The University of the State of New York

The State Education Department
State Review Officer
www.sro.nysed.gov

No. 23-252

Application of a STUDENT WITH A DISABILITY, by her parents, for review of a determination of a hearing officer relating to the provision of educational services by the New York City Department of Education

Appearances:
Liz Vladeck, General Counsel, attorneys for respondent, by Brian J. Reimels, Esq.

DECISION

I. Introduction

This proceeding arises under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400-1482) and Article 89 of the New York State Education Law. Petitioners (the parents) appeal from the decision of an impartial hearing officer (IHO) which denied their request for respondent (the district) to fund home-based services for their daughter for the 2022-23 school year.[1] The appeal must be sustained in part and remanded for further administrative proceedings.

II. Overview—Administrative Procedures

When a student in New York is eligible for special education services, the IDEA calls for the creation of an individualized education program (IEP), which is delegated to a local Committee on Special Education (CSE) that includes, but is not limited to, parents, teachers, a school psychologist, and a district representative (Educ. Law § 4402; see 20 U.S.C. § 1414[d][1][A]-[B]; 34 CFR 300.320, 300.321; 8 NYCRR 200.3, 200.4[d][2]). If disputes occur between parents and school districts, incorporated among the procedural protections is the opportunity to engage in mediation, present State complaints, and initiate an impartial due process hearing (20 U.S.C.

[1] The request for review was signed by the student's mother, as was the affidavit of verification. However, the memorandum of law in support of the request for review was prepared by the Law Office of Michelle Siegal, PLLC.

§§ 1221e-3, 1415[e]-[f]; Educ. Law § 4404[1]; 34 CFR 300.151-300.152, 300.506, 300.511; 8 NYCRR 200.5[h]-[*l*]).

New York State has implemented a two-tiered system of administrative review to address disputed matters between parents and school districts regarding "any matter relating to the identification, evaluation or educational placement of a student with a disability, or a student suspected of having a disability, or the provision of a free appropriate public education to such student" (8 NYCRR 200.5[i][1]; see 20 U.S.C. § 1415[b][6]-[7]; 34 CFR 300.503[a][1]-[2], 300.507[a][1]). First, after an opportunity to engage in a resolution process, the parties appear at an impartial hearing conducted at the local level before an IHO (Educ. Law § 4404[1][a]; 8 NYCRR 200.5[j]). An IHO typically conducts a trial-type hearing regarding the matters in dispute in which the parties have the right to be accompanied and advised by counsel and certain other individuals with special knowledge or training; present evidence and confront, cross-examine, and compel the attendance of witnesses; prohibit the introduction of any evidence at the hearing that has not been disclosed five business days before the hearing; and obtain a verbatim record of the proceeding (20 U.S.C. § 1415[f][2][A], [h][1]-[3]; 34 CFR 300.512[a][1]-[4]; 8 NYCRR 200.5[j][3][v], [vii], [xii]). The IHO must render and transmit a final written decision in the matter to the parties not later than 45 days after the expiration period or adjusted period for the resolution process (34 CFR 300.510[b][2], [c], 300.515[a]; 8 NYCRR 200.5[j][5]). A party may seek a specific extension of time of the 45-day timeline, which the IHO may grant in accordance with State and federal regulations (34 CFR 300.515[c]; 8 NYCRR 200.5[j][5]). The decision of the IHO is binding upon both parties unless appealed (Educ. Law § 4404[1]).

A party aggrieved by the decision of an IHO may subsequently appeal to a State Review Officer (SRO) (Educ. Law § 4404[2]; see 20 U.S.C. § 1415[g][1]; 34 CFR 300.514[b][1]; 8 NYCRR 200.5[k]). The appealing party or parties must identify the findings, conclusions, and orders of the IHO with which they disagree and indicate the relief that they would like the SRO to grant (8 NYCRR 279.4). The opposing party is entitled to respond to an appeal or cross-appeal in an answer (8 NYCRR 279.5). The SRO conducts an impartial review of the IHO's findings, conclusions, and decision and is required to examine the entire hearing record; ensure that the procedures at the hearing were consistent with the requirements of due process; seek additional evidence if necessary; and render an independent decision based upon the hearing record (34 CFR 300.514[b][2]; 8 NYCRR 279.12[a]). The SRO must ensure that a final decision is reached in the review and that a copy of the decision is mailed to each of the parties not later than 30 days after the receipt of a request for a review, except that a party may seek a specific extension of time of the 30-day timeline, which the SRO may grant in accordance with State and federal regulations (34 CFR 300.515[b], [c]; 8 NYCRR 200.5[k][2]).

