This is a redacted version of the original decision. Select details have been removed from the decision to preserve the anonymity of the student. The redactions do not affect the substance of the document.

Pennsylvania Special Education Due Process Hearing Officer

Final Decision and Order

Closed Hearing

ODR No. 33162-25-26

Child's Name:
W.P.

Date of Birth:
[redacted]

Parent(s):
[redacted]

Local Educational Agency:
Philadelphia School District
440 North Broad Street – Suite 313
Philadelphia, PA 19130

Counsel for LEA:
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Hearing Officer:
Michael J. McElligott, Esquire

Date of Decision:
08/04/2026

Introduction

This special education due process hearing concerns the educational rights of W.P. ("student"), a student who attends school in the Philadelphia School District ("District").[1] The student currently qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA")[2] as a student with an intellectual disability and a speech and language ("S&L") impairment.

The student's parent filed the complaint which led to these proceedings, alleging that the District's proposed program/placement for the student is inappropriate. The District counters that at all times it has met its obligations to the student under IDEA.

For reasons set forth below, I find in favor of the student and family.

Issues

Is the District's proposed program/placement for the student appropriate?

Findings of Fact

All evidence of record was reviewed. The citation to any exhibit or aspect of testimony is to be viewed as the necessary and probative evidence in the mind of the hearing officer.

[1] The generic use of "student", and avoidance of personal pronouns, are employed to protect the confidentiality of the student.

[2] It is this hearing officer's preference to cite to the pertinent federal implementing regulations of the IDEA at 34 C.F.R. §§300.1-300.818. *See also* 22 PA Code §§14.101-14.162 ("Chapter 14").

1. The student has attended the student since the kindergarten year. (School District ["S"]-1).

2. In October 2021, in the fall of the student's [redacted] grade year, the student was identified as a student with an intellectual disability. (S-3).

3. The October 2021 evaluation report ("ER") included cognitive testing, with a full-scale IQ score of 58. The ER also included an adaptive behavior assessment, with a general adaptive composite score of 53, in the extremely low range. (S-3).

4. Academic achievement assessments and teacher/parent input supported the findings of the cognitive and adaptive behavior assessments. (S-3).

5. In October 2021, based on the October 2021 ER, an individualized education program ("IEP") was implemented for the student. (S-4).

6. The October 2021 IEP contained three goals, two in literacy (letter-sound recognition, sight word recognition) and one in mathematics (number recognition). The student received learning support in the student's neighborhood school and spent 23% of the educational day in special education. (S-4).

7. A few months after the October 2021 ER, given ongoing concerns with the student's S&L functioning, in February 2022 the District undertook a S&L evaluation and issued a re-evaluation report ("RR"). (S-8).

8. In the February 2022 RR, the District identified the student with a severe phonological disorder and below average expressive and receptive language skills. (S-8).

9. In March 2022, the student's IEP was revised. The March 2022 IEP contained six goals. The IEP continued the two literacy goals. The number-recognition goal was replaced by two new math goals (addition & subtraction, number-place/less-than & greater-than). The March 2022 IEP added two S&L goals (articulation). (S-9).

10. In the March 2022 IEP, the student received approximately 22 minutes of S&L support weekly. The March 2022 IEP indicated that the student would continue to receive learning support in the student's neighborhood school, spending 34% of the educational day in special education settings. (S-9).

11. With the March 2022 IEP, the District began to gauge the student's annual IEP revision in the spring of each school year. (S-14, S-21, S-26, S-47).

12. In June 2023, the student's IEP was revised. (S-14).

13. The June 2023 IEP included four academic goals (phonics, sight words, addition & subtraction, and number identification/transcription) and two S&L goals (articulation, rate of speech). (S-14).

14. The June 2023 IEP indicated that the student would continue to receive learning support in the student's neighborhood school, with approximately 22 minutes of S&L support weekly and 36% of the school day in special education settings. (S-14).

15. In February 2024, the District re-evaluated the student. The February 2024 RR continued to identify the student as a student with an intellectual disability and a S&L impairment. (S-19).

16. In April 2024, the student's IEP team revised the student's IEP. (S-21).

17. The April 2024 IEP included five academic goals, three in literacy (vocalized letter sounds, decoding, sight words), and two in mathematics (multiplication, shape-identification). The April 2024 IEP contained two S&L goals (speech rate, two articulation goals). (S-21).

18. The April 2024 IEP indicated that the student would continue to receive learning support in the student's neighborhood school, with approximately 30 minutes of S&L support weekly, including group S&L services in addition to individual S&L services, and 38% of the school day in special education settings. (S-21).

