

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. 32716-25-26

Child's Name:

M.L.

Date of Birth:

[redacted]

Parents:

[redacted]

Local Educational Agency:

Mechanicsburg Area School District
600 South Norway Street – 2nd Floor
Mechanicsburg, PA 17055

Counsel for LEA:

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Hearing Officer:

Michael J. McElligott, Esquire

Date of Decision:

04/22/2026

Introduction

This special education due process hearing concerns the educational rights of [redacted] ("student"), a student who resides in the Mechanicsburg Area 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 other health impairment and a specific learning disability in mathematics.

The student attended District schools through the end of the 2024-2025 school year. Beginning in the current 2025-2026 school year, the student had moved and began to reside in a neighboring school district. In October 2025, the student attended a dance, as a guest, at the District. The student was involved a physical altercation at the dance.

In January 2026, the student moved back into the District and re-enrolled in the District. As set forth below, the District did not allow the student to attend the District high school and, in late January 2026, mandated a placement for the student through a remote learning program run by the local intermediate unit ("IU").

The parents disagreed with the placement determination mandated by the District, but the student's individualized education program ("IEP") team

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").

did not consider any other placement. Parents approved the IEP proposed by the District but disagreed with the placement in the online IU program. The student began to attend the online IU program in early February 2026.

In mid-February 2026, the parents filed for mediation over their concerns about the placement. In late February 2026, after the parents filed for mediation, the District moved to expel the student based on the altercation in the fall. In early March 2026, parents filed the complaint which led to these proceedings. A week after parents filed their complaint, in mid-March 2026, the District conducted a manifestation determination (“MD”) review, which yielded a conclusion that the October 2025 altercation was not a manifestation of the student’s disability.

In late March 2026, a committee of the District school board held an expulsion hearing. In mid-April 2026, shortly before the issuance of this decision, the District school board voted to expel the student from the District.

Parents’ complaint, filed *pro se*, can fairly be read to allege two broad allegations: (1) Upon re-enrolling in the District, the IEP process, IEP, and placement were all flawed and amounted to a denial of a free appropriate public education (“FAPE”); and (2) the District, through its administrators, retaliated against the family for seeking to employ mediation and/or special education due process to resolve their disagreement with the District’s handling of the student’s IEP and placement. The denial-of-FAPE claims can

be asserted under the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEA”)³ and the Rehabilitation Act of 1973, particularly Section 504 of that statute (“Section 504”).⁴ The retaliation claim can be brought under Section 504 on the basis of alleged acts and omissions by the District for parents having engaged in protected activity—namely, pursuing the dispute resolution processes under IDEA and Section 504.⁵

The District’s position is that parents and student are not entitled to any relief.

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

Issues

1. Did the District deny the student FAPE upon the student’s re-enrollment in the District in January 2026?
2. Did the District, through its administrators, retaliate against the family by moving for expulsion of the student?

³ 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”).

⁴ It is this hearing officer’s preference to cite to the pertinent federal implementing regulations of Section 504 at 34 C.F.R. §§104.1-104.61. *See also* 22 PA Code §§15.1-15.11 (“Chapter 15”).

⁵ Claims under Section 504 can also be brought for disability discrimination (34 C.F.R. §300.104.4; PA Code §15.1(b)). Imputing such a claim to parents’ complaint takes one further afield from a plain reading of their complaint (J-1) and would not fairly place such a claim at issue in these proceedings. Therefore, this decision explicitly does not consider any disability discrimination claim and would leave consideration of any such claim to a separate process or tribunal.

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.

Educational History Prior to October 2025

1. Prior to the current 2025-2026 school year, the student had attended District schools since 2nd grade. (Joint Exhibit ["J"]-6 at page 2).
2. [redacted] Grade. In November 2023, in the fall of the student's [redacted] grade year, the student experienced a family tragedy related to the traumatic death of the student's grandfather. (Parents Exhibit ["P"]-4).
3. Through communication with a District school counselor, the student's parents informed the District of this family tragedy. (P-4).
4. In the 2023-2024 school year, after the family tragedy, the student was disciplined multiple times for insubordination/disrespect and for not being in an assigned area. (J-12).
5. In April 2024, the District issued its triennial re-evaluation report ("RR") for the student. (J-6; Notes of Testimony ["NT"] at 503-547).
6. The April 2024 RR identified that the student had been identified as a student with another health impairment, specifically with attention deficit

hyperactivity disorder (“ADHD”), and specific learning disabilities in math problem-solving, reading fluency, and listening comprehension. (J-6 at page 1).

7. As of April 2024, the student was receiving small group instruction in learning support in mathematics and participated in a special education study hall two sessions per six-day cycle, 85 minutes per session. (J-6 at page 1; NT at 213-300).
8. Parent input in the April 2024 RR indicated that the student was diagnosed with ADHD/combined-type and took medication for the condition, facts that the RR recognized as documented by the District. Parent input indicated that the student was antagonistic, argumentative, and disorganized at home. (J-6 at pages 1-2).
9. Information from the student’s school counselor indicated that the student “really struggles to attend/focus in class, which has an impact on...organization, understanding and completion of...assignments”. (J-6 at page 2).
10. Parent input in the April 2024 RR indicated that the student enjoyed mathematics and, given special education instruction, supports and accommodations, the student has found success in mathematics. (J-6 at page 4).
11. In describing peer relationships and interactions in the April 2024 RR, parent indicated “(The student) has a strong, confident

personality. Some find this attractive while others find it aggressive.”
(J-6 at page 4).

