703. The Department of Public Instruction will prepare and file the record with the court only upon receipt of a copy of the appeal. The record will be filed with the court within 40 days of the date that the Special Education Team at the Department of Public Instruction receives the appeal.