III. Facts and Procedural History

The parties' familiarity with this matter is presumed and, therefore, the facts and procedural history of the case and the IHO's decision will not be recited here in detail.

Briefly, the student has received diagnoses of autism and verbal apraxia and presented with significant deficits in communication, attention, self-regulation, and reciprocity (Parent Exs. D at p. 1; F at p. 1). During the 2021-22 school year (second grade) she attended a nonpublic school and received home-based applied behavior analysis (ABA) services (Parent Ex. F at pp. 1-2). The CSE convened on June 3, 2022, and, finding the student eligible for special education as a student

with autism, recommended a 12-month 8:1+1 special class placement with occupational therapy (OT), physical therapy (PT), speech-language therapy, and that the parents receive parent counseling and training (Dist. Ex. 1 at pp. 1, 35-37, 40).[2, 3] Additionally, the CSE recommended special transportation services consisting of transportation from the closest safe curb location to school (id. at p. 40).

In a letter dated June 24, 2022, the parents notified the district that they disagreed with the June 2022 CSE's recommendations regarding the student's programming for the 2022-23 school year (Parent Ex. F at pp. 1-2).[4] Specifically, the parents asserted that the CSE failed to recommend home-based ABA services and that they would seek funding for those services (id. at p. 2).

In a due process complaint notice, dated September 21, 2022, the parents alleged that the district failed to offer the student a free appropriate public education (FAPE) for the 2022-23 school year (see Parent Ex. A). The parents asserted that the student required PT, home-based ABA services, and special transportation services (id. at pp. 2-4).[5] For relief, the parent requested an order that the district fund eight hours per week of home-based ABA services; an order that the CSE amend the student's IEP to include a recommendation for two sessions of PT per week, or in the alternative, an order that the district fund two sessions of PT per week; an order awarding compensatory PT sessions to equal the number of sessions the district failed to provide during the 2022-23 school year; and door-to-door special transportation services (id. at p. 4).

An impartial hearing convened on December 2, 2022 and concluded on August 30, 2023 after nine days of proceedings (see Tr. pp. 1-73).

In a decision dated October 8, 2023, the IHO determined that the district's documentary evidence was not supported "by any testimony" and the district failed to provide an explanation for the CSE's program and placement recommendations (IHO Decision at pp. 4, 8). Therefore, the IHO found that the district failed to meet its burden of proving that it provided the student a FAPE for the 2022-23 school year (id. at p. 4). As for the parents' requested relief, the IHO held that there was "credible and convincing" testimony regarding the number of compensatory PT sessions requested, that was not controverted by the district's evidence (id. at p. 7). The IHO granted the parents' request for 42 30-minute sessions of compensatory PT, but denied the parents' other requested relief (id. at pp. 7-8). Specifically, the IHO determined that the parents were requesting

[2] The student's eligibility for special education as a student with autism is not in dispute (see 34 CFR 300.8[c][1]; 8 NYCRR 200.1[zz][1]).

[3] From June 23, 2022 to July 29, 2022, the CSE recommended the student attend an 8:1+1 special class in a district specialized school as an "[i]nterim" placement (Dist. Ex. 1 at p. 36). Beginning August 1, 2022, the student's IEP was to be implemented at a nonpublic school that was "[s]pecialized to address autistic learning characteristics" (id. at p. 35). At the time the parent initiated a due process hearing, the student was attending the State-approved nonpublic school offered by the CSE, but continued to dispute whether the student required home-based ABA services (Parent Ex. A; Dist. Ex. 3).

[4] An email also dated June 24, 2022 indicated that the district received the parents' 10-day notice letter (Parent Ex. G).