12. In describing interactions with adults in the April 2024 RR, parent indicated “(the student) gets along best with adults who understand that (the student’s) strong-willed personality isn't a personal attack or to be taken as competition. (The student) and I are constantly working on the ability to identify when (the student) is crossing the line of being strong and loud to being disrespectful. (The student) doesn't take the correction well, usually....”. (J-6 at page 4).
13. The parent shared information about the effect on the student of the family tragedy earlier in the school year, in the fall of 2023, and the parents’ view that the student “has had more disciplinary incidents this year than any year before”. The student’s mother continued: “I feel confident in the rapport I'm working on establishing with...teachers that we all want (the student) to be doing (the) best (the student can), academically and behaviorally, and present in a way that (the student) will be proud of”. Parents also shared that the student was seeing a private therapist weekly. (J-6 at page 4).
14. The April 2024 RR contained cognitive testing and academic achievement testing from a prior re-evaluation. (J-6 at pages 4-11).
15. The April 2024 RR contained attention scales from a prior re-evaluation, where the student’s mother and two teachers rated the

student for ADHD-related symptomology. The ratings of the student's mother were consistently higher than the teachers, although the ratings of both teachers were mostly in the high-average, elevated, or very-elevated range. (J-6 at pages 12-13).⁶

16. The April 2024 RR contained executive functioning assessments completed by the student's mother and two teachers. One teacher's scales on the global executive composite was in the potentially-clinically-elevated range. The second teacher's scales and the mother's scales on the global executive composite were in the clinically-elevated range. (J-6 at pages 13-16).
17. The April 2024 RR included progress-monitoring on the one goal (math problem-solving) in the student's IEP. The progress-monitoring indicated progress on word problems at the 4th grade level; in December 2023, the student began to work on word problems at the 5th grade level. (J-6 at pages 17-18).
18. Teacher input in the April 2024 RR was largely positive, recognizing multiple strengths in learning environments, although consistent distraction from the student's phone during class was noted

⁶ It is not exactly clear when the attention and executive-functioning assessments were completed. It appears, as that content follows on the cognitive and achievement testing—explicitly completed for an earlier evaluation—and PSSA test results and grades from the [redacted] grade year, that the attention and executive-functioning assessments were from the earlier evaluation process as well. (J-6 at pages 4-17).

by multiple teachers. One teacher noted occasional defiance. (J-6 at pages 18-20).

19. The April 2024 RR identified needs in math problem-solving, listening comprehension, and attention-to-task. (J-6 at page 21).
20. The April 2024 RR recommended that the student continue to receive instruction in a special education setting for mathematics and continue with the special education study hall, in addition to other program modifications. (J-6 at page 23).
21. *[redacted] Grade*. In the 2024-2025 school year, the student's *[redacted] grade year*, in late August 2024 at the very beginning of the school year, the student was disciplined for possession/use of a vaping device, including a one-day suspension from school. (J-7, J-13).
22. The student's mother discovered evidence of the use of a vape on the student's phone and alerted District administrators. (J-7 at page 19).
23. The vaping incident led the District to re-evaluate the student, leading to a November 2024 RR. (J-7).
24. The November 2024 RR included updated attendance and discipline information for the student through the date of the RR, including the suspension for the vaping-related incident. (J-7 at pages 1-2).

25. The November 2024 RR contained updated parental input, where the student's mother indicated "(The student) struggles to take constructive feedback from adults." (J-7 at pages 3-4).
26. On updated curriculum-based assessments in the November 2024 RR, on the fall administrations in reading and mathematics, the student was at the 1st percentile and 11th percentile, respectively. (J-7 at pages 4-5).
27. The November 2024 RR contained teacher input for the teachers the student was working with in the first few weeks of the school year. (J-7 at pages 5-6).
28. The November 2024 RR included behavior scales completed by the student's mother and a teacher. The rating scales completed by the student's mother were, again, consistently higher than the scales completed by the teacher. (J-7 at pages 8-9 and 10-11).
29. On the behavior ratings in the November 2024 RR, the student's mother rated the student at the clinically-significant level in the hyperactivity, aggression, and conduct problems sub-scales, leading to a clinically significant rating on the externalizing problems composite index. The mother's ratings on the attention problems, atypicality, and withdrawal sub-scales were not at-risk, but the behavioral symptoms composite index for these sub-scales was in the at-risk range. The mother's ratings on the adaptability and social skills sub-scales were in

the at-risk range, along with the adaptive skills composite index. (J-7 at pages 8-9).

30. On the behavior ratings in the November 2024 RR, the student's teacher rated the student at the at-risk range in the hyperactivity sub-scale. The teacher rated the student at the at-risk range on the adaptability, social skills, and leadership sub-scales, along with the adaptive skills composite index. (J-7 at pages 10-11).
31. The November 2024 RR included executive functioning scales completed by the student's mother and a teacher. The rating scales completed by the student's mother were in the extremely-elevated range for the behavioral control index and the elevated range for the overall executive functioning index. The rating scales completed by the student's teacher were in the elevated range for the behavioral control index. (J-7 at page 9 and 11-12).
32. The November 2024 RR included an assessment of emotional disturbance indicators completed by the student's mother and a teacher. The indicators for the student's mother were in the at-risk range for unsatisfactory personal relationships and unhappiness/depression; the overall social maladjustment indicator for the student's mother supported behaviors that are inconsistent with societal norms exhibited much more often than same-age peers. The

indicators for the teacher were all in the acceptable level. (J-7 at pages 10 and 12).

