

**IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

████ BY AND THROUGH █████

Petitioners,

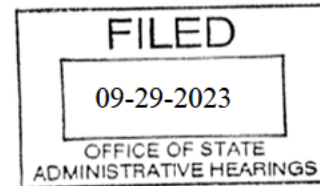
v.

FULTON COUNTY SCHOOL DISTRICT,

Respondent.

DOCKET NO. █████

████ -OSAH-DOE-CPEXP-60-Teate



FINAL DECISION

I. Introduction

On September 25, 2023, the parties attended a Due Process Hearing and Petitioners presented their case in chief. Specifically, this Court heard testimony from █████. At the end of Petitioners' presentation of evidence, Respondent moved for dismissal of all claims pursuant to Ga. Comp. R. & Regs. 616-1-2-.35 on the grounds that Petitioners failed to carry their burden of proof. The Court orally granted Respondent's motion on the record and it is hereby memorialized.

II. Findings of Fact

1. Petitioner █████ is a seventeen (17) year-old student who lives within the Fulton County School District ("District") and previously attended █████ High School. (Joint Ex. 1).¹
2. Petitioner █████ receives services pursuant to Individuals with Disabilities Education Act ("IDEA") under the eligibility category of specific learning disability. (Id.).
3. In August 2022, Respondent received a complaint pursuant to Title IX, alleging that Petitioner █████ violated Title IX by battering, sexually assaulting, and sexually harassing another

¹ Respondent's Exhibits R-14 and R-16 were admitted as Joint Exhibit 1.

student. (Id.).

4. On or about March 10, 2023, a Manifestation Determination Review meeting was held to consider whether the behavior was a manifestation of Petitioner ██████'s disability. The IEP team considered Petitioner ██████'s Specific Learning Disability, along with a reported diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) and Autism Spectrum Disorder (ASD). The IEP team concluded that the behavior was not a manifestation of the disabilities. (Id.).

5. On or about August 15, 2023, Petitioners filed a Due Process Complaint largely concerned with the Manifestation Determination Review. (Compl.; see also Order, Sept. 11, 2023).

6. On September 11, 2023, this Court dismissed all claims unrelated to the Manifestation Determination Review without prejudice and without leave to amend. (Order, Sept. 11, 2023).

7. On September 19, 2023, Petitioners filed a document entitled "Request a Motion to Response." (Pet'rs' Req. a Mot. to Resp.).

8. On September 20, 2023, this Court denied Petitioners' request to renew the dismissed claims. (Order, Sept. 20, 2023).

9. At the Due Process Hearing on September 25, 2023, Petitioners acknowledged that the District considered the eligibility category of SLD as well as the suspected disability categories of ADHD and ASD during the Manifestation Determination Review. Petitioner ██████ ██████ testified that she advised the IEP team at the Manifestation Determination Review that Petitioner ██████ was diagnosed with ADHD and ASD, but admitted that she provided the District with no documentation of these alleged disabilities. She further testified on examination and cross-examination that she was involved in the scheduling of the Manifestation Determination Review and received appropriate notice of the meeting. (Testimony of Petitioner ██████ ██████).


III. Conclusions of Law

1. This case is governed by the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 *et seq.*; its implementing regulations, 34 C.F.R. § 300.1 *et seq.*; and the Rules of the Georgia Department of Education, Ga. Comp. R. & Regs. 160-4-7-.01 *et seq.* This Court’s review is limited to the issues raised by Petitioners in their due process hearing request. 20 U.S.C. § 1415(f)(3)(B); 34 C.F.R. § 300.511(d).
2. The IDEA creates a presumption in favor of the education placement established by a child’s Individualized Education Program (“IEP”), and Petitioners bear the burden of proof as to all issues for resolution. See Schaffer v. Weast, 546 U.S. 49, 56 (2005); Ga. Comp. R. & Regs. 160-4-7-.12(3)(m). The standard of proof is preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).
3. After a party with the burden of proof has presented its evidence, the other party may move for involuntary dismissal on the basis that the party with the burden of proof has failed to carry its burden. Ga. Comp. R. & Regs. 616-1-2-.35(1). Petitioners failed to carry their burden of proof and Respondent made its motion for involuntary dismissal that the Court appropriately granted. Id. (1) and (2).

IV. Decision

Based on the foregoing, Respondent’s motion for involuntary dismissal is **GRANTED** and Petitioners’s claim regarding the manifestation determination s are **DISMISSED** with prejudice.

SO ORDERED, this 29th day of September, 2023.



Steven W. Teate
Administrative Law Judge