[5] The parents alleged that at the June 2022 CSE meeting the CSE agreed to "reinstate" PT on the student's IEP but subsequently did not (Parent Ex. A at pp. 3-4).

that the IHO "usurp the authority" of the CSE and "authorize [the IHO's] own IEP recommendations and services for the student" that included 10 hours per week of home-based ABA at the requested rate (id. at p. 8). The IHO declined to grant the parents' request and ordered the district to reevaluate the student and reconvene the CSE to consider the parents' request for home-based ABA services (id.).

IV. Appeal for State-Level Review

The parties' familiarity with the particular issues for review on appeal in the parents' request for review and the district's answer thereto is also presumed and, therefore, the allegations and arguments will not be recited here. The dispute on appeal is whether the student is entitled to home-based ABA services.

V. Applicable Standards

Two purposes of the IDEA (20 U.S.C. §§ 1400-1482) are (1) to ensure that students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and (2) to ensure that the rights of students with disabilities and parents of such students are protected (20 U.S.C. § 1400[d][1][A]-[B]; see generally Forest Grove Sch. Dist. v. T.A., 557 U.S. 230, 239 [2009]; Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176, 206-07 [1982]).

A FAPE is offered to a student when (a) the board of education complies with the procedural requirements set forth in the IDEA, and (b) the IEP developed by its CSE through the IDEA's procedures is reasonably calculated to enable the student to receive educational benefits (Rowley, 458 U.S. at 206-07; T.M. v. Cornwall Cent. Sch. Dist., 752 F.3d 145, 151, 160 [2d Cir. 2014]; R.E. v. New York City Dep't of Educ., 694 F.3d 167, 189-90 [2d Cir. 2012]; M.H. v. New York City Dep't of Educ., 685 F.3d 217, 245 [2d Cir. 2012]; Cerra v. Pawling Cent. Sch. Dist., 427 F.3d 186, 192 [2d Cir. 2005]). "'[A]dequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP'" (Walczak v. Fla. Union Free Sch. Dist., 142 F.3d 119, 129 [2d Cir. 1998], quoting Rowley, 458 U.S. at 206; see T.P. v. Mamaroneck Union Free Sch. Dist., 554 F.3d 247, 253 [2d Cir. 2009]). The Supreme Court has indicated that "[t]he IEP must aim to enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement" (Endrew F. v. Douglas Cty. Sch. Dist. RE-1, 580 U.S. 386, 399 [2017]). While the Second Circuit has emphasized that school districts must comply with the checklist of procedures for developing a student's IEP and indicated that "[m]ultiple procedural violations may cumulatively result in the denial of a FAPE even if the violations considered individually do not" (R.E., 694 F.3d at 190-91), the Court has also explained that not all procedural errors render an IEP legally inadequate under the IDEA (M.H., 685 F.3d at 245; A.C. v. Bd. of Educ. of the Chappaqua Cent. Sch. Dist., 553 F.3d 165, 172 [2d Cir. 2009]; Grim v. Rhinebeck Cent. Sch. Dist., 346 F.3d 377, 381 [2d Cir. 2003]). Under the IDEA, if procedural violations are alleged, an administrative officer may find that a student did not receive a FAPE only if the procedural inadequacies (a) impeded the student's right to a FAPE, (b) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or (c) caused a deprivation of educational benefits (20 U.S.C. § 1415[f][3][E][ii]; 34 CFR

300.513[a][2]; 8 NYCRR 200.5[j][4][ii]; Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 [2007]; R.E., 694 F.3d at 190; M.H., 685 F.3d at 245).

