

September 13, 2024

VIA ELECTRONIC MAIL

Chip Underwood, Superintendent
Walton County School District
200 Double Springs Church Road
Monroe, GA 30656

RE: [REDACTED] v. Walton County School District/ Case Number **25-340614**
Formal Complaint Resolution

Dear Mr. Underwood:

This is the decision regarding the complaint filed against the Walton County School District by [REDACTED] (complainant) (parent) regarding her son, [REDACTED] (student). The concerns in the complaint are as follows:

1. Development, review, revision of individualized education program (IEP) (34 C.F.R. § 300.324)
2. Prior notice by the public agency; content of notice. (34 C.F.R. § 300.503)
3. Discipline Procedures (34 C.F.R. § 300.530)
4. Provision of free appropriate public education (FAPE) (34 C.F.R. §§ 300.17, 300.101)

The formal complaint process under the Individuals with Disabilities Education Act (IDEA) is to address specific allegations of violations of the IDEA and its regulations or violations of state special education rules. In response, the Georgia Department of Education (GaDOE) has reviewed all material submitted by the complainant, reviewed the Walton County School District's response, and conducted telephone and/or electronic mail interviews with the complainant and with district representatives.

The facts are as follows:

1. The student is a ninth-grade student who attends Walton Alternative Center in the Walton County School District (district).
2. The student is eligible for special education services and supports under the category of Other Health Impairment (OHI).



3. In the formal complaint, the parent alleges that the school district failed to provide the education services necessary for the student to receive a FAPE in the alternative educational setting. The parent alleges that the school district failed to provide the student with the services and supports necessary to progress towards the goals that are listed in his IEP.
4. In the formal complaint, the parent alleges that the school district failed to provide the student with information required in a prior written notice (PWN) about ending his IEP services while he is in the Walton Alternative Center.
5. In the formal complaint, the parent alleges that the school district fails to comply with GaDOE rules for discipline. The parent alleges that in late April 2024, the student was placed in the Walton Alternative/Virtual Center as punishment and the student must remain there until the end of December 2024.
6. In the formal complaint, the parent alleges that the student cannot receive a FAPE in a virtual setting.
7. The student's eighth grade schedule from August 2023 to April 22, 2024 includes the following classes: mathematics (.8 special education resource), physical science (.9 special education co-teaching in a general education setting), English language arts (ELA) (.9 special education co-teaching in a general education setting), exploring agriculture education (general education setting), social studies (.9 special education co-teaching in a general education setting),
8. On March 11, 2024, the IEP Team convened an annual review at ██████████ Middle School when the student was an eighth grader. Meeting participants included the parent, the local education agency (LEA) representative, the special education teacher/case manager, and the general education teacher.
9. The March 11, 2024 IEP's academic, developmental and/or functional strengths states that, "Academically, [the student's] reading performance suggests typical reading skills on a variety of assessments. He was measured to have verbal comprehension, visual spatial, working memory, processing speed, phonological processing, and rapid naming abilities that are just as developed as his peers. His processing speed abilities are a personal strength. Wechsler Intelligence Scale for Children- Fifth Edition (WISC-V): [the student's] Full Scale score of 88 ranks him at the 47th percentile compared with other children his age. He scored in the average range in all composite areas with high average processing speed abilities. Full-Scale IQ - 88 (average) Verbal Comprehension - 100 (average) Visual Spatial - 102 (average) Fluid Reasoning - 94 (average) Working Memory- 91 (average) Processing Speed- 111 (high average) Kaufman Test of Educational Achievement- Third Edition (KTEA-3): [the student] exhibits age-appropriate basic reading and reading comprehension skills. Reading Comprehension- 89 (low average) Letter and Word Recognition 91 (average)."
10. The March 11, 2024 IEP's parental concerns state that "[The parent] previously expressed concerns regarding [the student's] behavior in school and the impact that his choices may be having on his education and his ability to be successful at school. She recently decided to have communications regarding discipline issues be handled by the school principal. [The parent] asked to be informed about academic difficulties when there is work missing either through teachers or Principal."
11. The March 11, 2024 IEP's impact of the student's disability on his involvement and progress in the general education curriculum states that "[The student] is currently eligible

for special education services under the Other Health Impairment (OHI) category. He has a diagnosis of attention-deficit/hyperactivity disorder (ADHD). Social-emotional rating scales from both of his teachers indicate at-risk problems with hyperactivity, conduct problems, attention problems, and study skills. [The student's] co-teach[ing] math[ematics] teacher also indicated at-risk social skills and leadership and clinically significant learning problems. [The student's] self-report of his own functioning suggests clinically significant inattention and hyperactivity difficulties. Finally, teacher executive functioning ratings suggest [the student] has more difficulties with his ability to control and manage cognitive processes and to problem solve effectively compared to others his age. All rating scales align with teacher report, observations, and data that indicate [the student's] diagnosis of ADHD has an adverse impact on his academic functioning. These factors generally hinder his ability to progress in the general curriculum."

