

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
26 EDC 00955

Student by parent or guardian Mother Petitioner, v. Orange County Schools Respondent.	REDACTED FINAL DECISION
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THIS MATTER comes before the undersigned Administrative Law Judge on Respondent Orange County Board of Education's Partial Motion to Dismiss and Motion for Summary Judgment filed on May 22, 2026. Petitioners filed a Response and Objection to Respondent's Partial Motion to Dismiss and Motion for Summary Judgment on May 26, 2026. A motions hearing was held on June 17, 2026 for all pending motions including Respondent's Partial Motion to Dismiss and Motion for Summary Judgment. As both Parties have responded to all pending motions and had an opportunity to respond and be heard on all pending motions, this matter is ripe for adjudication.

APPEARANCES

For Petitioners: Mother
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For Respondent: Patricia Ryan Robinson
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ISSUES

1. Whether Petitioners' Section 504 of the Rehabilitation Act of 1973 (Section 504) and Americans with Disabilities Act (ADA) claims must be dismissed for lack of subject matter jurisdiction?

2. Whether there are any genuine issues of material fact that all other Petitioners' claims must be dismissed because Petitioner Student has been found eligible for specially designed instruction and provided an offer of compensatory education thereby eliminating any case or controversy between the Parties?
3. Whether Petitioners' claims regarding the timeliness of the child find decision and amount of compensatory education should be dismissed for Mother's failure to attend and prosecute those claims during the dispositive motion hearing?
4. Whether Petitioner Mother should be sanctioned and ordered to pay Respondent's attorney's fees and costs for Mother's: failure to attend the settlement conference, failure to attend an Eligibility IEP meeting, failing to provide consent to the provision of special education services so that the proposed IEP could be implemented, and/or continuing to litigate resolved claims?
5. Whether a gatekeeper order should be entered to prevent Petitioner Mother's future abuse of the administrative process?

I. Respondent's Partial Motion to Dismiss and Motion for Summary Judgment,

BASED ON oral arguments at the hearing on June 17, 2026, as well as written arguments made by the Parties in Respondent's Partial Motion to Dismiss and Motion for Summary Judgment, and Petitioners' Response and Objection to Respondent's Partial Motion to Dismiss and Motion for Summary Judgment, as well as the Undersigned's review of the Amended Contested Case Petition filed in this case, and all records in this case, the Undersigned finds and concludes the following with respect to Respondent's Partial Motion to Dismiss and Motion for Summary Judgment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Procedural History

1. Student, by and through his parent or guardian Mother (collectively Petitioners), filed a Petition for Contested Case Hearing on or about March 18, 2026 against Orange County Schools (OCS, Respondent, or Board) alleging violations of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Section 504 of the Rehabilitation Act of 1974 (Section 504), and Title II of the Americans With Disabilities Act (ADA).

2. Petitioner filed a Motion for Leave to Amend Due Process Petition on April 13, 2026 seeking to add Chapel Hill-Carrboro City Schools (CHCCS) and Durham Public Schools (DPS) as additional Respondents and to assert additional claims against Orange County Schools.

3. This Tribunal issued an Order Granting, In Part, Leave to Amend Petition on April 22, 2026. Petitioner was directed to file an Amended Petition with background information about prior school years and educational services provided by CHCCS and DPS and any additional facts

pertaining to FAPE violations by Respondent OCS. However, Petitioner's request to amend the Petition to allow joinder of CHCCS and DPS was denied.

4. Petitioner filed the Amended Petition on April 28, 2026. Respondent's Response to the Amended Petition was timely filed on May 8, 2026.

5. Before Respondent's Response to the Amended Petition was filed, on May 7, 2026, Petitioner also filed a "Formal Addendum to Amended Due Process Petition" (Petitioners' Formal Addendum).

6. On May 18, 2026, Respondent objected to Petitioners' Formal Addendum as a second amendment attempt filed without leave, and as futile, duplicative and prejudicial. *See* Response to Formal Addendum.

7. As Petitioners were not granted leave for a second amendment of their Amended Petition as required by 20 U.S.C. § 1415(c)(2)(E) and 34 C.F.R. § 300.508(d)(3) and (4), Petitioners' Formal Addendum is disallowed as an amended petition.

8. For purposes of this Final Decision, the relevant claims for adjudication are the claims raised in the Amended Petition filed April 28, 2026. *See* Amended Pet.

9. In general:

Petitioners allege that Orange County Schools denied Student a free appropriate public education, failed to timely and comprehensively evaluate him in all suspected areas of disability, failed to properly consider and respond to prior disability history, failed to implement or ensure meaningful accommodations and supports, impaired parent participation, failed to provide appropriate prior written notice, failed to maintain and produce complete records in a way that allowed meaningful participation, and contributed to ongoing educational, emotional, functional, and procedural harm.

Amended Pet. ¶ 6, p 2.

10. Petitioners' claims center around Respondent's violations of its Child Find obligations and failures to evaluate Student in all suspected areas of disabilities. *See* Amended Pet. Sections V-VII Claims Two, Three, Four ¶¶ 26-45 pp 3-4.

11. Petitioners also assert that Respondent denied Student a FAPE by: 1. failing to implement accommodations and supports, specially the use of the planner in Student's 504 Plan (Amended Pet. Section VIII ¶¶ 46-51 pp 4-5); 2. improper discipline and punishment for disability-related behaviors (Amended Pet. ¶¶ 52-56 p 5); 3. parent participation violations (Amended Pet. ¶¶ 57-64 p 5); 4. prior written notice and procedural safeguard violations (Amended Pet. ¶¶ 65-68 pp 5-6); 5. records access, FERPA-related issues and procedural prejudice (Amended Pet. ¶¶ 69-73 p 6); and, 6. Section 504, ADA discrimination, retaliation, intimidation, coercion, and interference (Amended Pet. ¶¶ 74-78 p 6).