33. The November 2024 RR contained self-ratings by the student for behavioral ratings and emotional disturbance indicators, all of which were in the average or acceptable ranges. (J-7 at pages 15-19).

34. As part of the November 2024 RR, the District performed a functional behavior assessment, finding that the student did not require a positive behavior support plan. (J-7 at pages 19-22).

35. The November 2024 RR considered a potential identification of the student with an emotional disturbance but did not formally identify the student. The RR did, however, note weakness in the student's social skills and recommended that strategies and accommodations be considered by the IEP team to address this concern, including consideration of a social skills goal if socialization continued to be an issue for the student. (J-7 at page 22).

36. In the 2024-2025 school year, after the August 2024 vaping incident, the student was disciplined multiple times for class cuts, possession/use of an authorized device, insubordination/disrespect, and leaving campus. The last of these disciplinary incidents led to a two-day suspension from school and consideration of changing the student's placement to the IU remote learning program; this change in placement was not pursued. (J-12, J-14, J-31 at pages 1-3).

37. [redacted] Grade. Before the current 2025-2026 school year, the student's [redacted] grade year, the student began to reside in a neighboring school district and to attend that district's high school. (J-3, J-12; NT at 24-209, 626-634).

October 2025 Altercation

38. On October 4, 2025, the student attended a dance at the District as the guest of a District student. (J-24; NT at 24-209, 626-634).

39. Prior to the dance, the student submitted a form to attend the dance as a guest, a form to be filled out by the hosting District student, that student's parent, the guest student, and the guest student's parent. (J-24; NT at 24-209).

40. During the dance, the student was involved in an altercation with District students who were also attending the dance. (P-1; J-20, J-21, J-22, J-22a, J-23; NT at 24-209, 626-634).

41. The student intentionally sought out a District student to confront that District student over a personal matter. (J-22).

42. Accounts of the confrontation vary, but one aspect of video evidence appears to show that the student was engaged verbally with two other attendees at the dance when one of those attendees initiated contact by shoving the student, which began the altercation. (P-1; see also J-21).

43. The altercation involved four students, including grappling, hair-pulling, tussling, wardrobe damage, and combatants being taken to the ground. District security and administrators became involved in attempting to quell the altercation, with the student and the others involved in the altercation not complying with orders from those personnel. (J-22, J-22a; NT at 23-209).
44. The school principal characterized the altercation as one of the most chaotic and disruptive altercations he or the District had experienced. (NT at 24-209).
45. After the altercation, parents and other attendees continued with verbal sparring and disruption in the parking lot outside of the school. (NT at 24-209).

October – December 2025

46. Administrators at the District informed the neighboring school district about the altercation at the dance. The neighboring school district did not take any disciplinary action against the student. (J-12; NT at 24-209, 550-617).
47. In the weeks following the October 4th altercation, the altercation itself was the basis of anger and conflicts in the high school and in the community. (NT at 24-209, 550-617, 626-634).

48. Over October and November 2025, the student was involved in three disciplinary incidents at the neighboring school district, including class cuts, disrespect, and possession/use of vaping materials. (J-12).
49. In November 2025, the neighboring school district issued its IEP for the student. (J-3).
50. The present levels of academic performance in the November 2025 IEP included first and second quarter grades (in progress) and teacher input from teachers at the neighboring school district. (J-3 at pages 6-7).
51. The teacher input in the November 2025 IEP is remarkably consistent with the teacher input at the District in the April 2024 and November 2024 RRs. The student was successful in many ways, but had difficulty with attendance, organization, assignment completion, distractibility (especially with the student's phone), and occasional defiance. (J-3 at pages 6-7).
52. The November 2025 IEP contained information related to transition planning for the student. A transition review completed by the neighboring school district indicated that the student is aware of the disability identifications and how those impact the student's learning, as well as the disabilities' impact on the student's academic strengths and needs. (J-3 at page 8).

53. In the transition section of the November 2025 IEP, the student continued to voice an interest in interior design, an interest which was voiced by the student while at the District. The transition section of the November 2025 IEP contained the results of one occupational assessment from October 2024. The IEP indicated "No additional assessments were provided" by the District. (J-3 at page 9).
54. Post-secondary education and training as part of the student's transition included "plans to attend a two-year college or community college to study interior design....long-term goals include obtaining a job and continuing (the student's) education in a field that aligns with (the student's) creative interests." The student voiced an aspirational goal of potentially attending an Ivy League school. (J-3 at pages 9, 12-13).
55. Employment planning as part of the student's transition planning included discussion of gaining employment experience through a program at the neighboring school district where the student could earn credit as part of a work experience. (J-3 at pages 9, 12-13).
56. As part of transition planning at the neighboring school district, upon the request of the student/parents, the local Office for Vocational Rehabilitation ("OVR") can be invited to IEP meetings to see how that office might assist with transition planning and/or services. The

student's parents voiced an interest in having OVR be involved in transition planning. (J-3 at pages 9, 12-13).

57. There were no concerns or concrete planning for independent living skills as part of the student's transition planning. (J-3 at pages 9, 12-13).

58. Parents' concerns in the November 2025 IEP included work completion, attendance, and grades. (J-3 at page 10).

59. Goal-driven needs of the student were identified in math problem-solving and executive functioning. (J-3 at page 10).

60. The November 2025 IEP contained two goals, one in organization/planning and one in math problem-solving. (J-3 at pages 16-17).