12. The March 11, 2024 IEP includes three measurable annual goals.
 - a. Goal 1 (Mathematics Operations): "[The student] will improve his math[ematics] abilities from a 4.88 grade level to a 5.5 grade level by solving multi-step problems that require him to decide on the appropriate steps and then solving with 70% accuracy in four of five trials."
 - b. Goal 2 (Social/Emotional/Behavior/Behaviors related to successful learning): "[The student] will complete assignments as they are given within the stated time frame with no more than one missing assignment per nine weeks in each of his classes."
 - c. Goal 3 (Written Language Expression): "[The student] will construct a paragraph with an introduction, supporting details citing evidence, and a conclusion using proper mechanics with 70% accuracy in four of five opportunities."
13. The March 11, 2024 IEP lists the following student supports:
 - a. Classroom testing accommodations: extended time up to 1.5 times (time and one half) the time typically allotted, frequent monitored breaks, small group
 - b. Instructional Accommodations: extended time up to 1.5 times (time and one half) the time typically allotted, frequent monitored breaks, small group, preferential seating near teacher, material broken down into manageable parts, check work frequently to ensure understanding, explain/paraphrase directions for clarity, redirections and prompting, scaffolding/ graphic organizer for written expression
14. The March 11, 2024 IEP includes instruction/related special education services inside the general education classroom:
 - a. English language arts (ELA), science, and social studies in a co-taught setting for five, one hour and 15 minute sessions each weekly, beginning March 12, 2024 ending May 22, 2024, provided by a special education teacher.
 - b. English language arts, science, and social studies in a co-taught setting for five, one hour and 30 minute sessions weekly, beginning August 1, 2024 ending March 10, 2025, provided by a special education teacher.
15. The March 11, 2024 IEP includes instruction/related special education services outside the general education classroom:
 - a. Mathematics in a small group, for five, one hour and 15 minute sessions weekly, beginning March 12, 2024 ending May 22, 2024, provided by a special education teacher.

- b. Mathematics in a small group, for five, one hour and 30 minute sessions weekly, beginning August 1, 2024 ending March 10, 2025, provided by a special education teacher.
16. On March 11, 2024 IEP meeting minutes states, in part, “The Purpose of the meeting is to complete [the student’s] Annual IEP Review... Introductions were made and the meeting proceeded with progress monitoring and present levels. The [s]pecial [e]ducation [t]eacher reviewed goals in the area of [m]ath[ematics], and [s]ocial and [e]motional, and [w]ritten [l]anguage... [The [g]eneral [e]ducation [t]eacher] indicated that [the student] works hard but needs reminders to stay on task... Mom did not have any questions and requested that either his teachers or [the [p]rincipal] informs her when [the student] has missing assignments. She also indicated that discipline for [the student] will be handled through [the [p]rincipal]... At this time mom did not have any questions. Services, supports and accommodations for High School are reviewed and the meeting adjourned.”
17. On April 12, 2024, the behavior detail report states, in part, “[The student] stated that he was handed a vape in the restroom to give to another student. [The student] then went to his classroom and was attempting to hide it from the substitute teacher. The substitute teacher saw the vape and [the student] handed it over.” The student had four resolutions:
 - a. Resolution 1: Law Enforcement Referral – April 11, 2024, until April 12, 2024, 1 day
 - b. Resolution 2: Out-of-School Suspension (OSS) - April 12, 2024, until April 20, 2024. Duration six days
 - c. Resolution 3: Hearing/Tribunal – April 22, 2024
 - d. Resolution 4: Alternative School Placement – April 25, 2024, until December 20, 2024
18. On April 15, 2024 a Manifestation Determination Review (MDR) was held at [REDACTED] Middle School. The MDR Team included in the decision, states in part,
 - a. “Was the conduct in question caused by or does it have a direct substantial relationship to the student’s disability? No”. Justification for team findings: “The [T]eam reviewed all relevant information provided at the meeting. It is noted that [the student’s] cognitive ability falls within the average range, and he exhibits difficulty with sustained attention and hyperactivity, which has an adverse impact on his education. The [T]eam agreed that having a diagnosis of ADHD would not cause a student to be in possession of a THC vape at school. He has no cognitive impairment or other condition that would cause him to not understand right from wrong or the consequences of behavior. [The student] does not have a pattern of this type of discipline offense. His parents disagreed with the [T]eam and stated that they do think this is a manifestation of his disability and that he succumbed to the peer pressure of his friend, which was very emotional for him.”
 - b. “Is the conduct in question a direct result of the system’s failure to implement the student’s IEP? No”. Justification for Team findings: “Consensus of the [T]eam including his parents was that the IEP was implemented with fidelity and did not cause the behavior that violated the school code of conduct.” Conclusion: The determination of the Team is that the behavior subject to disciplinary action states in part, “IS NOT a manifestation of the student’s disability.”
 - c. Justification for Team findings: “The [T]eam reviewed all relevant information provided at the meeting. It is noted that [the student’s] cognitive ability falls within the average range, and he exhibits difficulty with sustained attention and hyperactivity,

which has an adverse impact on his education. The [T]eam agreed that having a diagnosis of ADHD would not cause a student to be in possession of a THC vape at school. He has no cognitive impairment or other condition that would cause him to not understand right from wrong or the consequences of behavior. [The student] does not have a pattern of this type of discipline offense. His parents disagreed with the [T]eam and stated that they do think this is a manifestation of his disability and that he succumbed to the peer pressure of his friend, which was very emotional for him.”