12. The FAPE violations cited in the Amended Petition cover the time frame beginning in January 2024 when Student enrolled in the Fifth Grade at New Hope Elementary School and continued through his enrollment at A.L. Stanback Middle School until the filing of the original Petition on March 18, 2026. Amended Pet. ¶¶ 81-84 p 6.

13. As relief, Petitioners sought:

1. A finding that Orange County Schools denied Student FAPE;
2. A finding that Orange County Schools violated Child Find;
3. A finding that Orange County Schools failed to timely and comprehensively evaluate Student in all suspected areas of disability;
4. A finding that Orange County Schools violated procedural safeguards and parent-participation rights;
5. A finding that Orange County Schools failed to provide appropriate prior written notice;
6. A finding that records-access failures prejudiced Petitioners' ability to participate and prepare;
7. An order requiring comprehensive independent or appropriate evaluations in all suspected areas, including autism- related concerns, trauma-related concerns, emotional disability, ADHD/OHI, written expression, dysgraphia-related concerns, learning disabilities, executive functioning, OT-related needs, speech/language or pragmatic communication needs where appropriate, and any other suspected disability areas;
8. An order requiring OCS to convene an appropriate IEP meeting after complete evaluations are available;
9. An order requiring OCS to consider eligibility under all appropriate IDEA categories;
10. An order requiring appropriate services, supports, accommodations, and specially designed instruction if eligibility is found;
11. An order requiring compensatory education and compensatory services for educational deprivation and delay;
12. An order requiring corrective action regarding implementation of accommodations;
13. An order requiring trauma-informed and disability-informed planning for Student;
14. An order requiring appropriate staff training related to Child Find, evaluation, parent participation, trauma- informed practices, autism-related needs, written-expression needs, dysgraphia-related concerns, Section 504, ADA, and disability-related discipline;

15. An order requiring full production of education records necessary for parent participation and hearing preparation;
16. An order preserving the relevance of prior school history and prior services as background and notice evidence against OCS; and,
17. Any other relief the Tribunal deems just and proper.

Amended Pet. Section XVII: Requested Relief pp 7-8.

14. Respondent seeks dismissal of all claims for lack of subject matter jurisdiction, mootness, and/or as sanctions for Mother's purported misconduct.

A. Partial Motion To Dismiss: Whether Petitioners' Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act (ADA) claims must be dismissed for lack of subject matter jurisdiction?

15. The Amended Petition includes allegations that OCS violated Section 504 of the Rehabilitation Act (Section 504) and Title II of the Americans with Disabilities Act (ADA).

16. Respondent filed a Partial Motion to Dismiss on May 22, 2026, seeking dismissal of all of Petitioners' claims under Section 504 and the ADA, pursuant to Rule 12(b)(1), and arguing that the Office of Administrative Hearings (OAH) lacks jurisdiction over these claims.

17. Petitioners filed a Response in Opposition on May 26, 2026, arguing that "OAH should not treat ADA/504 facts as irrelevant merely because Respondent says OAH lacks jurisdiction."

18. The Administrative Procedure Act specifically exempts from OAH's contested case provisions any Rehabilitation Act of 1973 claims. *See* N.C. Gen. Stat. § 150B-1(e)(5). Claims pursuant to a FAPE under the ADA are brought under Section 504 of the Rehabilitation Act.

19. OAH lacks jurisdiction over these claims and they must be dismissed without prejudice. To the extent required, Petitioners have sought to exhaust administrative remedies on these claims.

B. Motion For Summary Judgment: Whether there are any genuine issues of material fact that all other Petitioners' claims must be dismissed because Petitioner Student has been found eligible for specially designed instruction and provided an offer of compensatory education thereby eliminating any case or controversy between the Parties?

20. Respondent asserts that there are no genuine issues of material fact that all other Petitioners' claims must be dismissed because Petitioner Student has been found eligible for specially designed instruction and provided an offer of compensatory education thereby eliminating any case or controversy between the Parties.

Recitation of Undisputed Facts

21. An evidentiary hearing on this case has not been held but there are undisputed facts that support summary judgment for Respondent.

22. Petitioner Student is a twelve-year-old rising eighth grade student at A.L. Stanback Middle School (Stanback) in OCS. Amended Petition, p 1. Although Petitioners alleged other diagnoses, he is undisputedly diagnosed with Attention-Deficit/Hyperactivity Disorder (ADHD). Amended Pet. ¶¶ 27, 30g, pp 2-3.

23. The Amended Petition alleged that OCS “denied Student a free appropriate education, failed to timely and comprehensively evaluate him in all suspected areas of disability, failed to properly consider and respond to prior disability history, failed to implement or ensure meaningful accommodations and supports, impaired parent participation, failed to provide appropriate prior written notice, failed to maintain and produce complete records in a way that allowed meaningful participation, and contributed to ongoing educational, emotional, functional, and procedural harm.” Amended Petition, p. 2. Among the requested relief sought, Petitioner requests as remedies (1) independent evaluations, (2) eligibility determination, (3) compensatory education, (4) trauma-informed services, (5) staff training, (6) reimbursement, and (7) additional relief as appropriate. Amended Petition, pp 7-8.

24. In April of 2025, Petitioner Mother requested a referral for special education services for Student. Petitioner’s Comprehensive Stanback Chronology, p. 7. The IEP team met for an eligibility meeting on October 23, 2025, and found that Student was not eligible for special education services. *Id.* p 3. On February 28, 2026 Petitioner Mother submitted a second referral for special education services. *Id.* p 11.

25. Prior to the March 18, 2026 filing of the original Petition, on March 16, 2026 an IEP team convened and agreed to request formal evaluations to consider Student’s eligibility for special education services under the categories of Other Health Impaired (OHI), Emotional Disability (ED), and Specific Learning Disability (SLD). *Id.* pp 4, 14. Autism (AU) was subsequently added as an additional eligibility area for consideration. *Id.* p 14.

