

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF EDUCATION**

Student [REDACTED] School District

IDPH-FY-24-04-047

**PETITIONER'S POST-HEARING SUBMISSION**

NOW COMES the Petitioner, [REDACTED] [REDACTED] and respectfully submits the following Post-hearing Submission in the matter of Student [REDACTED] School District.

1. The central question before us is whether the Present Levels of Performance section of [REDACTED] IEP should include grade-level performance information. After thoroughly examining the testimonies and the evidence presented, I firmly assert that including this information is not only beneficial but essential for my [REDACTED] academic success.

**Relevance and Benefits of Grade-Level Performance Information**

2. Including grade-level performance in the IEP directly aligns with the fundamental purpose of these plans: to provide a clear, comprehensive picture of the student's academic standing and to tailor educational strategies that meet their specific needs. The *NH Standards for the Education of Children with Disabilities* under Chapter ED 1100 emphasize that academic achievement must be measured against the general education curriculum. This is further supported by the definition of an IEP under Section 300.320, which mandates a statement of the child's present levels of academic achievement and how the disability affects progress in the general education curriculum. Therefore, it is evident that grade-level performance information is a critical component of an effective IEP.

**Testimony Highlights Supporting My Case**

3. [REDACTED] [REDACTED] admitted that [REDACTED] likes a data-driven approach to IEPs and acknowledged that grade-level performance is indeed a form of data. Despite [REDACTED] lack of direct interaction with my [REDACTED] [REDACTED] could not refute [REDACTED] outstanding performance in [REDACTED] reading abilities as demonstrated by [REDACTED] report card and standardized testing. [REDACTED] also conceded that the IEP meeting notes did not expressly justify the removal of grade-level performance from the IEP drafts, contradicting the District's stance that this change was a result of a team meeting.

4. ■■■ argued for focusing on skill development but acknowledged that determining grade-level performance requires standardized tests and classroom performance. ■■■ admitted that understanding academic needs is crucial for informing goals, accommodations, and services within the IEP. ■■■ testimony inadvertently supports the inclusion of grade-level data as it bridges the gap between skill development and measurable academic progress.
5. ■■■ provided crucial insights, confirming that my ■■■ was at grade level based on “*benchmarking assessments*” that were completed prior to the drafting of the January 2024 IEP meetings. These assessments, along with other supporting information, is what led to the appropriate grade level commentary on the original drafts that ■■■ ■■■ co-authored with the Reading Specialist ■■■ ■■■.
6. ■■■ highlighted inconsistencies in ■■■ testimony. Despite expressing difficulty in assessing grade-level performance due to “*adult assistance*,” ■■■ still assigned high grades (B+ and A+) to my ■■■ ■■■ A+ was given on or around March 29, 2024 (Exhibit P7), which was after ■■■ earlier assessment on March 7, 2024 (District’s Supplemental Exhibit 45) which ■■■ categorized as “*on/below level*.” While ■■■ testimony expressed a hesitancy to stand behind ■■■ grade assignment, again, due to heavy “*adult assistance*” ■■■ second trimester written commentary suggests the opposite. In the second trimester, ■■■ states that ■■■ is, “*...continuing to thrive in fourth grade!*” and that ■■■ “*...is improving in ■■■ ability to ask for help when necessary*” (Exhibit P7). These statements suggest that ■■■ isn’t as reliant on adults but rather that ■■■ is now better at seeking out help. These contradictions undermine the credibility of ■■■ testimony in which ■■■ appeared to walk back ■■■ achievements.
7. ■■■’s testimony ■■■ light on the fact that there are standardized assessments, including those already in use by the District, that evaluate and describe results in the context of grade-level equivalence. While it may not be ■■■ preference or that of the District’s, the mere existence of such evaluations gives credibility and weight to my position that this would be an appropriate means to speak to my ■■■ academic achievement.

## Rebuttal Exhibit

8. In the District's Supplemental Exhibit 63, [REDACTED] Sworn Statement, [REDACTED] states "Prior to December of 2022, [REDACTED] ***had never attended any special needs meetings*** for our children. [REDACTED] started attending these meetings after our separation in December of 2022, and in fact, the 2024 IEP meeting for [REDACTED] is the first annual IEP meeting that [REDACTED] ever attended." (emphasis added) While the relevance of these claims are questionable, they are nonetheless false. This false testimony speaks to the overall lack of credibility of the entire statement. Please refer to my rebuttal exhibit showing a small sample of my involvement in special education prior to December 2022, which has been significant throughout my children's lives.

## Legal and Practical Necessities

9. The legal framework governing IEPs unequivocally supports the inclusion of grade-level performance. The NH Standards and the Code of Federal Regulations require that academic achievement be measured against the general education curriculum. By excluding grade-level performance, the District not only violates these legal mandates but also deprives my [REDACTED] of a meaningful context for [REDACTED] academic progress. This information is essential for setting realistic goals, determining appropriate services, and ultimately, for evaluating when a transition off an IEP might be justified.

## Inconsistencies and Mixed Messaging by the District

10. The District's inconsistent stance on this issue is evident. While they resist including grade-level performance in the IEP, they use this very metric to report progress to parents. This inconsistency is apparent in their reporting methods and their selective use of grade-level data for different subjects, as shown in their communication about spelling performance.

## Conclusion

11. In conclusion, the inclusion of grade-level performance information in my [REDACTED] IEP is not merely a matter of preference; it is a legal and practical necessity. It provides a comprehensive and accurate picture of [REDACTED] academic achievements and needs, facilitating the development of effective goals and services. The testimonies presented, especially the

inconsistencies and acknowledgments by the witnesses, further reinforce the need for this critical information.

12. I respectfully request that the District is ordered to include grade-level performance in the Present Levels of Performance section of my [REDACTED] IEP, limited to the identified areas of need, and provide a clear finding of [REDACTED] current grade-level performance. This will ensure that [REDACTED] IEP reflects an accurate and holistic view of [REDACTED] academic standing, ultimately serving [REDACTED] best interests and supporting [REDACTED] continued growth and success.

**Proposed Findings of Fact**

13. The Student is at or above grade level for [REDACTED] fourth grade reading performance.

**Proposed Rulings of Law**

14. The Hearing Officer finds that the District did not comply with NH Chapter Ed 1109.01 by their failure to include statements concerning academic achievement on the Student's IEP as defined under NH Chapter Ed 1102.01.

WHEREFORE, the Petitioner respectfully request that the Hearing Officer;

- A. Order the District includes grade-level performance on the Student's IEP, limited to the identified area(s) of need; and
- B. Grant such other relief as may be just and proper

Respectfully submitted,

[REDACTED]

[REDACTED]

Date: June 14, 2024

**CERTIFICATE OF SERVICE**

I, [REDACTED] [REDACTED] certify that a copy of the Petitioner's Post-hearing Submission has been forwarded on this date via email to [REDACTED], Esq., counsel for the District.

[REDACTED]

[REDACTED]

Date: June 14, 2024





