19. A “Student Disciplinary Hearing” was held on April 22, 2024. The meeting participants were the student, the parent, a witness for the family, a student with disabilities (SWD) family advocate, the substitute teacher, the assistant principal, a school resource officer (SRO) and the hearing officer.
20. According to the April 23, 2024 Walton County School District Hearing Decision Letter The Hearing Officer found the student in violation of Rules 3.08 Drugs/Alcohol and 2.05 Disrespectful Behavior/Disregard for Directions or Commands. The hearing decision letter states, in part, “This will serve to inform you officially of the decision made from the Student Disciplinary Hearing that you did attend at ██████████ Middle School on April 22, 2024 on behalf of [the student]. The Hearing Officer found that [the student] violated rules 3.08 [and] 2.05 based on a preponderance of evidence. The Hearing Officer's decision is that [the student] will be expelled from ██████████ Middle School through December 20, 2024 with the 'Option to Attend' the Walton County School District Alternative School Program. The student must also attend and complete the Adolescent Substance Abuse Education Program (ASAEP) prior to returning to his home school.”
21. The student’s expulsion was from April 25, 2024 through December 20, 2024.
22. The student’s schedule was adjusted to reflect classes provided through the Walton Alternative Center (virtual platform). The new schedule reflects, beginning April 25, 2024 the classes are, physical science (general education setting), social studies (general education setting), study skills (.8 resource setting), English language arts (general education setting), and mathematics (general education setting).
23. An IEP Team meeting was held on April 29, 2024 but was tabled and the meeting was continued on May 2, 2024 at ██████████ Middle School. The meeting notice states the purpose of the meeting was to review and consider an amendment of a current IEP and discuss parental concerns. Attendees included the parents, the parent advocate, three LEA’s, a general education teacher, special education teacher/case manager, the school psychologist, and a school administrator.
24. The May 2, 2024 IEP’s parental concerns states in part, “The IEP Team met on April 29th 2024 [sic] to discuss Alternative School placement. The meeting was table to reconvene on May 2nd 2024[sic][.] Mom indicated that she is concerned that he would fall behind while he is in alternative school. [A family friend] (Advocate) indicated that a behavior assessment should have been completed for avoidance to which the [T]eam discussed that there was not a pattern of behavior that consisted of frequency, intensity, and duration that would suggest an [Functional Behavior Analysis] (FBA) was needed. Mom indicated that she requested an FBA through email to [the LEA]. There are no email[s] to suggest an FBA was requested.”
25. The May 2, 2024 IEP added two additional measurable annual goals to the March 11, 2024 IEP as follows:

- a. Goal 2 (Social/Emotional/Behavior/Behaviors related to successful learning): “[The student] will increase his quarterly task completion rate across [four] core academic classes from an average of 79% to 85% by turning in completed assignments by their due dates.”
 - b. Goal 4 (Written Language Expression): “Given a writing response [the student] will increase his writing skills in the areas of conventions (including spelling) throughout his writing with his final attempt at 85% accuracy.”
26. The May 2, 2024 IEP’s explanation of why the student will not participate with peers without disabilities in the regular class and/or in nonacademic and extracurricular activities states that “[The student’s] difficulties with executive function when attempting to solve math problems, as well as his demonstrated difficulties during testing, necessitate a small group placement for math[ematics]. On April 15, 2024 a manifestation determination was held for [the student] based on a behavior infraction, the IEP [T]eam determined The [T]eam found the behaviors of 3.08 Drugs and 2.05 Disrespect/ Disregard of Instructions due to being in possession of a THC Vape was not a manifestation of his disability of Other Health Impairment for ADHD. The [T]eam did not find that there was a direct and substantial relationship between the behavior and the disability. The [T]eam reviewed all relevant information provided at the meeting. It is noted that [the student’s] cognitive ability falls within the average range, and he exhibits difficulty with sustained attention and hyperactivity, which has an adverse impact on his education. The [T]eam agreed that having a diagnosis of ADHD would not cause a student to be in possession of a THC vape at school. He has no cognitive impairment or other condition that would cause him to not understand right from wrong or the consequences of behavior. [The student] does not have a pattern of this type of discipline offense. His parents disagreed with the [T]eam and stated that they do think this is a manifestation of his disability and that he succumbed to the peer pressure of his friend, which was very emotional for him. As a result and upon conclusion of hearing and IEP meeting [the student] will be attending Alternative School until December 2024.”
27. The May 2, 2024 IEP updated the special education services includes, instruction/related special education services inside the general education classroom to include English Language Arts, science, and social studies in a co-teaching setting for five, one hour and 35 minute sessions weekly, beginning January 6, 2025 ending March 10, 2025, provided by a special education teacher.
28. The May 2, 2024 IEP updated the special education services includes, instruction/related special education services outside the general education classroom:
- a. Social skills/Study skills in a small group setting for five – one hour and 15 minute sessions weekly, beginning May 2, 2024 ending May 22, 2024, provided by a special education teacher.
 - b. Social skills/Study skills in a small group setting for five – one hour and 35 minute sessions weekly, beginning August 1, 2024 ending December 20, 2024, provided by a special education teacher.
 - c. Mathematics in a small group setting for five – one hour and 15 minute sessions weekly, beginning March 12, 2024 ending May 2, 2024, provided by a special education teacher.