26. After completion of the evaluations, on May 15, 2026 the IEP team met and found Student eligible for special education services under the category of OHI. *See* May 15, 2026 Proposed IEP. The team then developed a proposed IEP with specially designed instruction for behavior, written expression, academic skills, and math, in both general and special education settings. *Id.*

27. Petitioner Mother did not attend the IEP meeting on May 15, 2026. Affidavit of Burns, ¶ 12. The District’s Executive Director for Exceptional Children, Stacey Burns, emailed Petitioner the finalized evaluation documentation, eligibility determination, prior written notice, proposed initial IEP, meeting minutes, consent for initial provision for special education services, Parents’ Rights Handbook (procedural safeguards), and Independent Educational Evaluation procedures the afternoon of the meeting. Affidavit of Burns, ¶ 12; May 15, 2026 Email from Burns to Mother. Petitioner Mother admitted during the June 17, 2026 hearing that she received these

documents but had not signed the consent for services. Her excuse was that she did not know if the proposed IEP was appropriate or would be implemented with fidelity in the future, and if the compensatory services were sufficient. She also complained it was unfair that she had to file due process to get Respondent to finally agree with her that Student needed an IEP. She further indicated that she should somehow be compensated for this delay implying she wanted additional monetary damages unavailable from OAH.

28. On May 18, 2026, Ms. Burns emailed Petitioner a letter offering several remedies in response to Petitioner's concerns regarding Student's eligibility for special education services. Affidavit of Burns, ¶ 16; May 18, 2026 Letter from Burns to Mother re: Compensatory Services.

29. The offer included 165 hours of compensatory education services; staff training on trauma-informed practices, child find, and parent participation; and independent educational evaluations in five areas requested by Petitioner (psychoeducational, autism, behavioral/emotional; speech-language, and occupational therapy). *Id.*

30. In Petitioners' Response to the summary judgment motion, they contend that the "issues are disputed. Specifically, Petitioners dispute that later eligibility and later offers erased all the alleged denials of FAPE, Child Find violations, evaluation delays, prior non-implementation of supports, records barriers, parent-participation harm, procedural-safeguard violations, and ongoing student-protection concerns raised in Petitioners' filings." Pet'r Resp. to Mot Sum Jud. p 2.

31. Petitioners further elaborated that: "[l]ater eligibility does not resolve whether Child Find, evaluation, FAPE, PWN, records, and participation violations occurred before May 15, 2026 or what remedy is owed for delay;" the IEEs that were offered have not been completed; the 165 hours of compensatory education may not remedy the harm; "unilateral [staff] training does not establish that past violations are remedied or that current protection concerns are resolved"; and that the Parents' refusal to consent for services does not "make[] the case moot, especially when parent participation, evaluation, IEP adequacy, and consent pressure are disputed." *Id.* Pet'r Resp. to Mot. Sum Judg. P. 2.

32. Petitioners do not, however, dispute that Student was found eligible for an IEP, an IEP was developed, Respondent agreed to fund the requested Independent Educational Evaluations (IEEs), and Respondent offered 165 hours of compensatory services. All of which were remedies sought in the original and Amended Petitions.

33. In essence, Petitioners contend that, while an IEP was developed after the original Petition was filed, based on Student's educational history Respondent should have found Student eligible in the Fifth Grade when he transferred to New Hope Elementary School.

34. Petitioners assert that: "At minimum, pre-March 18, 2025 facts should remain admissible and relevant to notice, Child Find, pattern, knowledge, and remedy. Petitioners request that no blanket limitations ruling be entered without full factual development. Pet'r Resp. to Mot Sum Judg. p 3.

35. Although questions of fact may have existed as to whether Student should have been found eligible prior to May 15, 2026 IEP meeting and thus entitled to more compensatory education, other than their blanket assertions in their pleadings and Response, Petitioners failed to file any opposing affidavit or documentation in their Response to forecast sufficient evidence to show the existence of genuine issues of material fact on these claims.

Applicable Law Governing Motion for Summary Judgment

36. Summary judgment is appropriate when the record shows “that there is no genuine issue as to any material fact and that any party is entitled to judgment as a matter of law.” N.C. Gen. Stat. § 1A-1, Rule 56(c). All evidence must be viewed in the light most favorable to the party against whom summary judgment is proposed, taking its asserted facts as true, and drawing all reasonable inferences in its favor. *Kennedy v. Guilford Tech. Community College*, 115 N.C. App. 581, 583, 448 S.E.2d 280, 281 (1994). The party seeking summary judgment bears the initial burden of demonstrating the absence of any genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

37. “According to well-established North Carolina law, when a moving party has met his burden of showing that he is entitled to an award of summary judgment in his favor, the non-moving party cannot rely on the allegations or denials set forth in her pleading, *Ind– Com Elec. Co. v. First Union Nat. Bank*, 58 N.C. App. 215, 217, 293 S.E.2d 215, 216–17 (1982), and must, instead, forecast sufficient evidence to show the existence of a genuine issue of material fact in order to preclude an award of summary judgment.” *Steele v. Bowden*, 238 N.C. App. 566, 768 S.E.2d 47, 57 (2014). “An Administrative Law Judge may grant . . . summary judgment, pursuant to a motion made in accordance with G.S. 1A-1, Rule 56, that disposes of all issues in the contested case.” N.C. Gen. Stat. § 150B-34(e).

38. “A genuine issue of material fact is one that can be maintained by substantial evidence. Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, and means more than a scintilla or a permissible inference.” *Ussery v. Branch Banking and Trust Co.*, 368 N.C. 325, 335, 777 S.E.2d 272, 278-79 (2015) (citations omitted). “Factual disputes that are irrelevant or unnecessary will not be counted[.] . . . A fact is material only if it might affect the outcome of the suit under governing law.” *Anderson v. Liberty Lobby*, 477 US 242, 247-48 (1986).