61. The student would receive "one period" of instructional support daily. Based on the Penndata placement calculation, the school day is 6.87 hours, or 412 minutes. The Penndata calculation indicates that the student would spend approximately 10% of the school day in special education. Thus, the "one period" per day equates to approximately 42 minutes per day in special education. (J-3 at pages 6, 22).

January 2026 & Re-Enrollment in the District

62. In January 2026, the student moved back into the District. (NT at 24-209, 213-300, 626-634).
63. On January 6, 2026, the District registrar began to communicate with the neighboring school district, the District's special education department, and other District educators and employees (including District transportation), about re-enrolling the student. On January 9th, the District registrar communicated with the parent about a meeting they had and about comprehensive enrollment information. (J-32 at pages 14-17, 30-32).
64. By January 15th, the District had been provided with the student's IEP and special education paperwork from the neighboring school district. The student was still attending the neighboring school district, which inquired with the District when its re-enrollment of the student would be complete. Parent was also inquiring with the District about when the student's re-enrollment would be completed and when the student would begin attending the District high school. (J-32 at pages 19-24).
65. The District high school principal and District superintendent consulted with each other prior to the student starting at the District and determined that the student would not return to the District high school. Their explicit intention, supported by the testimony of each,

was to keep the student out of District high school for the remainder of the 2025-2026 school year. Instead, they collaboratively decided that the student would receive education from the District only through a placement in the online IU learning program. (NT at 24-209, 550-617).

66. The principal and District superintendent discussed other placements which would keep the student out of the District, but those placements involved facilities where students require intensive behavioral intervention. The conversation between the administrators did not include consideration of private placements outside of the District which were primarily academic. (NT at 550-617).

67. At some point between January 14th, when the District received the student's IEP from the neighboring school district, and January 21st, when the student's special education case manager indicated to the parents that the high school principal would be at the meeting for "an additional conversation that will take place during this meeting", the student's special education case manager was instructed by a special education administrator to utilize the IEP from the neighboring school district to draft an IEP for implementation at the online IU program. (J-4, J-31 at pages 10-11, J-32 at page 19; NT at 213-300).

68. At approximately 9:30 PM on January 22nd, the evening before the student's IEP meeting at the District, the District high school

principal emailed the parents to inform them that “district administration has been in communication with me regarding (the student’s) anticipated return to our school district”. The principal shared that the District had concerns related to the student’s re-enrollment in the District, based on the October 4th altercation, and that “district leadership has expressed concerns related to a standard re-entry into the school setting”. The principal indicated that he would be sharing more information with the parents at the IEP meeting the next day: “I will also need to share next steps that have already been directed by our upper administration at the District Office....”. (J-31 at page 7).

69. On January 23rd, the student’s IEP team met. (J-4; NT at 24-209, 213-300, 626-634).

70. The January 23rd IEP meeting unfolded in two phases. The first phase was led by the District high school principal who explained that the student would not be allowed to return to schooling at the District high school and that the online IU program would be the only placement supported by the District. The principal indicated, at the IEP meeting and consistently throughout his testimony, that his view was to allow the student to return to the District high school in the 2026-2027 school year (which would be the student’s [redacted] grade year). (J-4; NT at 24-209, 213-300).

71. The second phase of the IEP meeting was led by the student's special education case manager who led the discussion about the student's IEP. (J-4; NT at 24-209, 213-300).
72. The District's January 2026 IEP was based on the November 2025 IEP from the neighboring school district. (J-3, J-4; NT at 213-300).
73. The January 2026 IEP indicates that the student will receive "all supports in the general education classroom through the online IU program except when (the student) receives itinerant learning support check ins once per week at the district office or via zoom". The student and educator have met only once in person. (J-4 at page 1; NT at 213-300).
74. Present levels of academic and functional performance in the January 2026 IEP uniformly indicated "see IEP from (the neighboring school district) dated 11/19/25", without any content from the IEP brought into the January 2026 IEP. (J-4 at page 7).
75. The January 2026 IEP identified the student's needs as math problem-solving, listening comprehension, attention-to-task, executive functioning (work initiation and completion), and social skills. (J-4 at page 8).
76. The January 2026 IEP included no transition planning, uniformly indicating "see IEP from (the neighboring school district) dated

11/19/25" for all content related to the student's post-secondary transition. (J-4 at pages 8-9).

77. The January 2026 IEP contained two goals, one in math problem solving (word problems) and one in assignment completion (timely submission of assignments). (J-4 at page 13).

78. The specially-designed instruction and modifications in the January 2026 IEP are regular education accommodations available to any student in the online IU program. (J-4 at page 14; NT at 304-415).

79. The student received one weekly 15-minute check-in with the special education case manager or the District administrator who serves as the remote learning liaison. The District counts this weekly 15-minute meeting as a special education environment, yielding a Penndata calculation of 4% of the school day spent in special education. (J-4 at page 19; NT at 213-300, 304-415).

80. The online IU program is entirely self-directed by the student. The District administrator who serves as a liaison for remote learning simply checks for assignment completion by the student. (NT at 304-415).

81. Neither the student's special education case manager nor the District director of special education have had any contact, or know

any specific information, related to the services the student receives at the online IU program. (NT at 213-300, 425-500).

82. No one at the District is aware of whether any teacher with the online IU program is certified in special education or provides special education support; no one at the District monitors the student's instruction in the online IU program; no one at the District is aware of how the student's IEP is implemented by the online IU program; no one at the District has ever spoken or interacted with any of the student's teachers at the online IU program. (NT at 213-300, 304-415).