- d. Mathematics in a small group setting for five – one hour and 35 minute sessions weekly, beginning January 6, 2025 ending March 10, 2025, provided by a special education teacher.
29. The May 2, 2024 IEP meeting minutes state, in part, “The Purpose of the meeting is to discuss parent concerns and to address alternative school placement services. In attendance are [the parents], [the family advocate], [the school principal], [the ██████████ High School/Special Education Instructional Specialist – (LHS/SEIS)], [general education teacher], [special education teacher/case manager], [school psychologist], [special education coordinator], and [the ██████████ Middle School/Special Education Instructional Specialist – (LMS/SEIS)]... [The advocate] request the number of hours the [T]eam id recommending in comparison to the number of hours of supports provided in alternative school. [The advocate] and [the parent] wanted to discuss and consider adding a goal for Oral Reading fluency based on an Oral Reading Fluency goal from testing completed the previous school year and from independent assessment [the parent] sent the day of the meeting ([April 29, 2024]). This meeting is a continuation of a meeting that took place on April 29, 2024. The meeting continued with [special education teacher/case manager] reviewed current and previous goals... [The parent] voiced her concerns regarding him being placed in an alternative school setting. The meeting continued with [the special education coordinator] discusses options for goals and support for [the student]... Mom discussed the options of requesting an IEE, [the special education coordinator] reviewed the information that was sent to [the parent] by [a private provider related to the parent]. [The parent] asked if the school district had a list of providers. [The school principal] discussed [the student] needing to understand responsibilities. [The special education coordinator] discussed what alternative school will look like for [the student] and how supports and services will be provided... [The special education teacher] indicated that he has set up a link to meet with [the student] in order to support [the student] at this time. He stated that [the student] received the email but did not log on to the link. [The student] will be attending Alternative School until December 2024.”
30. The May 2, 2024 IEP contains a PWN which states in part,
- a. “Within this IEP, does the school district propose changes to the educational placement or provision of FAPE of the student? Yes
 - i. Section: PLAAAFP
 1. Describe the action or option that the school district is proposing.
The IEP Team proposed new goals/objective or changes to previous goals/objectives.
 2. Explain why the school district is proposing that action. Explanations are described in the attached meeting notes/minutes.
 3. Describe any other choices that the Individualized Education Program (IEP) Team considered and the reasons why those choices were rejected.
There were no other choices considered and rejected.
 4. Describe any other factors related to why the school district proposed the action or option.
There are no other factors related to the decision.
 5. When will the action be implemented?
March 5, 2024
 - ii. Section: SERVICES

1. Describe the action or option that the school district is proposing. The IEP [T]eam is proposing a change related to the amount, type, and/or location of services.
 2. Explain why the school district is proposing that action. Explanations are described in the attached meeting notes/minutes.
 3. Describe any other choices that the Individualized Education Program (IEP) Team considered and the reasons why those choices were rejected. There were no other choices considered and rejected.
 4. Describe any other factors related to why the school district proposed the action or option. There are no other factors related to the decision.
 5. When will the action be implemented? Services will be implemented as identified on the services section in this IEP.
- b. Within this IEP, is the district refusing an option proposed or considered that would be a change to educational placement and/or provision of FAPE for the student? No
 - c. The evaluation procedure, assessment, record, or report(s) the school district used in the decision are described in the Present Level of Achievement and Functional Performance and/or Transition Plan in this IEP.”
31. The May 2, 2024 PWN states that “You and your child have protections identified in the Parental Rights (also called procedural safeguards). If you need a copy of those procedural safeguards or need assistance in understanding your rights, please contact the following...” The PWN includes contact information for the special education director.
32. The student’s final grades for the 2023-2024 school year were: Agricultural Education 49%, English language arts 74%, Mathematics 70%, Study Skills 80%, Physical Education 100%, Physical Science 62%, Social Studies 64%, and Art 80%.
33. On June 13, 2024, the student engagement specialist at Walton Alternative Center sent an email to the parent stating that “Walton County does not offer an in person alternative school. I can send you a list of non-traditional education options if you would like.”
34. On June 13, 2024, the parent sent an email to the student engagement specialist at Walton Alternative Center stating, “Hi, also what does non traditional education option mean?”
35. On June 14, 2024, the student engagement specialist at Walton Alternative Center sent an email to the parent stating that “I have attached the list of Non-Traditional Educational options. These are just options that are not public school setting education options.”
36. On July 26, 2024, the school’s district attorney sent an email to the parent’s attorney stating, in part, “I have attached [the student’s] schedule for the upcoming school year. The high school is on a block schedule, with all students attending four courses. I have also included his Q4 progress report and a print out of the raw data from a Google Doc where it was uploaded. There is also a MAP Growth report. We are still trying to get the missing assignment printout for you. I have not forgotten them.”
37. On July 29, 2024, the parent’s attorney emailed the district’s attorney stating, in part, “When you send the missing assignments printouts, could you also send us a copy of [the student’s] transcript and Let’s Go Learn data? Also, I noticed that you only sent the schedule for the first semester of 24-25, and it only contains one core academic subject. We do have concerns about the schedule, but we can further discuss that during mediation. I believe you mentioned that the district might have a proposal prior to the mediation. Do you still anticipate sending us a proposal?”

