

# UTAH DUE PROCESS HEARING RESULTS 2009-2023

YEAR	Due Process Hearing Requests Filed	Withdrawn or Dismissed	Pending	Withdrawn bc Settled	TOTAL SETTLED	DP Fully Adjudicated	TOTAL COMPLETED	TOTAL FINDINGS (IDEA VIOLATIONS)	
2022-2023	10	10	3	6	60%	0	0%	0%	
2021-2022	11	8	0	3	27%	3	27%	18%	
2020-2021	18	15	2	3	17%	1	6%	0%	7 by one family
2019-2020	17	11	2	4	24%	0	0%	0%	
2018-2019	12	5	1	4	33%	2	17%	0%	
2017-2018	7	4	1	2	29%	0	0%	0%	
2016-2017	6	4	2	0	0%	0	0%	0%	
2015-2016	6	2	2	2	33%	0	0%	0%	
2014-2015	6	5	0	0	0%	1	17%	0%	
2013-2014	6	5	0	0	0%	1	17%	0%	
2012-2013	8	7	0	0	0%	1	13%	0%	
2011-2012	6	1	0	3	50%	2	33%	0%	
2010-2011	9	5	0	4	44%	0	0%	0%	
2009-2010	7	0	0	7	100%	0	0%	0%	

2012

 [Canyons School District](#)

Petitioners' claims are hereby dismissed.

So ORDERED this 14th day of August, 2012.

Richard Schwermer

Richard Schwermer  
Due Process Hearing Officer

Lillian Meredith Attorney for Petitioners



# 2013

 [Utah Schools for the Deaf and the Blind \(USDB\)](#)

## ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED that Petitioners' requests for relief under Procedural Issues Nos. 1(b), (c), (d) and (e) are DENIED. In regard to Procedural Issue No. 1(a), it is ORDERED that USDB immediately begin to provide compensatory educational services of a speech language pathologist, who is proficient in tactile sign language, to provide direct services to the Student for two 30 minute a week sessions for 20 weeks at USDB expense.

It is further hereby ORDERED that Petitioners' requests for relief under Substantive Issues Nos. 2(a), (b), (c), (d), (f) and (g) are DENIED. In regard to Procedural Issue No. 2(e), it is ORDERED that the Student not be placed at the Provo School District placement set forth in the Student's 2012-2013 IEP, but that said IEP be amended to indicate that the Student's current placement is USDB.

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Wallace J. Calder  
Hearing Officer

Ronald J. Gardner  
Attorney for Petitioner  
132 Penman Lane  
Bountiful, Utah 84010

Chantel L. Alberhasky  
Attorney for Petitioner  
419 Boonville Avenue  
Springfield, MO 65806



- 10 hours  
compensatory  
education.  
- Placement at  
USDB.

# 2014



## 2. Relief

Because petitioners have proved no violation that affects the student, it would be inappropriate and unjust to award any relief to the student or to his parents.

However, petitioners have established that respondent committed two procedural violations involving its child find obligations. Because the hearing officer has authority to address such violations to ensure procedural compliance with IDEA, respondent will be ordered to provide training to its staff concerning its child find obligations.



2. All other relief requested by the instant due process complaint is hereby denied.

ENTERED: June 9, 2014

James Gerl

James Gerl, Certified Hearing Official  
Hearing Officer

Attorney for Petitioner:

**Edward Flint, Esquire**  
**specialedflint@gmail.com**

# 2015



## ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED as follows:

1. Petitioners' requests for relief under Procedural Issues Nos. 1(a) and (b) are hereby DENIED.
2. It is further ORDERED that Petitioners' request for relief under Substantive Issue No. 2(a) is hereby DENIED.

All other relief not specifically ordered herein is DENIED.

Dated this 15th day of January, 2015.

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Wallace J. Calder

Hearing Officer



Family did not have attorney.

**E.M.A. appeared pro se**

# 2019



## ORDER

Based upon the above Findings of Fact and Conclusion of Law, it is hereby ordered:

1. Parent has failed to satisfy Petitioner's burden as the moving party to establish her claim of a denial of FAPE.
2. That on/after November 16, 2017 to the present, **District** provided an IEP reasonably calculated to enable Student to make progress appropriate in light of [REDACTED] circumstances; hence there was no violation of IDEA.
3. Parent's Petition and requested relief is hereby **DENIED**.



Ordered on this 17<sup>th</sup> Day of June, **2019**.

\_\_\_\_\_  
/s/Kia Scott

IDEA Hearings Officer

The Parent was represented by the Honorable Mark Adamson.