83. Even though the student voiced an interest in a mathematics class, the student receives no instruction in mathematics. (NT at 213-300, 304-415).

84. The special education case manager testified that he provides a worksheet of math problems to the student's sibling to be delivered to the student. The student completes the worksheet of problems without instruction or support and then provides it back to the sibling for delivery to the special education teacher. (NT at 213-300).

85. The District has a graduation project requirement, to be completed in the fall of a student's [redacted] grade year. Neither the special education teacher nor the District administrator who is the liaison for remote learning are working with the student on this

requirement. The remote-instructor liaison indicate that she might start coordinating with the District educator who oversees that requirement and helps students to manage its completion, but on this record, that process of coordination had not yet begun, and the status of the student's graduation project requirement is not being addressed by the District. The project is not mentioned at all in the January 2026 IEP. (NT at 213-300, 304-415).

86. The notice of recommended educational placement ("NOREP") issued by the District at the IEP meeting indicated that the student would receive instruction through the online IU program. (J-5).

87. The student's parents voiced disagreement at the IEP meeting about the placement. The student attended the IEP meeting and, hearing the representation of the high school principal about potentially returning to District schooling for the student's [redacted] year, the student lobbied for the parents to approve the online IU program to allow the student to return for [redacted] year. Based on the representations of the District high school principal and the student's view about looking to the 2026-2027 school year, the parents reluctantly approved the NOREP. (J-5; NT at 24-209).

88. The District administrator who is the liaison with the online IU program did not attend the January 23rd IEP meeting. (NT at 304-415).

89. As of January 26th, the District had still not confirmed with the neighboring school district that the student would be starting at the District. (J-32 at 23-26).
90. On January 26th, the District high school counselor assigned to the student, and the individual with whom information was shared in November 2023 about the student's family tragedy in [redacted] grade, emailed the high school attendance office and other educators, including the high school principal, the special education case manager, the District liaison for remote instruction: "Just a note for your awareness—(the student) is starting in the (online IU program) and should not be at the (District high school) for any reason unless it's for a scheduled meeting, IEP, etc..". (J-32 at page 25).
91. On January 27th, the District began to communicate with the student about the online IU program. The student indicated an interest in taking mathematics and government. (J-32 at pages 12-13; NT at 304-415).
92. Shortly after the January 23rd IEP meeting, the parents reached out to an advisor at the Bureau of Special Education (BSE) at the Pennsylvania Department of Education, who contacted the District director of special education. This was the first indication of any sort that the director of special education had about the dispute between

the District and the parents regarding the student's placement. (NT at 425-500).

93. The District director of special education was unaware of the October 2024 altercation, finding out about that incident only as she became involved after speaking with the BSE advisor. The special education director discussed the situation with the District superintendent who reiterated that the District's position was to exclude the student from District schooling for the remainder of the school year. (NT at 425-500).

94. On February 2nd, the student's mother met with the District superintendent to discuss the parents' concerns with the student's program and placement. The District superintendent confirmed that the student's placement in the IU remote program was "absolutely punitive". At the time of the meeting with the student's mother, the District superintendent was aware, through the District director of special education, that the parent had communicated with BSE. (J-32 at page 6; NT at 425-500 and, specifically, at 573-577).

95. On February 10th, the parents filed a request for mediation, and the District agreed to mediate the dispute. (J-27; NT at 425-500).

96. On February 26th, the District superintendent sent a letter to the parents indicating that the District would seek to expel the student

based on the October 4th altercation. An expulsion hearing was scheduled for mid-March, later rescheduled to late March. (J-15).

97. The District high school principal and the District director of special education were not consulted or made aware of the District's move to expel the student. (NT at 24-209, 425-500).
98. Anticipating a potential expulsion of the student, the District scheduled a MD meeting on March 11th. (J-16, J-17; NT at 213-300, 304-415, 425-500, 503-547).
99. The MD process resulted in the District participants finding that the October 4th altercation, when the student attended a different school district, was not a manifestation of the student's disability nor was it based on the District's failure to implement the student's IEP. (J-17).
100. On March 13th, the parties met for the mediation session requested a month earlier. Mediation was unsuccessful. (NT at 425-500).
101. On March 25th, the District held an expulsion hearing. (J-18, J-19).
102. On April 14th, the District school board expelled the student. (J-33).
103. The District, through its senior-level administrators, knowingly and admittedly recognized that expulsion of the student was a means

to maintain the student's placement at the online IU program in the face of potential change-in-placement through mediation or special education due process:

- On questioning by the hearing officer, the high school principal testified as follows— "Q: (Y)our understanding was: The family is not happy with (the online IU program) and want (the student) to return to the school? A: Correct. Q: We can't allow that, so we have to expel her? A: That is my understanding of it. That would be correct." (NT at 125).
- The District director of special education testified that, through her conversations with the superintendent, "(The superintendent) indicated that he would pursue discipline if the question of the current placement was on the table." (NT at 498).
- On questioning by the hearing officer, the District superintendent testified as follows— at the point that the superintendent and the student's mother met on February 2, "Q: (Was) there any consideration that the student would be suspended and/or expelled? A: At that point, we were still attempting to work through placement through Chapter 14 special education. So, at that point, that was not something that I wished to have to do. I was hopeful that the recommended placement through the IEP

process would get us to our goal of having (the student) not in the high school through the rest of the year.” (NT at 572).