38. August 1, 2024 was the first day of ninth-grade for the student.
39. On August 6, 2024, the school's district attorney sent an email to the parent's attorney stating, in part, "I'm just circling back to this to request for records. I have set you the Infinite Campus print out with all missing assignments. Our Director of Instructional Technology is still working with Let's Go Learn to work through a district-wide issue with accessing that data. The MAP report I sent contains all prior MAP scores. [The student's] mother opted out statewide assessments (i.e. Milestones). Accordingly, we do not have those scores. As I mentioned when we spoke yesterday, there are no middle school transcripts – only grade reports. His high school transcript does not show any credits because he hasn't earned any."
40. The student's ninth-grade first semester schedule for the 2024-2025 school year through the Walton Alternative Center (virtual platform) is as follows: Visual Arts I (general education setting), PE Health and Personal Fitness (general education setting), Study Skills I (.8 special education resource setting) and Environmental Science (general education setting).
41. On August 6, 2024 an IEP amendment meeting was held at ██████████ High School. The purpose of the meeting was to review and consider an amendment of a current IEP and develop/update the transition plan. Attendees included: the parent, a family friend and the parent's attorney, three special education teachers, a general education teacher, the LEA representative, the special education director, and the district's attorney.
42. The August 6, 2024 IEP amendment was updated at the request from the parent, the family friend, and the parent's attorney, to have the most recent scores in reading and mathematics.
43. The August 6, 2024 IEP amendment meeting parental concerns were updated states, "[The parent] shared with the [T]eam that she would like [the student] to be able to attend school in-person at ██████████ High School. The school [T]eam responded that they do not have the ability to overturn the disciplinary hearing decision, and therefore, only able to discuss services for alternative school placement. She shared that she does not believe that the virtual format of the alternative school provides him the support that he needs. [The parent's attorney] asked that the present level of performance be updated to include his final grades from last school year and his Spring 2024 EOG scores. The IEP has been updated to reflect the final grades, EOG scores are automatically updated in the IEP by GoIEP. [The parent's attorney] also asked that the [T]eam consider a letter provided by a child psychiatrist at CHOA regarding the impact of the expulsion on [the student's] mental health. The [T]eam reviewed the letter and will include it in [the student's] file. [The family friend] expressed concerns regarding present level and goals and the [T]eam reviewed updates for present levels. [The family friend] wanted to revisit the need for a reading goal. The [T]eam determined that we would need to convene an additional meeting to fully address the concerns from [the family friend] and [the parent]."
44. The August 6, 2024 IEP amendment meeting updated the special education services to include English Language Arts, and social studies in a co-teaching setting for five – one hour and 35 minute sessions weekly, beginning January 6, 2025 ending March 10, 2025, provided by a special education teacher.
45. The August 6, 2024 IEP amendment meeting updated the special education services to include:

- a. Social skills/Study skills in a small group setting for five – one hour and 35 minute sessions weekly, beginning August 1, 2024 ending March 10, 2025, provided by a special education teacher.
 - b. Study skills in a home instruction setting for two – one hour and 30 minute sessions weekly, beginning August 12, 2024 ending December 20, 2024, provided by a special education teacher.
 - c. Related Services transportation service for two – 30 minute sessions weekly, beginning August 12, 2024 ending December 20, 2024, provided by transportation personnel.
46. The August 6, 2024 IEP amendment meeting minutes state in part, “The IEP [T]eam met today to discuss options for services for [the student] for alternative school placement... Introductions of [T]eam members were made. [The parent] addressed concern that [the student] was missing Study Skills class because his teacher was participating in the IEP meeting. The school team explained that it was [the parent]’s decision to excuse the teacher from the meeting. The parent agreed for the teacher to remain in the meeting. The school district proposed the option of providing in person service (home instruction) two [one] hour, 30 minute sessions per week by a certified special education teacher at the [REDACTED] Library in [REDACTED] GA by a certified special education teacher. [The parent attorney] requested that the present level of the IEP be reviewed. Specifically, he requested that [the student]’s final grades from last school year be updated in the IEP, scores from his most recent MAP and EOG administration be updated. The [T]eam reviewed this information and it was updated within the IEP document. [The parent’s family friend] and [the parent] had questions specific to courses [the student] is taking in high school and block scheduling was explained. [The parent’s attorney] requested that the [T]eam consider a letter from a child psychiatrist from CHOA who is currently working with [the student]. [The parent’s attorney] summarized the letter for the [T]eam and a copy was sent to [T]eam members for review and asked that it be included in the social/emotional section of the IEP. [The parent] also shared with the [T]eam that [the student] is scheduled for an IEE on August 20 and August 29. The school district clarified that the IEP [T]eam is not able to return [the student] to [REDACTED] High School. [The parent’s attorney] and [the parent’s family friend] expressed that they felt there was more information that needed to be reviewed before a discussion of services occurred and that they have issues with the goals but the [T]eam could skip to services due to time constraints. The school team explained that this is an IEP amendment, and while present level information had been discussed in the last IEP meeting the [T]eam was willing to review the information again. The school district recommended focusing the time in this meeting on a review of services to support the currently developed IEP goals. [The parent’s attorney] agreed to hear the school district’s proposal for services. [The parent’s family friend] addressed her concern that goals for reading be revisited and expressed confusion again on his schedule and why is not currently in all his core academic classes and what courses he needs to graduate. The school district recommended again to address the services to support him in the current courses he is taking and his current IEP goals and reconvene an IEP to address the concerns of the reading goals and graduation requirements. The school district proposed the addition of in person service with transportation to the library. [The parent’s attorney] expressed that they did not agree to this and that they want him to be returned to in person service at [REDACTED] High School with co-teaching services. [The parent’s family friend]

again addressed her concerns about his schedule and the school district again explained block scheduling and how his goals will be addressed within his current schedule. [The parent] asked specific questions about how Study Skills is structured and the teacher answered those questions... The [T]eam also let [the parent] know that she needs to return his Middle School Chromebook and pick up one from the High School. The [T]eam discussed the need to schedule another IEP meeting and whether or not it should be after the IEE is completed. [The parent's attorney] informed the [T]eam that they would be seeking private services for [the student] and seeking reimbursement from the school district. The school district noted that we must hold an IEP meeting within [ten] days. [The parent's attorney] stated that he is not giving notice of private placement at this time. The school district reiterated the proposed services and will be providing them if the parent chooses to accept them."

47. The student's teacher reports progress monitoring states in part as follows:
- a. Mathematics-Teacher- "Progress monitoring for math[ematics], is listed below. [The student] is working on solving problems that require multiple steps to solve where he must decide on the appropriate steps when solving. March 13, 2024 – 60%, March 15, 2024 – 70%, March 17, 2024 – 74%, March 22, 2024 – 70%, March 28, 2024 – 60%, April 11, 2024 – 100%."
 - b. Social/Emotional/Behavioral Teacher- "His behavior has continued to improve as the year has progressed since Quarter [two]. [The student] has his moments, but overall I have not seen behaviors that were apparent early in the year... One thing that he and I are continuing to work on are side conversations with peers and making faces with his peers during instructional time. These behaviors are not as persistent, but they still have to be addressed every other day. [The student] is great in small group time. He gets work done, he maintains his focus, and causes little to no problems. Larger groups tend to cause distractions and spur unwanted behaviors."
 - c. ELA- Teacher- "Writing strengths: [The student] is able to produce the expected volume in his writing. He has little to no trouble writing about his interests. [The student produces whole paragraphs that include [four] [to] [five] sentences and can submit work with [three] [to] [five] paragraphs. March 11, 2024 – Scholastic Summaries – 50%, March 11, 2024 – Scholastic Summaries – 84%, March 18, 2024 – Last Letter Challenge – 100%."
48. On August 22, 2024, the parent sent an email to special education Instructional Specialist at [REDACTED] High School states, "We can move forward with tutoring for [the student]. When will the tutoring start?"
49. On August 22, 2024 the special education Instructional Specialist at [REDACTED] High School response to the parent states in part, "I just wanted to clarify that this is not for after school tutoring. It is an instructional segment focused on making progress toward IEP goals. It is not just to help with classwork, separate and apart from the task completion goal in his IEP. We are providing a certified teacher to assist him. I will get transportation set up to begin Monday the 26th. We would like to schedule the sessions for Mondays and Wednesdays from 3-4:30 with the regular school calendar. We will not meet during school breaks or on school holidays."

The findings are as follows:

1. Development, review, revision of Individualized education program (IEP) (34 C.F.R. § 300.324).

Under the IDEA, each public agency must ensure that the IEP Team reviews the student's IEP periodically, but not less than annually to determine whether the annual goals for the student are being achieved. 34 C.F.R. § 300.324(b)(1)(i). The IEP Team must also revise the student's IEP, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum, the results of any reevaluation, information about the student provided to or by the parents, the student's anticipated needs, and other matters. 34 C.F.R. § 300.324(b)(1)(ii).

Additionally, in the case of a student whose behavior impedes the student's learning or that of others, the IEP Team must consider the use of positive behavioral interventions and supports and other strategies to address that behavior. 34 C.F.R. § 300.324(b)(2).