The IDEA directs that, in general, an IHO's decision must be made on substantive grounds based on a determination of whether the student received a FAPE (20 U.S.C. § 1415[f][3][E][i]). A school district offers a FAPE "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction" (Rowley, 458 U.S. at 203). However, the "IDEA does not itself articulate any specific level of educational benefits that must be provided through an IEP" (Walczak, 142 F.3d at 130; see Rowley, 458 U.S. at 189). "The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created" (Endrew F., 580 U.S. at 404). The statute ensures an "appropriate" education, "not one that provides everything that might be thought desirable by loving parents" (Walczak, 142 F.3d at 132, quoting Tucker v. Bay Shore Union Free Sch. Dist., 873 F.2d 563, 567 [2d Cir. 1989] [citations omitted]; see Grim, 346 F.3d at 379). Additionally, school districts are not required to "maximize" the potential of students with disabilities (Rowley, 458 U.S. at 189, 199; Grim, 346 F.3d at 379; Walczak, 142 F.3d at 132). Nonetheless, a school district must provide "an IEP that is 'likely to produce progress, not regression,' and . . . affords the student with an opportunity greater than mere 'trivial advancement'" (Cerra, 427 F.3d at 195, quoting Walczak, 142 F.3d at 130 [citations omitted]; see T.P., 554 F.3d at 254; P. v. Newington Bd. of Educ., 546 F.3d 111, 118-19 [2d Cir. 2008]). The IEP must be "reasonably calculated to provide some 'meaningful' benefit" (Mrs. B. v. Milford Bd. of Educ., 103 F.3d 1114, 1120 [2d Cir. 1997]; see Endrew F., 580 U.S. at 403 [holding that the IDEA "requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances"]; Rowley, 458 U.S. at 192). The student's recommended program must also be provided in the least restrictive environment (LRE) (20 U.S.C. § 1412[a][5][A]; 34 CFR 300.114[a][2][i], 300.116[a][2]; 8 NYCRR 200.1[cc], 200.6[a][1]; see Newington, 546 F.3d at 114; Gagliardo v. Arlington Cent. Sch. Dist., 489 F.3d 105, 108 [2d Cir. 2007]; Walczak, 142 F.3d at 132).

An appropriate educational program begins with an IEP that includes a statement of the student's present levels of academic achievement and functional performance (see 34 CFR 300.320[a][1]; 8 NYCRR 200.4[d][2][i]), establishes annual goals designed to meet the student's needs resulting from the student's disability and enable him or her to make progress in the general education curriculum (see 34 CFR 300.320[a][2][i], [2][i][A]; 8 NYCRR 200.4[d][2][iii]), and provides for the use of appropriate special education services (see 34 CFR 300.320[a][4]; 8 NYCRR 200.4[d][2][v]).[6]

A board of education may be required to reimburse parents for their expenditures for private educational services obtained for a student by his or her parents, if the services offered by the board of education were inadequate or inappropriate, the services selected by the parents were appropriate, and equitable considerations support the parents' claim (Florence County Sch. Dist. Four v. Carter, 510 U.S. 7 [1993]; Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 369-

[6] The Supreme Court has stated that even if it is unreasonable to expect a student to attend a regular education setting and achieve on grade level, the educational program set forth in the student's IEP "must be appropriately ambitious in light of his [or her] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives" (Endrew F., 580 U.S. at 402).

70 [1985]; R.E., 694 F.3d at 184-85; T.P., 554 F.3d at 252). In Burlington, the Court found that Congress intended retroactive reimbursement to parents by school officials as an available remedy in a proper case under the IDEA (471 U.S. at 370-71; see Gagliardo, 489 F.3d at 111; Cerra, 427 F.3d at 192). "Reimbursement merely requires [a district] to belatedly pay expenses that it should have paid all along and would have borne in the first instance" had it offered the student a FAPE (Burlington, 471 U.S. at 370-71; see 20 U.S.C. § 1412[a][10][C][ii]; 34 CFR 300.148).

The burden of proof is on the school district during an impartial hearing, except that a parent seeking tuition reimbursement for a unilateral placement has the burden of proof regarding the appropriateness of such placement (Educ. Law § 4404[1][c]; see R.E., 694 F.3d at 184-85).

VI. Discussion

Initially, it must be noted that the district did not appeal the from IHO's finding that it denied the student a FAPE for the 2022-23 school year or the IHO's award of compensatory PT services. As such, these findings have become final and binding on the parties and will not be reviewed on appeal (34 CFR 300.514[a]; 8 NYCRR 200.5[j][5][v]; see M.Z. v. New York City Dep't of Educ., 2013 WL 1314992, at *6-*7, *10 [S.D.N.Y. Mar. 21, 2013]).