- And, again, on questioning by the hearing officer, the superintendent testified as follows— “Q: So what led you to seek expulsion of the student? A: So my goal has, as I said, remained the same, to see that (the student) doesn't reenter our regular program for the rest of the year. So it appeared that that was happening through Chapter 14, through the -- through signing the NOREP. But as soon as (the student’s mother) began to challenge that placement through Chapter 14, then we began to pursue options through (expulsion proceedings) to continue to try and keep (the student) out through the end of the school year. So that was when we moved forward, under (proceedings) for expulsion”. (NT at 587).

104. The evidence in the record diverges between the high school principal and the District superintendent regarding how the IEP team was directed to consider only the IU remote program. In communicating with parents, the principal referred to “district administration”, “district leadership”, and “upper administration at the District office”; the latter reference was used when the principal told the parents “next steps... have already been directed by our upper administration at the District Office”. (J-31 at page 7). The District

superintendent denied that he ever directed the principal to develop a placement for the student at the IU remote program. (NT at 570). On balance, given the affect and engagement of the two administrators in the hearing, the testimony of other witnesses, and documentary evidence, it is an explicit finding that the conversation between the two administrators about the online IU program was collaborative, but the final decision, and concrete directive, came from the District superintendent.

Legal Framework

The provision of special education to students with disabilities is governed by federal and Pennsylvania law. (34 C.F.R. §§300.1-300.818; 22 PA Code §§14.101-14.163)). Pertinent legal provisions related to resolution of the issues are as follow.

Denial of FAPE. To assure that an eligible child receives FAPE (34 C.F.R. §300.17), an IEP 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, with appropriately ambitious programming in light of his or her individual needs, not simply *de minimis* or minimal education progress. (Endrew F. ex rel.

Joseph F. v. Douglas County School District, 580 U.S. 386, 137 S. Ct. 988, 197 L. Ed. 2d 335, (2017); Dunn v. Downingtown Area School District, 904 F.3d 208 (3d Cir. 2018)).

Least Restrictive Environment. 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)).

Predetermination. “Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process ... as it did upon the measurement of the resulting IEP against a substantive standard.” Board of Education v. Rowley, 458 U.S. 176, 205–206 (1982). Where school-based members of an IEP team present only one educational placement option, or programming option, at an IEP meeting and are unwilling to consider, or to engage with parents about other options, the school district has engaged in predetermination. (See, e.g., Deal v. Hamilton County Board of Education, 392 F.3d 840, 855-859 (6th Cir. 2004)).

Manifestation Determination. Where a school district seeks to remove a student identified as a child with a disability under IDEA for more than 10 consecutive school days due to a disciplinary matter, such a removal is considered a disciplinary change in the student's educational placement. (34 C.F.R. §300.536(a)(1); 22 PA Code §14.102(a)(2)(xxxii)).

Within 10 school days of the decision to implement a disciplinary change-in-placement, "(the school district), the parent, and relevant members of the child's IEP Team (as determined by the parent and the [school district]) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents" to determine if the behavior underlying the disciplinary action was "caused by, or had a direct and substantial relationship to, the child's disability", or was the direct result of the school district's failure to implement the IEP. (34 C.F.R. §300.530(e); 22 PA Code §14.102(a)(2)(xxxii)). This review is the MD process.

If the MD process determines that the behavior underlying the disciplinary action is not a manifestation of the student's disability, or does not have a direct and substantial relationship to the student's disability, or is not the result of the school district's failure to implement appropriately the student's IEP, the school district may take disciplinary action as it would with a student who does not qualify under IDEA (34 C.F.R. §300.530(c); 22 PA Code §14.102(a)(2)(xxxii)).

If the MD process determines that the behavior underlying the disciplinary action is a manifestation of the student's disability, or has a direct and substantial relationship to the student's disability, or is the result of the school district's failure to implement appropriately the student's IEP, the student must be returned to the then-current educational placement, and the student's IEP team must seek to understand how the behavior must be understood and addressed in the student's IEP. (34 C.F.R. §300.530(e)(f); 22 PA Code §14.102(a)(2)(xxxii)).

Procedural Denial-of-FAPE. Where inadequacies are alleged in a school district's handling of its procedural obligations, a denial of FAPE must be grounded in a finding that the procedural inadequacies impeded a student's right to FAPE, or "significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of...FAPE", or caused a deprivation of educational benefit. (34 C.F.R. §300.513(a)(2)(i-iii); 22 PA Code §14.102(a)(2)(xxx)).

Retaliation. For any claim of retaliation for pursuing protected activity under Section 504, claimants must show that (1) they engaged in a protected activity, (2) that the alleged retaliatory action was sufficient to deter a person of ordinary firmness from exercising his or her rights, and (3) that there was a causal connection between the protected activity and the retaliatory action. (Lauren W. v. DeFlaminis, 480 F.3d 259, 267 (3d Cir. 2007)). To show a causal connection, the claimant must show "either (1) an

unusually suggestive temporal proximity between the protected activity and the allegedly retaliatory action, or (2) a pattern of antagonism coupled with timing to establish a causal link.” (Id.)

Discussion & Conclusions

Where does one begin to unpack the issues on which the parents and student must prevail in light of the District’s wholesale failure to meet its obligations to the student under IDEA and Section 504? Perhaps it is best to approach the matter chronologically and address the issues as those issues surface over time.