39. “Whenever, during the course of litigation it develops that the relief sought has been granted or that the questions originally in controversy between the parties are no longer at issue, the case should be dismissed, for courts will not entertain or proceed with a cause merely to determine abstract propositions of law.” *Simeon v. Hardin*, 339 N.C. 358, 370, 451 S.E.2d 858, 866 (1994); *see also McAdoo v. Univ. of N.C. at Chapel Hill*, 225 N.C. App. 50, 68, 736 S.E.2d 811, 823 (2013) (holding that a case is moot and subject to dismissal when a plaintiff has “effectively obtained the relief sought”); *Sch. Bd. of the City of Norfolk v. Brown*, 769 F.Supp.2d 928, 953 (E.D. Va. 2010) (holding that a controversy over whether a proposed IEP should be implemented was mooted by the subsequent implementation of a different IEP).

40. The primary controversy between the Parties—the Board’s failure to find Student eligible for special education services on October 23, 2025—has been resolved. The Board has found Student eligible for special education services, developed an IEP, and offered Student compensatory services for all identified service areas in the proposed IEP. All of the remedies Petitioner requested that are within the jurisdiction of OAH have already been provided, either through the May 15, 2026 Eligibility Meeting or Ms. Burns’ May 18, 2026 compensatory services letter.

41. Petitioners have received the relief sought that is within this Tribunal’s authority to provide, and therefore, there is no actual case or controversy remaining between the Parties. Any holding by the Undersigned on the issue of evaluation/child find issues within the one-year statute of limitations would be an advisory opinion, which is beyond the jurisdiction of this Tribunal. The Respondent is therefore entitled to summary judgment on Petitioner’s remaining claims, on the basis that they are moot.

42. Moreover, Petitioners as the non-moving party relied solely on their allegations and denials set forth in their pleadings with respect to any Child Find claims or FAPE violations predating March 18, 2025. As such, Petitioners failed to forecast sufficient evidence to show the existence of a genuine issue of material fact in order to preclude an award of summary judgment against them.

43. Even viewing the facts in the light most favorable to Petitioner, Petitioners have failed to provide substantial evidence supporting their claims; therefore, all of Petitioners’ claims must be dismissed.

C. Petitioners’ Motions and Requests:

44. Separate from Petitioners’ legitimate motions and responses, Petitioners filed many other requests, notices, objections, and clarifications in this contested case. In addition, Petitioner Mother improperly filed email communications from the NCDPI mediator which were ordered stricken from the record. Below is a listing of Petitioners’ filings:

1. Petitioner's Comprehensive Objection clarification and Response to Respondent's May 8, 2026 Response to Amended Petition and Failure to Specifically Respond to Addendum to Amended Petition (05/11/2026);
2. Petitioner's Supplemental Notice and Objection Regarding Evaluation Completion Notice Disclosure and Meaningful Parent Participation (05/11/2026);
3. Petitioner's Notice of Filing Student Testimonial Statement (05/11/2026);
4. Petitioner's Creekside-Only Chronology and Procedural-Access Filing (05/11/2026);
5. Petitioner's New Hope to Stanback Transfer Chronology and 504/Child Find Notice of Filing (05/11/2026);
6. Petitioner's Comprehensive Stanback Chronology Notice and Preservation of Issues (05/11/2026);

7. Notice of Preservation of Objection Regarding IEE Request Evaluation Dispute Student Harm and May 15, 2026 Eligibility/IEP Meeting (05/12/2026);
8. Motion to Postpone May 15, 2026 Eligibility/IEP Meeting Compel Written IEE Response/PWN Preserve Full Evaluation Record and Address Procedural Safeguards (05/12/2026);
9. Petitioner's Notice of Apology Procedural Clarification and Request to Reschedule Accommodation/Motion Discussion (05/18/2026);
10. Petitioner's Motion for Long-Term Continuance Disability-Access Scheduling Protections Meaningful Mediation/Resolution Opportunity and Status Conference on Pending Motions (05/18/2026);
11. Petitioner's Current Emergency Motion for Immediate Prehearing Relief Threshold Rulings Record and Transcript Access Non-Retaliation Protections and Preservation of IDEA Section 504 ADA FERPA-Related and Civil-Rights-Overlap Issues (05/18/2026);
12. Petitioner's Notice of Comprehensive Educational, Parent-Access, Civil Rights, and Full Remedial Relief Framework (05/20/2026);
13. Notice of Objection Preservation of Record Notice of Procedural Concerns and Request for Protective Relief Regarding 5/20/26 Conference Conduct Claim- Narrowing Disability Access Prent-Participation Harm IEP Pressure and Continued Need for Fair Process (05/22/2026);
14. Petitioner's Emergency Motion for Interim Protective Relief Discontinuance of Silent Lunches Public Call-Outs Humiliation-Based Discipline Disability- Related Disciplinary Practices and Preservation of Electronic Evidence (05/22/2026);
15. Petitioner's Amended Motion for Immediate Review, Status, Clarification, and Ruling or Direction on Pending Filings, Motions, Stricken Matters, Requests for Protections, and the Purpose of the Recent Conference (05/22/2026);
16. Notice Of Preservation of Record Regarding May 22, 2026 School-Dance Incident, Ongoing Student-Protection Concerns, Request That Attendance or Procedural Questions Be Directed To Parents, and Renewed Request for Immediate Protective Direction (05/26/2026);
17. Supplemental Notice and Renewed Objection Regarding Evaluation Methods Used With Student; Request That the Court Preserve And Review The Full "Who, What, When, Where, Why, And How" Of Petitioner's Evaluation Objections (05/26/2026);
18. Petitioner's Notice of Procedural Concern, Preservation of Response Rights, Objection to Respondent's Global Response/Narrowing of Pending Filings, and Request For Equal Application of Response Deadlines (05/28/2026);
19. Petitioner's Notice of Required Settlement Conference Clarification, Request for Disability Access Accommodations, Preservation of Petition and Addendum Issues, and Request that the June 10 Settlement Conference Not Proceed absent Written Terms and Procedural Safeguards (05/28/2026);
20. Letter – Email to OCS entitled Notice of Ongoing Parent Participate, Evaluation, and Section 504/IDSEA Concerns (05/29/2026); and,

21. Petitioner's Notice Regarding Conference Conditions Disability-Related Accommodation Concerns Procedural Fairness and Preservation of Record (06/01/2026).