19. The April 2024 IEP added the support of a 1:1 aide in most instructional settings. (S-21).

20. In May 2025, the student's IEP team revised the student's IEP. (S-26).

21. The May 2025 IEP included five academic goals, three in literacy (vocalized letter sounds, decoding, sight words), and two in mathematics (multiplication, fractions [both numeric and graphic]). The May 2025 IEP contained two S&L goals (speech rate, two articulation goals). (S-26).

22. The May 2025 IEP indicated that the student would continue to receive learning support in the student's neighborhood school, with approximately 30 minutes of S&L support weekly, including group S&L services in addition to individual S&L services, and 38% of the school day in special education settings. The student also continued to receive the support of a 1:1 aide in instructional settings. (S-26).

23. The May 2025 IEP was in place for the entirety of the following school year, the 2025-2026 school year. (S-26; Notes of Testimony["NT"] at 25-75).

24. The student's baseline for the decoding goal in the May 2025 IEP was 16% accuracy, with a goal of 70% accuracy. Over the progress monitoring reported in November 2025, January 2026, and April 2026, the student made slight progress, although it was tailing off toward in the latter half of the school year (50%, 23%, 20%). (S-30, S-48).[3]

25. The student's baseline for the vocalizing-letter-sounds goal in the May 2025 IEP was 46% accuracy, with a goal of 73% accuracy. Over the progress monitoring reported in November 2025, January 2026, and April 2026, the student's progress was stagnant (31%, 48%, 43%). (S-30, S-48).

26. The student's baseline for the sight-word goal in the May 2025 IEP was 22% accuracy, with a goal of 80% accuracy. Over the progress monitoring reported in November 2025, January 2026,

[3] Across all goals for which data was collected, progress-monitoring data was probed in February, March, and April 2026. The student was not available for probes in May or June 2026. Therefore, the April 2026 progress monitoring data reported above is from the last April 2026 probe. (P-48).

and April 2026, the student made some progress, although in a narrow band (43%, 32%, 40%). (S-30, S-48).

27. The student's baseline for the multiplication goal in the May 2025 IEP was 43% accuracy, with a goal of 85% accuracy. Over the progress monitoring reported in November 2025, January 2026, and April 2026, the student made strong progress (56%, 72%, 80%). (S-30, S-48).

28. The student's baseline for the fractions goal in the May 2025 IEP was 16% accuracy, with a goal of 80% accuracy. Over the progress monitoring reported in November 2025, January 2026, and April 2026, the student made consistent progress (38%, 45%, 50%). (S-30, S-48).

29. For the entire 2025-2026 school year, there was no progress monitoring data for any S&L goal. (S-30, S-48).

30. In February 2026, the District re-evaluated the student. (S-31).

31. The February 2026 RR noted what is supported by the record in its entirety, namely that the student's academic performance in mathematics is stronger than the student's performance in reading. (S-31).

32. The evaluator who completed the February 2026 RR noted that the student "appeared to have difficulty answering higher order questions as…comprehension was limited to concrete answers. (The student's) speech was difficult to understand and the examiner had to ask (the student) to repeat verbal answers to make sure (the student) was understood. (The student) also had difficulty understanding directions and needed the examiner to repeat them. Yet, (the student) did exhibit good concentration to the task at hand and appeared to want to perform well on each task given". (S-31 at page 6).

33. In the February 2026 RR, teacher input noted the student's broad deficits in reading and mathematics. (S-31).

34. The February 2026 RR included the following input from a S&L therapist: "(The student) continues to exhibit weaknesses in the area of communication due to speech sound errors and receptive/expressive language deficits, but has made progress with…goals as a result of increased self-awareness". Given the fact that the District did not collect progress monitoring data for the entire school year, it is unclear how the S&L evaluator could draw this conclusion. (S-31).

35. The February 2026 RR included updated cognitive assessment, yielding a full-scale IQ of 57. (S-31).

36. The February 2026 RR included updated adaptive behavior assessment completed by the student's mother and special education teacher. The student's mother's adaptive behavior composite score was 85, at the 16th percentile (moderately-low range). The student's special education teacher's adaptive composite score was 67, at the 1st percentile (low range). (S-31).

37. The February 2026 RR continued to identify the student as a student with an intellectual disability and S&L impairment. (S-31).

38. The evaluator for the February 2026 RR recommended that the student's IEP team consider programming that addresses life skills and focuses on adaptive skills development. (S-31).

39. The February 2026 RR noted the student's excessive tardiness and the student's special education teacher shared, through her input, that direct instruction in literacy/reading was impacted because the student often missed that instruction due to tardiness. (S-31).

40. The District undertook a variety of curriculum-based assessments over the 2025-2026 school year. (S-37, S-38, S-41, S-42, S-43, S-44, S-45).