As an initial matter, however, the entire backdrop of the denial-of-FAPE and retaliation on this record must be understood in light of the altercation at the dance on October 4, 2026. Clearly, this was an outsized event in the eyes of the District and understandably so. The video evidence shows a very physical altercation involving four students which ranged over two minutes. The altercation led to disruption between students and adults in the parking lot outside the high school. The altercation led to school-wide and community-wide ramifications in the weeks following the altercation. The altercation presented difficult intricacies involving educating District students while being mindful of all these issues and having student safety in school as a necessary, and primary, concern. All of that is understood and none of that can be gainsaid.

Notwithstanding that backdrop, however, the District still has obligations to this student under IDEA and Section 504. The District clearly was willing, and is willing, to ignore explicitly those obligations, shielding itself behind the events outlined above. Remedy must, and will follow, but the tragedy of this record is that the choices here were not binary: The range of choices and solutions, as always in special education, are manifold. Yet the District chose one, and only one, path—predetermination, substantive denial-of-FAPE, procedural denial-of-FAPE, and retaliation.

When the student re-enrolled in the District to start after the winter break, the registration process unfolded as it normally would have—the District registrar communicated with the family and District educators and the neighboring school district as she would have with any other student. Moving through mid-January, however, the District high school principal and the District superintendent, in coordination with a special education administrator (who was not the District director of special education), met to predetermine two things: (1) the student would not return to any level of schooling at the District and (2) the student would attend the online IU program.

It is predetermination of the purest sort: In effect, the student and family were told at the January 23rd IEP meeting 'this is how and where we will educate this student, and it is not an IEP team decision'. Indeed, in the run-up to the meeting, the word had gone out to the special education case

manager in terms of how he was to approach writing the IEP; the student's school counselor gave fellow educators a 'heads-up'—the student was to be considered *persona non grata* at the District; at night, on the eve of the IEP meeting, the District high school principal previewed that the District superintendent had decided where, how, and by whom the student would be educated, and the family would be informed of these things at the IEP meeting the next day. Predetermination in its purest form.

It almost goes without saying, yet it must be said, that this predetermination is a prejudicial procedural denial-of-FAPE in all three aspects of the requirement for such a finding under IDEA: As will be seen below, the predetermination impeded the student's substantive right to FAPE, *and* "significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of...FAPE", *and* caused a deprivation of educational benefit to the student, a deprivation which continues day by day at the online IU program. (34 C.F.R. §300.513(a)(2)(i-iii); 22 PA Code §14.102(a)(2)(xxx)).

This procedural denial-of-FAPE, through predetermination, is compounded by the substantive inappropriateness of the January 2026 IEP. The January 2026 IEP contains no present levels of academic or functional performance. The IEP contains no transition planning or programming. The executive functioning goal is not a special education goal at all—it simply indicates that the student will complete assignments. And the IEP outlines

practically no special education support whatsoever. In fact, on this record, at the District, the student went from two 85-minute special education support periods on a six-day cycle, which amounts to approximately 28 minutes per day, to 42 minutes per day of special education support under the terms of the November 2025 IEP at the neighboring school district, to 15 minutes per week—an average of three minutes per day— of special education support under the terms of the District’s January 2026 IEP. None of this is calculated to be appropriately ambitious in light of the student’s special education needs.

Prejudicial flaws in the implementation of the January 2026 IEP also support a finding of denial-of-FAPE. A student who has long-identified task-initiation, organization, and task-completion needs is in an entirely self-directed program without any special education support, even intermittently let alone day to day. A student with a longstanding math problem-solving goal—geared to an instructional level, on this record, approximately five to six years below grade-level, or alternatively, at the 11th percentile— works through a sibling to receive and to submit a worksheet to the special education case manager, without any math class or math instruction. A student with recently identified, and emergent, needs in social skills has no access to peers, by the District’s design.

Parents were obviously frustrated with much of this, and pointedly indicated that frustration at the January 23rd IEP meeting, even as they

acquiesced in their child's wishes and the District's predetermination, both with an eye toward the student's [redacted] grade year in 2026-2027, by approving the NOREP. But within a week or so, the student's mother had taken a meeting with the District superintendent to discuss these matters.

And so the chronology comes to the most shocking aspect of the District's conduct through its superintendent.⁷ So long as the family was pacified through the student's placement in the online IU program, the District was content. But when the parents persisted in disputing the placement, and potentially sought to engage in the protected activities under IDEA and Section 504 related to attempts at mediation and/or due process, the District, through its superintendent, freely, openly, and explicitly asserted that it would retaliate against the parents for that course of action (i.e., attempts at dispute resolution). And it did. The District moved to expulsion proceedings to ensure that dispute resolution could not take place, or, if it did, to blunt those efforts.

The legal framework for retaliation, outlined above, weaves in and out of causation and chronology and imputation of acts/omissions on behalf of individuals. Here, none of those considerations are necessary because the District's forthright position is that it would expel the student, and ultimately

⁷ The District high school principal used that word to describe the nature and fallout from the October 4th altercation. That may be an apt descriptor of those events. It is an equally apt descriptor of the District's position and actions, in light of its obligations to the student under IDEA and Section 504, over the period February – April 2026.

did expel the student, so that the student did not set foot in the hallways of a District school in the current school year. There is no need to probe causation or chronology. It was the plan, and the District readily admits it.

With expulsion being part of the plan for the District's approach to 'educating' the student, it recognized that it needed to engage in a MD process. And in a record full of strange revelations and unexpected assertions, perhaps one of the most strange and unexpected elements is the MD process undertaken in March 2026. For the District conducted a MD process related to the behavior of a non-resident student at a time when the District had no IEP or programming in place because, one repeats oneself, the student was not a resident of the District, all in an effort to clear the way for the expulsion it was systematically pursuing. How can one describe this MD process? *Ex post facto* manifestation? Manifestation *in absentia*? The hearing officer apologizes where the tone and prose might be approaching flippancy because the MD process was no flippant matter—it was a necessary step of many taken by the District that led to the expulsion of the student as a matter of choice, planning, and desired result.