45. Because of these numerous filings, a conference call was scheduled for May 14, 2026 at 10:00 a.m. to address all pending motions and filings. Respondent appeared with counsel but Petitioner Mother failed to attend.

46. Afterwards, Mother apologized stating that she had "serious health condition that is, at this time, being temporarily referred to as severe peripheral neuropathy" and that she was currently unable to drive to Raleigh." Pet'r Notice of Apology (05/18/2026).

47. Petitioner's accommodation request to reschedule the hearing to a virtual setting after 1:00 p.m. was granted and a motion hearing via Webex was scheduled for May 29, 2026 at 1:00 a.m.

48. During the May 29, 2026 hearing, prior to addressing the Parties' motions, the Undersigned reviewed with the Parties all of Petitioners' filings to determine if any of these filings could be construed as motions. Petitioners' filings which were judicable motions were addressed.

49. Petitioner Mother was also instructed that many of the documents contained factual material or evidence which were inappropriate to file in the record at that time. Since that instruction, Mother filed only one Notice in which she apologized for misunderstanding the rules as a *pro se* litigant and how "repeated emphasis on procedural mistakes felt humiliating, embarrassing and emotionally distressing." Pet'r Notice Regarding Conference Conditions, Disability-Related Accommodations Concerns, Procedural Fairness, and Preservation of Record (06/01/2026). During the May 29th hearing, the Undersigned acknowledged the difficulties Mother faced as a *pro se* litigant and recognizes in this Final Decision that Mother was simply doing the best she could in seeking relief for her disabled child.

50. When focus shifted at the May 29th hearing to Respondent's Motion for Partial Dismissal and for Summary Judgment, Mother became emotionally distressed, claimed she had a migraine headache, and wished to terminate the hearing. A 15-minute recess was called, after which Petitioner Mother did not return to the proceedings.

51. In light of her averred ailment, to afford Petitioner Mother an opportunity to be fully heard on the dispositive motions, the motion hearing was rescheduled for an in-person hearing at 1:00 a.m. at the Durham County Courthouse on June 17, 2026. *See* Notice of Reschedule Hearing on Motions (06/08/2026). In addition, an ADA Accommodation Request Form was attached to the Notice. Mother did not complete the ADA Accommodation Form or provide any medical documentation supporting ADA accommodations.

52. Without excuse, Petitioner Mother appeared almost 15 minutes late for the motion hearing. After Petitioners' motions were addressed, Respondent's counsel began arguing the dispositive motions. At which time, Petitioner Mother rose to leave, objected to the "minimizing" of her case, refused to further participate, and even though a break was offered, opted to leave the proceedings. Prior to her leaving, Mother was instructed that even if she chose to leave, the hearing would continue without her present and would not be rescheduled a second time. Her choice being made, the hearing proceeded without her.

53. Since Respondent's dispositive motions have been granted and Petitioners' claims dismissed, all of Petitioners' legitimate motions are now dismissed as moot.

D. Respondent's Motion for Sanctions and Gatekeeper Order:

1. Whether Petitioner Mother should be sanctioned and ordered to pay Respondent's attorney's fees and costs for Mother's: failure to attend the settlement conference, failure to attend an Eligibility IEP meeting, failing to provide consent to the provision of special education services so that the proposed IEP could be implemented, and/or continuing to litigate resolved claims?

54. On July 2, 2026, Respondent filed a Motion for Sanctions and Gatekeeping Order. Two Requests for Response to this motion were issued on July 6, 2026 and July 10, 2026. Petitioners' response deadline was July 15, 2026 and she did not file a response to this Motion.

55. Respondent filed its Motion for Sanctions and Gatekeeping Order pursuant to Rule 11 of the North Carolina Rules of Civil Procedure, N.C. Gen. Stat. § 150B-33(b)(10), and 26 NCAC 03.0114, seeking payment of reasonable attorneys' fees and a gatekeeping order requiring that any future filings be approved by a N.C. licensed attorney or OAH judge before being accepted onto the docket through July 1, 2028.

56. Respondent contends that Petitioner Mother wasted both school system and judicial resources in this matter, caused unnecessary delay, and needlessly increased the cost of litigation by failing to engage in the special education process for her son while due process was pending and failing to attend required hearings and settlement conferences.

57. The central claim in the April 28, 2026 Amended Petition was that OCS failed to comply with its Child Find obligations to find Student eligible for special education services. Amended Petition, p. 2. Despite contending that OCS should have found her son eligible for an IEP, Petitioner has refused to engage in the IEP process to develop an IEP for her child, and, as of the date of this Final Decision, has failed to provide consent for special education services so that the proposed IEP could be implemented.

58. In response to Petitioner's stated concerns regarding evaluations, OCS's Executive Director of Exceptional Children, Stacy Burns, scheduled two different times for Petitioner Mother to meet with each of the evaluators who had conducted evaluations for Student in anticipation of

the May 15, 2026 IEP eligibility meeting, on May 11 and May 13, respectively. Five different professionals blocked time off their calendars on these two days to meet with Petitioner and answer any questions she had regarding their evaluation reports. Petitioner Mother did not attend either scheduled meeting.

59. On May 15, 2026, OCS held an IEP eligibility meeting for Student and determined that he is eligible for special education services. Petitioner Mother did not attend the IEP meeting despite previously confirming her availability for the date fifteen days in advance of the meeting. Petitioner Mother has also failed to provide consent for special education services for Student, despite receiving the proposed IEP and multiple reminders from Ms. Burns following the IEP meeting.