2019



**ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED as follows:

1. It is ORDERED that Petitioners' requests for relief under Procedural Issue No. 1 is hereby DENIED.

2. It is ORDERED that Petitioners' request for relief under Substantive Issues Nos.

2(a), 2(b) and 2(c) are hereby DENIED.

All other relief not specifically ordered herein is DENIED.

Dated this 4th day of October, 2019.

/s/ Wallace J. Calder

Wallace J. Calder  
Hearing Officer



Mark D. Adamson, UTAH IEP ASSOCIATES, appeared on behalf of Petitioners

2019



**Note: Petitioner in this case was the school district.**

VI. CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and analysis of applicable law, the Hearing Officer makes the following Conclusions of Law:

1. Petitioner demonstrated its occupational therapy evaluation was appropriate, and thus, Respondents are not entitled to a publicly funded IEE in this domain.
2. Petitioner has not been afforded an opportunity to complete an evaluation in the domain of academics, and Respondents have not disagreed with an evaluation in the domain of academics. Thus, Respondents are not entitled to a publicly funded IEE in this domain.



Dated this 5th day of June, 2019.

/s/ Douglas R. Larson

Douglas R. Larson

Hearing Officer

“Respondents”), represented themselves *pro se*.



# 2021

## Granite School District

1. It is ORDERED that Petitioners' requests for relief in extending the due process statute of limitations period to March 11, 2019 is GRANTED.
  2. It is ORDERED that Petitioners' request for relief in the form of a finding that the student was improperly removed from his IEP in March, 2019 is also GRANTED.
  3. It is ORDERED that Petitioners' requests for relief in a finding of a denial of FAPE, as a result of such improper removal, is DENIED.
  4. It is ORDERED that Petitioners' requests for relief for financial reimbursement is hereby DENIED.
- All other relief not specifically ordered herein is DENIED.

Dated this 7th day of December, 2021.

//s// Frank Snowden  
Hearing Officer

### **Note Regarding #2:**

The Hearing Officer finds that the School District failed to establish a rational basis for the student's removal from his IEP to a 504 Plan and thus finds for the Petitioners on this question. However, the Hearing Officer concludes that the violation was harmless because the Student was making and continued to make progress and, therefore was not denied a FAPE.

Therefore, Petitioner has failed to prove by a preponderance of the evidence that Respondent violated the provisions of the IDEA within the statutory jurisdiction period of Petitioners' due process Complaint, which was filed on June 17, 2019. Therefore, Petitioners have not met their burden of proof on this issue. *Shaffer v. Weast*, 546 U.S. at 49, 62 (2005).

See Below



**Brenda Diepeveen, advocate, appeared on behalf of Petitioners**

# 2021



## VII. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that Petitioners' request for relief articulated in the Request for Due Process filed February 8, 2021 (dated February 3, 2020), is hereby DENIED. However, it is also hereby ORDERED that Respondent shall continue working with the IEP Team, including Ms. [REDACTED], to seek for appropriate opportunities to integrate Student to a greater extent with his non-disabled peers as his behavior improves and if he is able to meaningfully access the curriculum. All other relief not specifically ordered herein is expressly DENIED.

Dated this 22nd day of June, 2021.

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

Petitioners were represented by counsel, Dale Boam.



# 2021



## Order

Based upon the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED as follows:

1. It is ORDERED that Petitioners' requests for relief under Procedural Issue No.1 is hereby DENIED.

2. It is ORDERED that Petitioners' request for relief under Substantive Issues Nos. 2, 3, 4, 5, 6 and 7 are hereby DENIED.

All other relief not specifically ordered herein is DENIED.

Dated this 10th day of November, 2021.

/s Frank Snowden  
Due Process Hearing Officer

Michelle Marquis, Esq., Laura Henrie, Esq., Katie Cox, Esq. and Maya Anderson, Esq., with the  
DISABILITY LAW CENTER, appeared on behalf of Petitioners



# 2022



## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby Ordered that the Parents shall take nothing by way of their Request for a Due Process Hearing and that the Request for a Due Process Hearing shall be and is hereby dismissed in its entirety.