And the District has attained its desired result. The student has been expelled at the expense of meeting its obligations to the student under IDEA and Section 504. To be blunt, the District's position in that regard across the entirety of this record can be reduced to a simple phrase: 'we know, we had our reasons, and we don't care.'

Compensatory Education. Where a school district has denied FAPE to a student under the terms of IDEA or Section 504, compensatory education is an equitable remedy that is available to a student. (Lester H. v. Gilhool, 916 F.2d 865 (3d Cir. 1990); Big Beaver Falls Area Sch. Dist. v. Jackson, 615 A.2d 910 (Pa. Commonw. 1992)).

The evidentiary scope of claims, which is not a point of contention in this matter, and the nature of compensatory education awards were addressed in G.L. v. Ligonier Valley School Authority, 801 F.3d 602 (3d Cir. 2015) The G.L. court recognized two methods by which a compensatory education remedy may be calculated.

One method, the more prevalent method to devise compensatory education, is the quantitative/hour-for-hour calculation, where, having proven a denial of FAPE, the compensatory education remedy is calculated based on a quantitative calculation given the period of deprivation. In most cases, it is equitable in nature, and the award is a numeric award of hours as remedy.

The second method, a rarer method to devise compensatory education, is the qualitative/make-whole calculation, where, having proven a denial of FAPE, the compensatory education remedy is calculated based on a qualitative determination where the compensatory education remedy is gauged to place the student in the place where he/she would have been absent the denial of FAPE. It, too, is equitable in nature, but the award is

based on services or interventions for the student, or some future accomplishment or goal-mastery by the student, rather than being numeric in nature.

Both calculations are a matter of proof. The quantitative/hour-for-hour approach is retrospective, looking back to understand the cumulative denial of FAPE, and is normally a matter of evidence based on IEPs or other documentary evidence that provides insight into the quantitative nature of the proven deprivation. The qualitative/make-whole approach is prospective, looking forward to some point in the future where the proven deprivation has been remedied, and normally requires testimony from someone with expertise to provide evidence as to where the student might have been, or should have been, educationally but for the proven deprivation, often with a sense of what the make-whole services, or future student accomplishment/goal-mastery, might look like from a remedial perspective.

Here, parents have made a request for compensatory education but the nature of that remedy is undefined. Therefore, compensatory education will be an equitable award of quantitative/hour-for-hour compensatory education as a result of the District's predetermination, procedural and substantive denials of FAPE, and retaliation against the family.

First, as a matter of equity, the student will be awarded 100 hours for the predetermination engaged in by District administrators in the run-up to the January 2026 IEP meeting.

Second, in Pennsylvania the minimum instructional day for a secondary-level student, grades 7 through 12, is 5.5 hours per day. (22 PA Code §11.3(a)). It is the considered opinion of this hearing officer that the District, through the flaws in the substance and implementation of the January 2026 IEP has wholly denied the student FAPE. Therefore, beginning on January 15, 2026, when the District had been provided with the November 2025 IEP from the neighboring school district through the eighty-five school days thereafter in the 2025-2026 school year, through the last day of school on May 29, 2026 (see J-32 at page 4), the student will be awarded 5.5 hours of compensatory education, or 467.5 hours.

Third, as a matter of equity, the student will be awarded 250 hours of compensatory education for the admittedly retaliatory behavior engaged in by the District.

Accordingly, the student will be awarded 817.5 hours of compensatory education. The order below will also provide certain directives and deadlines to the student's IEP team.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Mechanicsburg Area School District ("District") denied the student a free appropriate education ("FAPE") through predetermining the student's placement, through substantive and procedural denial of FAPE in the design and implementation of its programming, and through its retaliatory conduct for the parents pursuit of dispute resolution through IDEA and Section 504.

The student is awarded 817.5 hours of compensatory education.

The compensatory education shall be made available to the student for any educational/enrichment services, activities, fees, costs, or outlay related to the student's IEP, identified needs, or identified strengths, including post-secondary or employment programming related to the student's transition planning and programming. The compensatory education shall be available to the student until the student's 22nd birthday and shall not be impacted by the student graduating or taking a diploma from the District.

Additionally, the compensatory education award is calculated on a denial-of-FAPE by which the student remains in the online intermediate unit program through the end of the current school year. The student's pendent placement, however, for the first day of school at the District in the 2026-2027 school year shall be in-person attendance and instruction at the District high school under the terms of an IEP as set forth in the next paragraph.

Forthwith, but no later than May 4, 2026, the student's individualized education program ("IEP") team shall convene to design an IEP for the student for implementation through in-person attendance and instruction at the District high school in the 2026-2027 school year. The implementation date for the IEP that results from that IEP meeting/process shall be the first day of school at the District for the 2026-2027 school year.

Forthwith, but not later than May 4, 2026, the student's IEP team shall meet to gauge the work necessary for the student to complete the graduation project requirement. This meeting and the meeting ordered in the paragraph immediately above may be the same meeting, or may be separate meetings, as the IEP team decides. Regardless of when the IEP team meets to discuss the student's graduation project requirements, the IEP team shall include the high school educator responsible for understanding those requirements and providing concrete information to the IEP team regarding the student's completion of those requirements.

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

04/22/2026