60. Similarly, Petitioner Mother has repeatedly failed to attend or left early from scheduled judicial conferences and hearings, wasting both judicial and school system resources.

61. On May 14, 2026, the Tribunal held a conference to discuss Petitioner's accommodation requests and generally the procedures for motions and response deadlines. Petitioner did not attend the conference. Attorney for the Respondent attended the conference.

62. On May 29, 2026, the Tribunal held a virtual hearing on Petitioner's pending motions. The hearing was moved from 10:00 a.m. at the N.C. Office of Administrative Hearings to 1:00 p.m. on WebEx specifically to accommodate Petitioner Mother's request. Petitioner joined the hearing late after the Undersigned's law clerk called her and emailed her to request that she join the virtual hearing.

63. The beginning portion of the May 29th hearing was spent clearing the docket of unnecessary and improper filings by Petitioner. After Petitioner expressed feeling unwell, the Tribunal granted her a fifteen-minute break. Petitioner failed to rejoin the hearing after the break. The hearing ended early without addressing any of the pending motions, as the hearing would not continue without the Petitioner, a fact she was made aware of at the beginning of the hearing. Attorney for the Respondent rejoined the hearing after the fifteen-minute break and waited with the Undersigned for Petitioner. Mother never rejoined the hearing.

64. On June 4, 2026, with the consent of both Parties, the Tribunal issued a Notice and Order of Settlement Conference, requiring that each party attend a judicial settlement conference on June 10, 2026 at the Orange County Historical Courthouse. The Order included specific directions to Petitioner on how to submit an ADA accommodation request for OAH. Petitioner did not submit any accommodations requests despite claiming she needed significant accommodations in her prior filings.

65. On June 8, 2026, the Tribunal issued Notice of Rescheduled Hearing on Motions, rescheduling the motions hearing for June 17, 2026 at 1:00 p.m. at the Durham County Courthouse. The Notice notified all Parties that, "failure to appear at the hearing may result in sanctions being imposed in accordance with N.C. Gen State § 150B-33(b)(10) and 26 NCAC 03.0114, which may include dismissal of the Petition."

66. In the interim, on June 10, 2026 Respondent's counsel, LEA Representative Stacey Burns, and the Honorable Administrative Law Judge Karlene Turrentine waited over an hour at the Orange County Historical Courthouse for Petitioner Mother to attend the judicial settlement conference as previously agreed. Petitioner Mother never arrived and never provided an excuse for her absence.

67. On June 17, 2026, the Undersigned held the Rescheduled Hearing on Motions. After Petitioner N.B was not present at 1:00 p.m. for the start of the hearing, the Undersigned directed a fifteen-minute waiting period. The Undersigned noted on the record that there was ample parking in the adjacent parking lot, the courthouse was basically empty, and there were no lines at security. Petitioner Mother arrived in the courtroom at approximately 1:13 p.m. and provided no excuse for her tardiness. After Mother's arrival, the Undersigned proceeded to review Petitioner's pending motions.

68. During the course of the hearing, Petitioner was instructed not to make personal attacks against Respondent's counsel. After over an hour discussing Petitioner's pending motions, Respondent's counsel began arguing Respondent's Partial Motion to Dismiss and Motion for Summary Judgment. Petitioner immediately began interrupting Respondent's counsel, became belligerent, raised her voice at the Undersigned, and then abruptly started to walk out of the courtroom.

69. Petitioner was offered the option to take a break, but Petitioner ignored this offer and proceeded to leave the court room, yelling. The hearing continued without Petitioner, and the Undersigned verbally granted Respondent's Partial Motion to Dismiss and Motion for Summary Judgment. Because of her disturbing behavior¹ and admission of mental health issues, after the hearing, the Undersigned requested a police escort for the remaining participants.

70. By refusing to fully engage in court ordered proceedings, Respondent asserts that Petitioner Mother has unnecessarily delayed the litigation and has needlessly increased the costs incurred by OCS; her pattern of disengagement with the litigation and the IEP process reflects a clear intention to unnecessarily delay this action and increase the cost of litigation for the Board; and OCS has had to spend significant resources on attorney's fees due to the Petitioner's chronic tardiness and absenteeism.

71. Respondent requested that the Undersigned require Petitioners to pay attorneys' fees and costs incurred by OCS for their attorney to prepare for and attend the hearings and settlement conference that the Petitioner Mother was absent from or did not attend for the duration, as well as the costs incurred in drafting and filing the Motion for Sanctions and Gatekeeping Order.

72. Respondent provided a sworn affidavit which included as an exhibit a report detailing the reasonable fees of the following filings and proceedings:

¹ Notably, the prior week two Fox Rothchild attorneys were shot leaving Wake County Courthouse by a mentally ill plaintiff.

Statement of Account: May 14, 2026 Judicial Conference - \$399.50
Statement of Account: May 29, 2026 Virtual Motions Hearing - \$399.50
Statement of Account: June 10, 2026 Mediated Settlement Conference \$869.50
Statement of Account: June 17, 2026 Motions Hearing - \$963.50
Statement of Account: July 2, 2026 Motions for Sanctions and Gatekeeping Order -
\$1,332.00

Total Amount: \$3,964.00.

73. These fees are reasonable and commensurate with the prevailing community rate.

Conclusions of Law: Motion for Sanctions

74. Rule 11 prohibits parties from filing any pleading for “any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.” N.C. Gen. Stat. 1A-1, Rule 11. “An improper purpose is any purpose other than one to vindicate rights ... or to put claims of right to a proper test.” *Brown v. Hurley*, 124 N.C. App. 377, 382, 477 S.E.2d 234, 238 (1996) (internal quotations omitted).