Dated June 3, 2022

/s/ Edwin L. Litteneker

Edwin L. Litteneker  
Hearing Officer

The Petitioners are often referred to collectively as “the Parent” or “the Parents” and, where appropriate, “Mother” and were represented by Attorneys Amy Martz and Mark Adamson,



# 2022



## VI. ORDER

Based upon the foregoing Decision, the Hearing Officer **HEREBY ORDERS** an award of compensatory education for [REDACTED] in an amount up to 60 hours in the area of reading, up to 225 hours in the area of written language (spelling and writing), and up to 18 hours in speech/language. These hours are calculated by adding the time allotted under the May 4, 2021 IEP for those specialized services covering a period of 180 days. The parties shall work out a schedule for [REDACTED] to receive these compensatory education hours during the next three years starting from the date of this order. If the parties mutually agree in writing that [REDACTED] has made sufficient progress in any area, or for some other reason no longer needs the compensatory education services, the hours may be reduced by mutual consent. TEC, at its sole discretion, can provide the compensatory education services, or it can contract out for a qualified third party to provide the compensatory education services. If Respondents refuse the services, this Order shall no longer have any force or effect.



- 303 hours  
compensatory  
education.

Dated this 24th day of June, 2022.

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

### Family represented by:

Aaron K. Bergman  
Bearnson & Caldwell, LLC  
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Logan, UT 84321  
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# 2022



## ORDER

Based upon the foregoing findings of facts, evidence in the form of testimony and exhibits, procedural and substantive issues and conclusions of law, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. It is ORDERED that Petitioners are the prevailing party in this matter.
2. It is ORDERED that Petitioners' request for relief in the form of the student being "enrolled in the Harmony Portfolio Program with a credentialed teacher of record monitoring the program" is GRANTED and further that the district is ORDERED to ensure that in doing so, that ALL state and federal regulations regarding such program be followed, including specifically that a credentialed instructor is assigned to the student for delivery of instruction and progress monitoring.
3. It is ORDERED that the Respondent shall, as soon as is practicable, conduct evaluation(s) of the student to determine where she currently stands in her educational progress, and if such evaluations find that the student is lacking or deficient, that the Respondents shall take all necessary actions to close the deficiency gap as soon as is possible, given the student's unique circumstances.
4. It is ORDERED that Petitioners' request for relief in the form of "continued attendance at Options Day program" is GRANTED. The student shall be provided services at whatever location is geographically preferred.
5. The Petitioner's request for attorneys fees is beyond the scope of authority of this hearing officer, thus such request is neither granted nor denied.

Any and all other requested relief, not specifically GRANTED and ordered herein, is DENIED.

Dated this 6th day of October, 2022.

//s// Frank Snowden

USBE Hearing Officer

William Pohl, Esq., appeared on behalf of Petitioners



- Enrollment in programs of choice.  
- Evaluate & "close the gap"

2023



### Conclusions of law

Based upon the foregoing Findings of Fact and analysis of issues and the Hearing Officer's own legal research, the Hearing Officer now enter the following Conclusions of Law:



1. Petitioners met their burden of proof that Respondent failed to provide the Student with a FAPE by ordering the student transferred to Renaissance Academy and by refusing to hold a meeting with parents to discuss same. *Shaffer v. Weast*, [546 U.S. 49](#), 61 (2005).

### Order

Based upon the foregoing, it is hereby ORDERED as follows:

1. It is ORDERED that Respondent will do each of the following:
  - a. Re-enroll [REDACTED] in the [REDACTED] Junior High School for the 2023-24 school year.
  - b. Cause to be performed a Functional Behavior Assessment, and, where appropriate and necessary, develop a behavior intervention plan based upon this data to be put in place as soon as possible.

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- c. The school district will collect criterion reference assessments commonly referred to as short cycle assessments to determine students current academic functioning.
  - d. After the collection of this data and analysis the IEP team will convene to develop appropriate interventions and supports to allow the student to access and progress in the general curriculum.

2. It is FURTHER ORDERED that the parents and the school district will ensure that each stakeholder will be fully involved and integrated into all the assessments to be done above herein; and specifically that the parents will ensure that the student is available and gives his best effort to ensure the genuineness of the results of these assessments.

3. Further that upon the conclusion of the academic assessments and data gathering, that the IEP team, at the direction and insistence of the school district,

will meet and set forth and implement a plan to recoup the nearly one half year of academic instruction that the child or student lost in the 2022-2023 school year, if the date so indicates.

4. The Petitioner's request for attorneys fees is beyond the scope of authority of this hearing officer, thus such request is neither granted nor denied.

All other requested relief, not specifically GRANTED and ordered herein, is DENIED.

Dated this 15th day of August, 2023.

//s// Frank Snowden  
USBE Due Process Hearing Officer

Amy Martz, Esq., appeared on behalf of Petitioners I