Here, the parent asserts that the district failed to provide the education services and supports necessary to progress towards the goals listed in the IEP.

The student is currently a ninth grader who attends the Walton Alternative Center in the Walton County School District. The student is eligible to receive special education services and supports under the category of Other Health Impairment (OHI).

On April 11, 2024, the student was involved in a disciplinary incident. The student was charged with violation of rules 3.08 Drug/Alcohol and 2.05 Disrespect/Disregard for Command. The student was given six days of out of school suspension pending a disciplinary hearing which was scheduled for April 22, 2024. On April 15, 2024 a manifestation determination review was held which found that the student's violation of rules 3.08 and 2.05 was not a manifestation of the student's disability (OHI).

The disciplinary hearing was held on April 22, 2024, the hearing officer found the student to be in violation of the rules. The officer made the decision to expel the student from ██████████ Middle School through December 20, 2024 with the option to attend the Walton County School District Alternative School Program. The Walton Alternative Center is a synchronous virtual platform.

Prior to this change of placement, the student was receiving special education services in the general education classroom through co-teaching for English language arts (ELA), science, and social studies. The student received small group instruction for mathematics. After the manifestation determination review and disciplinary hearing, the IEP Team met on April 29, 2024 and May 2, 2024 to consider an amendment to the student services to reflect services in the virtual setting. The student's co-teaching and small group services were removed for the first semester of the 2024-2025 school year along. The Team added a social skills/study skills small group.

While the IEP Team did meet to determine the student's services in the alternative school setting, the student's services were changed outside of the IEP Team meeting without agreement from the parent to change the student's services outside of an IEP meeting. The student's new schedule began on April 25, 2024 and included physical science, social studies, ELA, and mathematics all general education classes. Study skills is included in the schedule as a small group class.

For the first semester of the 2024-2025 school year, the IEP Team appropriately developed the student's IEP to reflect his services in the interim alternative setting. The student was not enrolled in ELA, social studies, or mathematics so those services were discontinued until January 2025 when the student would be enrolled in these classes. The student would continue to have study skills. While the student was attending virtually, he still has access to teachers through a synchronous virtual platform.

On the whole, the IEP Team failed to meet prior to the student's services being changed for the remainder of the 2023-2024 school year.

The district is not in compliance with Development, review, revision of Individualized education program (IEP) (34 C.F.R. § 300.324).

2. Prior notice by the public agency; content of notice. (34 C.F.R. § 300.503).

Under the IDEA, the parents of a student with a disability shall be provided written notice a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education (FAPE) to the child. 34 C.F.R. § 300.503(a).

The written notice must include: (1) a description of the action proposed or refused by the agency; (2) an explanation of why the agency proposes or refuses to take the action; (3) a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) a statement that the parents of a student with a disability have protection under the procedural safeguards of Part B of IDEA and if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) sources for parents to contact to obtain assistance in understanding the provisions of the Part B of the IDEA; (6) a description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) a description of other factors that are relevant to the agency's proposal or refusal. 34 C.F.R. § 300.503(b).

Under the GaDOE Special Education Rules, in most cases, the above Notice requirements can be addressed by providing the parents(s) with a copy of documents such as the consent to evaluate, consent for placement, evaluation report, eligibility report, invitation to a meeting, the full individualized education program (IEP) (with minutes, if taken), and/or relevant documents, as appropriate. Ga. Bd. of Educ. R. 160-4-7-.09(5)(c).

Here, the parent asserts that district failed to provide the student with information required in a prior written notice about ending his IEP services while he is in the Walton Alternative Center.

As shown in Finding One, the student's services were changed outside of an IEP meeting without agreement from the parent. Prior written notice (PWN) was not provided to the parent prior to this change in educational placement. A PWN was provided on May 2, 2024, after the change in services had already occurred.

The district is not in compliance with Prior notice by the public agency, content of notice. (34 C.F.R. § 300.503).

3. Discipline Procedures (34 C.F.R. § 300.530)

Under the IDEA, school personnel may remove a student with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than 10 consecutive school days and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under 34 C.F.R. § 300.536). 34 C.F.R. § 300.530(b)(1). Within 10 school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the local education agency (LEA), the parent, and relevant members of the student's IEP Team must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parent to determine (1) if the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or (2) if the conduct in question was the direct result of the LEA's failure to implement the IEP. 34 C.F.R. § 300.530(e)(1). For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would apply to students without disabilities. 34 C.F.R. § 300.530(c).

Here, the parent asserts that the district fails to comply with the rules for discipline. The parent alleges that in late April 2024, the student was placed in the Alternative/Virtual Program as punishment and the student must remain there until the end of December 2024.

The student was involved in a discipline incident on April 11, 2024 that resulted in six days of out of school suspension. Within two school days of the incident, a manifestation determination review (MDR) was held on April 15, 2024. It was decided that the student's conduct was not a direct substantial relationship to the student's disability nor was it due to a failure to implement the student IEP with fidelity.