75. “Parties, as well as attorneys, may be subject to sanctions for violations of the improper purpose prong of Rule 11. Further, both are subject to an objective standard to determine the existence of such an improper purpose.” *Bryson v. Sullivan*, 330 N.C. 644, 656, 412 S.E.2d 327, 332 (1992).

76. An award of attorneys’ fees and costs is an available sanction under Rule 11. *See* N.C. Gen. Stat. 1A-1, Rule 11 (“If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney’s fee.”); *see also, e.g., Davis v. Durham Mental Health/Dev. Disabilities/Substance Abuse Area Authority*, 165 N.C. App. 100, 110, 598 S.E.2d 237, 244 (2004) (upholding award of attorneys’ fees and costs in excess of \$10,000 as Rule 11 sanction against former employee who filed suit against government agency for improper purpose of retaliation and “in order to gain leverage in settlement negotiations”).

77. A court “must make findings of fact to support the award” of attorneys’ fees, but need not make “detailed findings.” *Stilwell v. Gust*, 148 N.C. App. 128, 131, 557 S.E.2d 621, 629 (2001). “These findings must include the ‘time and labor expended, the skill required, the customary fee for like work, and the experience or ability of the attorney.’” *Id.* (quoting *Cotton v. Stanley*, 94 N.C. App. 367, 369, 380 S.E.2d 419, 421 (1989)). Costs may be awarded at the discretion of the judge. *Id.* at 132. Sanctions may also be awarded for the failure of a party to attend a mediated settlement conference pursuant to 26 NCAC 03 .0205.

78. This Tribunal has the authority to impose Rule 11 sanctions. N.C. Gen. Stat. § 150B- 33(b)(10) (“An Administrative law judge may impose the sanctions provided for in G.S. 1A-1 or Chapter 3 of Title 26 of the North Carolina Administrative Code for noncompliance with

applicable procedural rules.”); 26 NCAC 03.0101(a) (“The Rules of Civil Procedure as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts . . . shall apply in contested cases in the Office of Administrative Hearings (OAH) unless another specific statute or rule of the Office of Administrative Hearings provides otherwise.”).

79. However, the Memorandum of Understanding (MOU) between OAH and the State Board of Education limits the award of monetary sanctions in the form of attorney’s fees and costs under G.S. 150B-33(b)(10) to discovery violations. MOU IV (B) (3)(c)(xiii) p 8. Therefore, the Undersigned cannot award attorney’s fees for these Rule 11 sanctions at this time.

80. While monetary sanctions are not available under Rule 11 or G.S. 150B-33(b)(10) in this context, the IDEA and its accompanying regulations authorize a court to award reasonable attorneys’ fees as a sanction to a prevailing LEA “against the parent, if the parent’s request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.” 20 U.S.C. § 1415(i)(3)(B); 34 CFR § 300.517(a)(1)(iii). *See Wesco Insurance Co., v. Roderick Linton Belfance, LLP, et al.*, 39 F.4th 326, 337-38 (6th Cir. 2022) (holding that any fees awarded against a party who pursued an action under the IDEA that was “frivolous” or for an “improper purpose” “would constitute a ‘sanction’ under the ordinary meaning of that term”).

81. Pursuant to 20 U.S.C. 1415(i)(3)(B)(i)(II), Respondent as the prevailing party, may also be entitled to an award of reasonable attorneys’ fees against Petitioner Mother because she continued to litigate the case after special education eligibility was determined, IEEs were agreed upon, and compensatory education was proffered. Petitioner Mother refused to consent to the very remedies she sought in her contested case, i.e. the provision of special education services, IEEs, and compensatory education.

82. Mother asserts that the appropriateness of the proposed IEP and the sufficiency of compensatory education remain in dispute. However, these arguments are speculative, were not raised in the Amended Petition, and are not yet ripe for adjudication in this contested case. Nothing prevented Petitioner Mother from challenging the IEP or the services in future litigation. Instead, Mother elected to withhold consent for all special education services, independent educational evaluations, and compensatory services.

83. Although this Tribunal cannot require Mother to consent to special education services for Student or sanction with the award of attorney’s fees, it may dismiss claims that have become moot and defer to the federal district court which does have authority to award such fees.

2. Whether a gatekeeper order should be entered to prevent Petitioner Mother’s future abuse of the administrative process?

Conclusions of Law: Motion for Gatekeeping Order

84. Respondent contends that a gatekeeper order is necessary to prevent Petitioner’s abuse of the judicial process and to protect the Board from further burdensome and vexatious filings. *See Fatta v. M&M Properties Mgmt., Inc.*, 224 N.C. App. 18, 30-31, 735 S.E.2d 836, 844

(2021) (upholding the trial court’s finding that “the nature of Plaintiff’s conduct and extraordinary circumstances of this matter require that the Court place special limitations on Plaintiff’s access to the Iredell County Superior Court and enter a gatekeeping order.” (internal quotations omitted)). Respondent asserts that Petitioner’s conduct across multiple hearings and improper filings reflects extraordinary circumstances that warrant intervention by this Tribunal. Respondent will be irreparably harmed by the amount of time and expense resulting from Petitioner’s unfettered access to the Tribunal going forward.

85. Additionally, Respondent argues that its request for a gatekeeping order is narrowly tailored to the circumstances while including a means for Petitioner to file legitimate pleadings and filings with certification from a licensed attorney or prior approval of an Administrative Law Judge. *See Fatta*, 224 N.C. at 30-31, 735 S.E.2d at 844 (affirming a gatekeeper order that allowed future filings when reviewed by a licensed North Carolina attorney); *In re Vicks*, 240 N.C. App. 293, 772 S.E.2d 265 (2015) (unpublished) (affirming a gatekeeper order that allowed future filings upon review by a licensed North Carolina attorney); *Johnson v. Bank of America, N.A.*, 225 N.C. App. 265, 736 S.E.2d 648 (2013) (unpublished) (affirming a gatekeeper order that allowed future filings when certified by a superior court judge of the county); *Lee v. O’Brian*, 151 N.C. App. 748, 567 S.E.2d 468 (2002) (unpublished) (affirming a gatekeeper order allowing future filings only upon approval of a district court judge of the county). This remedy is “reasonably necessary for the order and efficient exercise of the administration of justice.” *Matter of Alamance Cty. Court Facilities*, 329 N.C. 84, 99, 405 S.E.2d 125, 132 (1991) (internal quotations omitted).