Here, the evidence in the hearing record demonstrates that the student began receiving home-based ABA services from Stride Behavior Services, Inc. (Stride Behavior) in February 2020 (Tr. p. 57; Parent Ex. E at p. 1). According to the director of Stride Behavior (director), as of May 2022 the student's ABA instruction focused on goals to improve verbal, social, self-regulation, academic, and self-management skills (Parent Ex. E at pp. 1, 2).[7] The director reported that the student had "demonstrated steady progress," including a decrease in self-stimulatory behaviors and off-task/distractible behaviors, and "replaced echolalia with functional communication" (id. at p. 1). The director stated that the student continued to require support in functional skill acquisition and exhibited limited verbal repertoire, such that she "require[d] full day wrap-around support with a daytime ABA academic placement as well as home-based ABA in order to generalize skills to each setting" (id.). Additionally, the director indicated that the student's "[h]ome-based ABA should also target increasing independence for self-help skills," as the student required support for hygiene routines (id.). The director's "clinical recommendation" was for the student to "remain in a full-day academic ABA program and receive 10 hours per week of home-based ABA services to continue to work on increasing the aforementioned skills and decreasing distractible, self-stimulatory behaviors" (id.). Further, the director recommended two hours per week of supervision by a BCBA and one hour per week of parent counseling and training (id.).

The parent requested that the student continue to receive home-based ABA services at the June 2022 CSE meeting (Dist. Ex. 1 at p. 42). It is not clear whether the CSE had the director's May 2022 letter describing the student's need for home-based ABA services; however, the hearing record lacked evidence that the CSE discussed the parent's request and did not include an explanation as to why the district did not offer these services to the student (see Tr. pp. 1-73; Parent Exs. A-J; Dist. Exs. 1-3).[8] Notably, the July 2022 prior written notice did not indicate why the

[7] The director is also a board certified behavior analyst (BCBA) (Parent Ex. E at p. 1).

[8] The parents assert that the lack of home-based services was due to policy, not the student's needs (Parent Ex. A

parent's request for home-based ABA services was rejected (Dist. Ex. 2). Nor did the district explain why the student no longer required home-based ABA services, which she had been receiving for years (see Parent Ex. F). As such, the district failed to establish that the student's June 2022 program recommendation without home-based ABA services was appropriate.

Turning next to the question of whether the parents remediated the issue by obtaining unilateral services for the student, the hearing record is unclear with regard to what services the student received based on several issues with the hearing record. First, the affidavits of the parent and the director were not entered into the hearing record, even though the district crossed examined the director on her affidavit testimony (compare Tr. pp. 22, 27, with Tr. pp. 56-70).[9] Next, the IHO cited to the director's affidavit in the decision (IHO Decision at p. 8).[10] The parents also cited to the affidavits throughout the request for review and memorandum of law; however, did not submit these affidavits on appeal as additional evidence. Lastly, the district submitted the affidavits with the answer, asserted that the affidavits were not entered into the hearing record, and specifically indicated that the district was not submitting them on appeal "for consideration as additional exhibits" (Answer ¶¶ 2, 5). In the parents' reply, the parents continue to cite to the parent's and the director's affidavits and deny the district's assertion that the affidavits were not entered into evidence (Reply ¶¶ 2, 5, 24-29, 33, 35-36). Based on these facts, it appears that there is some disconnect among the parties and the IHO as to whether or not the affidavits should have been considered.

However, even if I were to consider the affidavits on appeal, the matter must be remanded for further record development. The hearing record lacks sufficient information to determine whether the parents were financially obligated to pay for the home-based ABA services requested, whether the student received the services, and if so, were the services specially designed to meet the student's needs.

An SRO may consider remand a matter to the IHO for further proceedings and/or determinations on claims that the IHO did not address (8 NYCRR 279.10[c]; see Educ. Law § 4404[2]; F.B. v. New York City Dep't of Educ., 923 F. Supp. 2d 570, 589 [S.D.N.Y. 2013] [indicating that the SRO may remand matters to the IHO to address claims set forth in the due process complaint notice that were unaddressed by the IHO], citing J.F. v. New York City Dep't of Educ., 2012 WL 5984915, at *9 n.4 [S.D.N.Y. Nov. 27, 2012]; see also D.N. v. New York City Dep't of Educ., 2013 WL 245780, at *3 [S.D.N.Y. Jan. 22, 2013]).

