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OFFICE OF ADMINISTRATIVE HEARINGS
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STATE OF NORTH CAROLINA

COUNTY OF CATAWBA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
25 EDC 04588

Student by parent or guardian, Parent Petitioner, v. Catawba County Board of Education, Respondent.	**REDACTED** **FINAL DECISION ORDER** **OF DISMISSAL** **Originally issued January 12, 2026**

THIS MATTER came before the undersigned Administrative Law Judge upon consideration of Respondent's Motion to Dismiss filed on December 18, 2025. Having reviewed the Petition, Respondent's Motion to Dismiss, Petitioner's Response to said Motion, oral arguments of both parties, and taking all well-pleaded allegations of the Petition as true for purposes of the motion, the undersigned Administrative Law Judge DISMISSES the due process petition, as follows:

SUMMARY OF PETITIONER'S ALLEGATIONS

1. Petitioner filed a special education due process petition with this Tribunal on December 15, 2025, alleging that Respondent violated IDEA procedural safeguards, Stay Put provision, Child Find provision, and, in doing so, denied a free appropriate public education ("FAPE") to Student.

2. Student is a fifth-grade student who has never been identified as a student in need of special education services under the IDEA. Student has a known history of ADHD. Petitioner made the conclusory allegation that because Student's ADHD was known to the Respondent, that Respondent had reason to suspect that Student was a child with a disability who required special education and related services under the IDEA.

3. Petitioner's specific allegations pertain to an October 20, 2025, decision by the District to change Student's general educational peer cohort. Petitioner further alleges that this decision was made without Petitioner's knowledge and consent.

4. During the hearing of this Motion on January 9, 2026, when questioned by the Undersigned, Petitioner did not answer in the affirmative that Petitioner wanted Student to be identified as a child with a disability in need of special education services under the IDEA.

CONCLUSIONS OF LAW

1. A contested case petition as provided under the Individuals with Disabilities Education Act, 20 U.S.C.§§ 1400 et seq., and North Carolina General Statute § 115C-116 must be based on a dispute regarding the "identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child." 34 CFR § 300.507(a)(1); *see also*, 34 CFR § 300.503(a)(1) and (2).

2. A motion to dismiss for failure to state a claim upon which relief may be granted pursuant to Rule 12(b)(6) tests the sufficiency of a complaint. *Edwards v. City of Goldsboro*, 178 F.3d 231, 243 (4th Cir. 1999). A complaint that does not contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face must be dismissed. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Additionally, "[c]onclusory allegations or legal conclusions masquerading as factual allegations will not suffice to prevent a motion to dismiss pursuant to 12(b)(6)." *Parham v. Pepsico, Inc.*, 927 F. Supp. 177, 178 (E.D.N.C. 1995).

3. Student has never been identified as a student with a disability in need of special education services. Student has always been served in the general education setting. The allegation that Student has a history of ADHD, standing alone, is insufficient to state a claim that Student is a student with a disability in need of special services under the IDEA, nor is it sufficient to state a claim that Respondent had reason to suspect that Student was a child with a disability who required special education and related services under the IDEA.

4. Respondent's decision to change the general educational peer cohort of Student, a general education student, is not a decision that can be challenged under the IDEA in this Tribunal.

5. Petitioner failed to state a claim upon which relief may be granted in this Tribunal.

FINAL DECISION

Based upon the foregoing, this contested case petition is dismissed with 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.

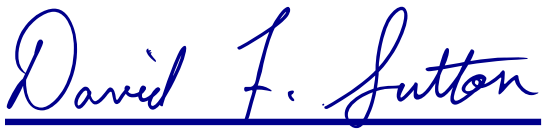
Because the Office of Administrative Hearings may be required to file the official record in the contested case with the State or federal court, a copy of the Petition for Judicial Review or Federal Complaint must be sent to the Office of Administrative Hearings at the time the appeal is initiated in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

STAY OF FINAL DECISION

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.

Original Final Decision Served on January 12, 2026.
Redacted Final Decision For Publication Purposes Only.
Served on the 17th day of February, 2026.



David F Sutton
Administrative Law Judge