86. This Tribunal has “inherent judicial power” to enter a “gatekeeper order,” when necessary to prevent abuse of the judicial process. *See Beard v. N.C. State Bar*, 320 N.C. 126, 129-30, 357 S.E.2d 694, 695-67 (1987). “The Court has the inherent authority to do what is reasonably necessary to effectuate its constitutional duty: the administration of justice.” *Id.* at 130, 357 S.E.2d at 696. As outlined above, Petitioner has weaponized the judicial process and wasted precious judicial and school system resources, thus impeding the ability of this Tribunal and the Board to perform their duties. Thus, a gatekeeper order is appropriate and necessary to prevent further abuses.

87. In determining whether a gatekeeper order is warranted, a court weighs the following factors: (1) the party’s history of litigation, in particular whether he has filed vexatious, harassing, or duplicative lawsuits; (2) whether the party had a good faith basis for pursuing the litigation, or simply intended to harass; (3) the extent of the burden on the courts and other parties resulting from the party’s filings; and (4) the adequacy of alternative sanctions. *Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 818 (4th Cir. 2004).

88. After researching all published OAH special education cases, the Undersigned found only one unpublished gatekeeper decision. *See AMS by parents RAS and SW, Petitioners v. Onslow County Schools Bd of Educ*, 23 EDC 3873 (ALJ, Turrentine) *aff’d AMS by and through her parents Rosetta and Sive Sweitzer v. Onslow County Bd of Educ.* 24 CVS 1238 (Davidson County Superior Court 24 June 2024) (J, Hamilton). In the *AMS* case, during the litigation: the Petitioner Father sent numerous threatening and abusive emails (over 4500) to school staff even those not involved in the contested case; was banned from entry on school property multiple times

due to his harassing and threatening behavior; filed nine due process cases, nine state complaints, and 30 other frivolous court filings which cost Respondent thousands of dollars and man hours; and used a “barrage of profanity,” insults and threats during the motion hearing necessitating judicial and law enforcement intervention. *Id.*

89. Most significantly, the Father admitted that the litigation was simply a “horse and pony show” engaged for his own entertainment simply to taunt, threaten, bully, harass, embarrass and intimidate Respondent.” *Id.* at 73. The Father’s behavior during the hearing and throughout the due process case “shocked the conscience” of the presiding administrative law judge (ALJ). *Id.* at 54. The ALJ concluded that a gatekeeper order was appropriate in that case because the Petitioner father “weaponized the judicial process and wasted precious judicial school system resources in his meritless vendetta against the Board...”. *Id.* at 67.

90. By contrast, although Mother filed numerous notices—some appearing evidentiary in nature—and objections concerning the conduct of the proceedings, she ceased doing so once admonished. Additionally, this was the first and only Petition she has filed. While Mother’s conduct at times fell short of expected judicial decorum, it appears driven more by frustration with the administrative process as a *pro se* litigant than by malice.

91. For these reasons, issuance of a gatekeeper order at this time would be premature.

FINAL DECISION

BASED ON THE FOREGOING, the following is hereby **ORDERED** and **DECREED**:

1. Respondent’s Partial Motion to Dismiss is **GRANTED** *nunc pro tunc* on June 17, 2026 at 2:00 p.m. Petitioners’ claims under Section 504 the Rehabilitation Act and Title II of the Americans with Disabilities Act are **DISMISSED WITHOUT PREJUDICE**.
2. Respondent’s Motion for Summary Judgment is **GRANTED** *nunc pro tunc* on June 17, 2026 at 2:00 p.m. All remaining claims are hereby **DISMISSED WITH PREJUDICE**.
3. Petitioners’ Motions are **DENIED** as **MOOT**.
4. Respondent is prevailing party.
5. The Undersigned **DEFERS** Respondent’s Motion for Sanctions to the federal district court which has jurisdiction to award attorney’s fees and costs for Petitioner Mother’s conduct during the proceedings and to determine whether pursuit of litigation after Petitioners’ case clearly became frivolous and unreasonable.
6. Respondent’s Motion for Gatekeeping Order is **DENIED WITHOUT PREJUDICE**.

NOTICE OF APPEAL RIGHTS

In accordance with the Individuals with Disabilities Education Act and North Carolina's Education of Children with Disabilities laws, the parties have appeal rights regarding this Final Decision.

Any party aggrieved by the findings and decision of an Administrative Law Judge may under N.C. Gen. Stat. § 115C-109.6 institute a civil action in State court within thirty (30) days after receipt of the notice of the decision or under 20 U.S.C. § 1415 a civil action in federal court within ninety (90) days after receipt of the notice of the decision.

Because the Office of Administrative Hearings may be required to file the official record in the contested case with the State or federal court, a copy of the Petition for Judicial Review or Federal Complaint must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely preparation of the record.

This Final Decision **is immediately enforceable** by the State Board of Education and remains in effect until the party aggrieved moves the reviewing court for a Stay of the Final Decision and the reviewing court grants the Stay pursuant to N.C. Gen. Stat. § 150B-48.

IT IS SO ORDERED.

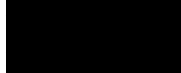
This the 21st day of July, 2026.



Stacey Bice Bawtinheimer
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 N.C. Admin. Code 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center which will subsequently place the foregoing document into an official depository of the United States Postal Service.

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Parent

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Attorney For Respondent

Teresa Silver King
NC Department of Public Instruction
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Affiliated Agency

This the 21st day of July, 2026.



Karen L Rust
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