---

at p. 3).

[9] The parents' exhibits were entered into the hearing record on April 26, 2023 (Tr. pp. 21, 22). The district cross-examined the director on her affidavit testimony on August 30, 2023 (Tr. pp. 52, 56-70). Review of the testimony shows that the district was aware of the director's affidavit, as counsel for the district questioned the director about specific paragraphs from her affidavit and the director specifically referenced paragraphs from her affidavit (see Tr. pp. 58-59, 65-66).

[10] The IHO's decision is dated October 8, 2023 (IHO Decision at p. 9). The Office of State Review received a November 30, 2023 email exchange between the district and the IHO dated November 30, 2023 clarifying whether or not the affidavits were admitted into evidence (Nov. 30, 2023 email). The IHO responded to the district that the affidavits "were not offered as exhibits, therefore they were not admitted into evidence" (id.).

As such, the matter is remanded for the IHO to further develop the hearing record. Although the IHO confirmed that the affidavits of the witnesses offered in leu of direct testimony were not offered into evidence or made part of the administrative record, the IHO nevertheless cited to one of them in her decision, which is therefore error. Accordingly, upon remand, the IHO should permit the parent to offer the affidavits as evidence and should then determine what other evidence, if any, is relevant to determine the extent of the parents' financial obligation, if any, and the amount of home-based ABA services the student received from Stride Behavior during the 2022-23 school year that is the subject of the proceeding.[11] Additionally, in order to develop a complete hearing record, the IHO should direct the parties to enter any and all prior findings of fact in due process proceedings involving the student and any resolution agreements reached between the parties. These documents may provide a clearer context of the history between the parties, their disputes, and the educational background for this student. Further, the IHO should mark and enter into the administrative hearing record all written arguments, including any briefs.[12]

Because there is no evidence that district officials agreed to the provision of services by Stride, behavior, if the IHO determines that the parents were financially obligated to pay for the student's home-based ABA services, on remand, the IHO is directed to determine whether the home-based ABA services the parents unilaterally obtained for the student during the 2022-23 school year were appropriate to meet her special education needs under the Burlington-Carter standard. At her discretion, the IHO may seek to obtain information from the parties as needed to assist in determining whether the unilaterally-obtained services were specially designed to meet the student's needs, including information about the student's day programming at the nonpublic school. The IHO should also afford the parties an opportunity to be heard and to offer evidence regarding equitable considerations.

VII. Conclusion

Based on the foregoing, I find that the hearing record was insufficiently developed and maintained in order to address the parents' request for funding for home-based ABA services. As noted above, the IHO's order of 42 hours of compensatory PT services remains undisturbed.

THE APPEAL IS SUSTAINED TO THE EXTENT INDICATED.

IT IS ORDERED that those portions of the IHO's decision dated October 8, 2023 which denied the parents' request for the costs of home-based ABA services are vacated; and

[11] The hearing record in its current state does not provide for any information regarding the parents' financial obligation. The parent's affidavit indicating that the parent is liable for the costs of the home-based services was not properly entered into the hearing record. However, as stated above, it is clear that the district had the affidavits and did not contest the parent's statements. Even if the affidavits were accepted, the only information regarding financial obligation is the parent's statement and the BCBA's statement of cost per hour. There is no information regarding whether the parents have been charged and if so, how much they were charged.

[12] The hearing record before the undersigned lacks the parents' closing brief because the IHO did not identify it as part of the administrative hearing record. Upon remand, the IHO should enter this brief as an exhibit and any additional written arguments that the parties may make in order to have a complete administrative hearing record.

IT IS FURTHER ORDERED that the matter is remanded to the IHO to clarify and complete the hearing record and issue findings with respect to the parents' request for funding for home-based ABA services in accordance with the body of this decision.

Dated: **Albany, New York**
February 21, 2024

JUSTYN P. BATES
STATE REVIEW OFFICER