41. In February 2026, on a curriculum-based measure of reading, the student scored below the 1st percentile, respectively, in the basic-reading and reading-comprehension clusters. The student's total reading cluster was also below the 1st percentile. (S-46).

42. In February 2026, on a curriculum-based measure of mathematics, the student scored at the 3rd, 3rd, and 4th percentiles, respectively, in the basic-concepts, operations, and applications composites. The student's total test composite was at the 3rd percentile. (S-37).

43. In April 2026, on another curriculum-based measure of mathematics, the student scored at the 1st percentile. (S-38).

44. In April 2026, on a curriculum-based measure of reading, the student scored at the 1st percentile. (S-41).

45. In June 2026, on a skills-based measure of reading which the District used since November 2022, the student has showed steady progress in exhibiting skills-based scores in reading. Over the year from November 2022 through October 2023, the student's skill-

check score was 76%. The student progressed to the next level in the assessment and over the two years from October 2023 through September 2025, the student's skill-check score was 68%. The student progressed to the next level in the assessment and over the next three months from September 2025 through December 2025, the student's skill-check score was 95%. The student progressed to the next level in the assessment and over the two months from December 2025 through February 2026, the student's skill-check score was 38%. The student progressed to the next level in the assessment and from February 2026 through the June 2026 was in the midst of that level of the assessment. (S-42).

46. In March 2026, the student's IEP team revised the student's IEP, with the District providing the draft of the IEP for implementation of the IEP in a life-skills setting. (P-47).

47. The March 2026 IEP included four adaptive goals, one each in money, purchasing, vocabulary (with item matching), and task-approach/task-persistence. The March 2026 IEP included an academic goal in sentence reading. The March 2026 IEP contained two S&L goals, one a blended goal that addresses both speech rate and articulation, and the other a verbal vocabulary goal. (P-47).

48. The March 2026 IEP indicated that the student's placement would change to life skills support at a school that was not the student's neighborhood school, with 77% of the school day spent in special education settings. The student's S&L support was reduced to 15 minutes weekly. The student did not receive the support of a 1:1 aide in instructional settings. (S-47).

49. In May 2026, the student's mother filed the special education due process complaint that led to these proceedings. (Hearing Officer Exhibit-1).

50. In June 2026, the District formally proposed the March 2026 IEP through a notice of recommended educational placement ("NOREP"). (S-47).

51. The student sees a tutor who provides academic support. The tutor began working with the student in February 2026 and testified that she feels the student is making strong academic progress in reading. (NT at 135-151).

Credibility of Witnesses

All witnesses testified credibly. The dispositive evidence was largely documentary. While each witness provided valuable context for the documentary evidence, and a sense of the student's strengths, needs, and

programming, no one witness's testimony was credited more heavily than any other's, although the documentary evidence lends stronger support to the testimony of educators who work with the student than the student's private tutor (NT at 25-75, 80-95, 135-151).

Legal Framework

To assure that a child eligible under IDEA receives a free appropriate public education ("FAPE") (34 C.F.R. §300.17; 22 PA Code §14.102(a)(2)(iv)), the child's special education programming must be reasonably calculated to yield meaningful educational benefit to the student. (Board of Education v. Rowley, 458 U.S. 176, 187-204 (1982)). 'Meaningful benefit' means that a student's program affords the student the opportunity for significant learning in light of his or her individual needs, not simply *de minimis,* or minimal, or 'some', education progress. The child's education programming must be appropriately ambitious in light of the child's strengths and needs, current levels of programming, and goals. (Endrew F. ex rel. Joseph F. v. Douglas County School District, 580 U.S. 49, 137 S. Ct. 988, 197 L. Ed. 2d 335, (2017); Dunn v. Downingtown Area School District, 904 F.3d 208 (3d Cir. 2018)).

A necessary aspect of the provision of FAPE requires that the placement of a student with a disability take into account the least restrictive environment ("LRE") for a student. Educating a student in the LRE requires

that the placement of a student with disabilities be supported, to the maximum extent appropriate, in an educational setting as close as possible to regular education, especially affording exposure to non-disabled peers. (34 C.F.R. §300.114(a)(2); 22 PA Code §14.102(a)(2)(xii); Oberti v. Board of Education, 995 F.2d 1204 (3d Cir. 1993)).

Discussion & Conclusions

Here, at some point in the student's schooling, and perhaps sooner rather than later, the student will most likely transition to life-skills programming. But that point has not yet arrived. For the 2026-2027 school year, the student should continue to be educated in a learning-support setting at the neighborhood school.

There are a variety of reasons for continuing the student's programming and placement. First, and most emphatically, in the 2025-2026 school year, the student made marked progress on almost every academic goal in the May 2025 IEP, especially in mathematics. The only exception was the verbalizing-letter-sounds goal where the student maintained the baseline level throughout the year. While there was no progress, at least there was no regression.[4] With a record of demonstrated progress across all academic goals, especially in multiplication and fractions, moving the student into a purely life-skills curriculum is not appropriate.