A disciplinary hearing was held on April 22, 2024 and the student was found in violation of the code of conduct. The student was expelled from school from April 25, 2024 to December 20, 2024. The student was given the option to attend the Walton County Alternative Center (a virtual platform). Before the IEP Team met to determine the appropriate services after the change of placement, the student's services were changed from co-taught and small group to general education. Under the IDEA the child's IEP Team determines appropriate services after a change of placement has occurred. 34 C.F.R. § 300.530(d)(5).

The district is not in compliance with Discipline Procedures (34 C.F.R. § 300.530).

4. Provision of Free appropriate public education (FAPE) (34 C.F.R. §§ 300.17, 300.101).

Under the IDEA, a FAPE must be available to all children residing in the state between the ages of 3 and 21. 34 C.F.R. § 300.101(a). A FAPE means special education and related services that: (1) are provided at public expense under public supervision and direction and without charge; (2) meet the standards of the state educational agency; (3) include an appropriate preschool, elementary school, or secondary school education in the state involved; and (4) are provided in conformity with an IEP that meets the requirements of 34 C.F.R. §§ 300.320-300.324. 34 C.F.R. § 300.17.

Here, the parent asserts that the district failed to provide the student with a FAPE. The parent alleges that, "Due to the nature of the student's disability, he cannot receive a FAPE in a virtual school setting."

On April 22, 2024 as a result of a disciplinary hearing and being found to be in violation of the rules the hearing officer expelled the student from his school and gave him the option to attend the Walton Alternative Center (a virtual platform). On April 22, 2024 the school changed the student's school schedule for the remainder of the 2023-2024 school year and removed him from the special education services reflected in the March 11, 2024 IEP. The school added a special education service that was not reflected in the March 11, 2024 IEP. These changes to services were made outside of an IEP Team meeting.

On April 29, 2024, the IEP Team met and determined that the virtual school setting was appropriate for the student for the 2024-2025 school year. The IEP Team revised the student's services to appropriately reflect the services he would get in the alternative setting. In looking at the length of the removal and the needs of the student, the Team determined that home instruction could be delivered through a virtual approach. See Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions, Office of Special Education and Rehabilitation Services (Question D-5, July 19, 2022). The student would be attending the alternative virtual program from August 2024 to December 2024. To aid the student with his academic needs, the student would continue to have small group study skills. Since the student was not enrolled in mathematics, ELA, and social studies, those services were removed and would begin in January 2025. While the student was attending virtually, he was attending in a synchronous environment which would give him access to teachers. In attending an interim alternative

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educational setting, the student is not entitled to the same full version of FAPE he would have received in his regular setting. Here, the IEP Team offered a modified version of FAPE to the student which was appropriate for the 2024-2025 school year.

While the district did change the student's services for the remainder of the 2023-2024 school outside of an IEP Team meeting, the record shows that the student passed most of his academic classes including mathematics. The student was also progressing on his IEP goals. Nevertheless, due to changing services outside of an IEP, the district is out of compliance for provision of FAPE for a procedural violation.

The district is not in compliance with Provision of Free appropriate public education (FAPE) (34 C.F.R. §§ 300.17, 300.101).

The resolutions are as follows:

The district shall review and revise, if necessary, its policies, practices, and procedures including but not limited to Development, review, revision of IEP (34 C.F.R. § 300.324), Prior notice by the public agency; content of notice. (34 C.F.R. § 300.503), Discipline Procedures (34 C.F.R. § 300.530), and Provision of Free appropriate public education (FAPE) (34 C.F.R. §§ 300.17 - 300.101). Specifically, the policies shall address ensuring services are not changed outside of an IEP Team meeting unless there is an agreement from the parent. The district shall provide these procedures to the GaDOE for approval no later than October 18, 2024. Upon approval of these procedures, the district shall train all special education teachers and administrators at ██████████ Middle School on how to implement these procedures through documented practices. The training will be documented with training materials and attendance rosters of participants and shall be provided to the GaDOE no later than December 20, 2024. If the district is required to revise their policies, practices, and procedures, then the district shall also disseminate the revised policies, practices, and procedures to all special education teachers and administrators in the district. Documentation of the dissemination of procedures shall be provided to the GaDOE no later than December 20, 2024.

All required documentation should be sent to:

Dr. Scott Smith, Program Manager
Dispute Resolution
Special Education Services and Supports
Georgia Department of Education
scsmith@doe.k12.ga.us

All decisions arising from this complaint process are final. There is no appeal or reconsideration process for formal complaint investigations. However, parties retain their right to utilize all dispute resolution processes. Failure of the Walton County School District to complete the required actions may result in the withholding of federal and/or state funds for special education.

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If you should have any questions, please contact Nykia Burke at nburke@doe.k12.ga.us
or 404-807-1690.

Sincerely,

 cc

John Wight, Associate Superintendent
Office of Federal Programs

JW:cc:

cc: Tara Geiser, Walton County School District, Special Education Director
Andrea Jolliffe, Walton County School District, Director of Legal Services & Policy
Eugene Choi, Senior Staff Attorney, SPLC
[REDACTED] Complainant
Paula Everett-Truppi, Investigator
Carla Carter, District Liaison