[4] It is also unclear on this record how the student's significant articulation needs might play a role in the data-collection on the verbalizing goal.

Second, the change in programming/placement for the student would be stark. Over the course of the student's IEPs since their inception, the student has been in special education settings for, sequentially, 23%, 34%, 36%, and 38% of the educational day. The March 2026 IEP would double the amount of time the student spends in special education settings (77%), moving from spending the vast majority of time in regular education (given the placement calculation, 77%, 66%, 64%, and 62%) to very little time in regular education settings (23%). As described, the difference in these placement settings is stark and, in light of the goal-progress the student was making, not supportable.

Third, these are positive aspects of programming over the 2025-2026 school year. On this record, there are also 'negative' aspects relating to the student's programming. Specifically, given the progress-monitoring evidence from the beginning of the school year through January 2026, it is possible that the student received no, or minimal, S&L services. From January-June 2026, it is a certainty that there was no progress-monitoring of the S&L goals. Where these needs are long-standing, and where an academic goal includes a verbalizing goal component, these lapses in S&L programming/progress-monitoring undermine any conclusion that the student's performance provides a foundation for a more restrictive placement. Compensatory education will be awarded for the clear finding

that the District can produce no progress-monitoring data for the S&L goals in the 2025-2026 school year.

Fourth, the proposed March 2026 IEP is also prejudicially flawed in various regards.

- An academic goal in the IEP indicates that the student "will match and read…simple functional sentences (3-5 words)" where the record clearly shows that the student had not mastered sequential text, with the three literacy goals in the May 2025 IEP involving only one-syllable decoding and sight-words.
- One S&L goal blends rate of speech and articulation (specifically S-blends). Neither aspect of the goal has a distinct baseline and each should be separated into a separate goal since rate and articulation, while related, need to be gauged separately, at least for goal-monitoring purposes.
- The District proposes to reduce the level of S&L support even though (1) the student's S&L needs are significant (amounting to 'un-intelligibility' as noted by the evaluator in the February 2026 RR) and (2) it is not clear how anyone can gauge the student's S&L performance from

the 2025-2026 school year, a situation which cannot support a reduction in services.

Accordingly, the order below will address the programming for the student's IEP team to develop for the upcoming 2026-2027 school year.

Having found that the student's placement should remain in learning support at the neighborhood school, the student's needs will most likely necessitate a move to a life-skills setting at some point.[5] But the student continues to make goal progress, albeit at a low achievement level for the student's age; in light of the unique circumstances given the student's intellectual ability and academic performance, that progress is significant. But between the evidence on this record and that future point in the student's education, there are steps to be taken in the student's education to maintain the student in a less-restrictive learning support setting at the student's neighborhood school. Those steps will be set forth below.

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[5] While not part of the order, and not an explicit directive to the IEP team, and assuming that the student continues to make consistent progress on academic goals, perhaps the IEP team should consider whether the student, who is entering [redacted] grade and would continue at the neighborhood school through [redacted] grade, might be transitioned to a life-skills setting for the [redacted] grade year, when a building transition would necessarily take place.

ORDER

In accord with the findings of fact and conclusions of law as set forth above, the student's placement will remain in learning support at the student's neighborhood school.

Within 10 days of the date of this order, the student's IEP team shall meet to consider the student's IEP for the upcoming 2026-2027 school year.

The IEP team shall discuss and implement the following directives:

- The IEP implementation date for the IEP shall be August 24, 2026, with a duration through August 24, 2027.
- The goals from the May 2025 IEP shall be the basis for discussion of the goals in the student's revised IEP, with baselines updated from the April 2026 progress monitoring probes at exhibit S-48. The IEP team will determine the level of annual goal progress for each goal.
- The IEP team shall discuss and consider increasing the amount of special education instruction/services which the student receives in special education settings.
- The IEP team shall discuss strategies, including family training, to reduce instances of student tardiness.

- At two points from the start of the 2026-2027 school year, one within 7 school days and the other within 14 school days, the District shall administer S&L probes for the three S&L goals in the May 2025 IEP to establish baselines for those goals.

Due to the lack of clarity as to whether S&L services were provided in the 2025-2026 school year, and the absolute clarity that there is no progress monitoring on any S&L goal from the 2025-2026 school year, the student is awarded 90 hours of compensatory education (representing 10 hours for every month of school over that school year).

Any claim not specifically addressed in this decision and order is denied and dismissed.

s/ *Michael J. McElligott, Esquire*
Michael J. McElligott, Esquire
Special Education Hearing Officer

08/04/2026