

*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. 31059-24-25**

**Child's Name:**

A.L.

**Date of Birth:**

[redacted]

**Parents:**

[redacted]

**Counsel for Parents:**

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**Hearing Officer:**

Michael J. McElligott, Esquire

**Date of Decision:**

08/21/2025

## Introduction

This special education due process hearing concerns the educational program and placement of A.L. ("student"), a student who resides in the Downingtown Area School District ("District").<sup>1</sup> The student is eligible under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA")<sup>2</sup> as a student with a qualifying disability who requires special education. The parties dispute whether or not the student should continue to be eligible for services under IDEA. Parents also claim that the District has failed to provide appropriate programming, an alleged deficit which parents claim is ongoing.

Specifically, the parents claim that the District has failed to provide a free appropriate public education ("FAPE") under the terms of IDEA since the 2022-2023 school year, including the student's current programming, for certain alleged flaws in the student's special education program and placement. Parents seek compensatory education as a remedy for this alleged deprivation.<sup>3</sup> The parents also dispute the District's recommendation that the student should be exited from special education services.

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<sup>1</sup> The generic use of "student", and avoidance of personal pronouns, are employed to protect the confidentiality of the student.

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

<sup>3</sup> Specifically, parents' claim for compensatory education accrues as of March 28, 2023, two years prior to the filing of the parents' complaint. (School District Exhibit ["S"] – 35; Notes of Testimony ["NT"] at 39-41).

The District counters that, at all times, it has met its special education obligations to the student. It also asserts that the student, while being appropriately identified as a student with disabilities, no longer requires special education to address those disabilities in the education environment. In light of this position, the District asserts that the student should be exited from special education, since the student's needs can be met with regular education accommodations.

For the reasons set forth below, I find for the parents in part and for the District in part.

### **Issues**

1. Has the District provided FAPE to the student through its special education programming since March 2023?
2. Should the student remain eligible under IDEA for special education services?
3. If so, is the student's programming appropriate for the upcoming 2025-2026 school year?

### **Witness Credibility**

All witnesses testified credibly and a degree of weight was accorded to each witness's testimony. No one witness's testimony was accorded materially more weight than any other witness, although the testimony of the student's special education case managers in [redacted] grades were

found to be particularly authentic (NT at 452-520, 705-781). Overall, the documentary evidence was generally more persuasive in understanding the factual mosaic of the evidence.

## **Findings of Fact**

All evidence in the record, both exhibits and testimony, was considered. Specific evidentiary artifacts in findings of fact, however, are cited only as necessary to resolve the issue(s) presented. Consequently, all exhibits and all aspects of each witness's testimony are not explicitly referenced below.

### Educational Matters Prior to [redacted] Grade

1. In May 2018, in the student's [redacted] grade year, the student was initially identified as eligible for special education services. (Parents Exhibit ["P"] – 1).
2. The May 2018 evaluation report ("ER") identified the student with specific learning disabilities in reading comprehension and listening comprehension, with the latter disability leading to a secondary disability identification for speech and language ("S&L") impairment. (P-1).
3. In May 2021, in the student's [redacted] grade year, the student was re-evaluated. (P-4; S-2).
4. The May 2021 re-evaluation report ("RR") continued to identify the student with specific learning disabilities in reading comprehension and

listening comprehension. While a formal identification as a student with S&L impairment was not indicated in the RR where the identifications were made explicit, the written content of the RR indicated that the student continued to be identified as a student with a S&L impairment. (P-4 at pages 55, 62-64; S-2\*).<sup>4</sup>

5. In August 2021 a revised RR was issued to include the results of a central auditory processing evaluation. The student had certain weaknesses in aspects of central auditory processing, and the audiologist made recommendations to the student's IEP team for consideration. (P-4; S-2).
6. In the fall of 2021, the student trialed a FM system to assist with auditory processing. "An FM system utilizes a microphone, worn by the teacher, which transmits to a receiver/speaker [worn by the student as an earpiece] to enhance the auditory signal". The student had a generally positive experience utilizing the FM system. (S-3 generally, quoted at page 1; bracketed material added for clarity).

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<sup>4</sup> The evaluations and IEPs in the record were largely duplicated as party exhibits, with parties producing their own exhibits for identical documents. During testimony, a witness would be referred by counsel to the party-exhibit prepared by that party, which led to participants flipping back and forth between different binders of exhibits during the course of an examination to review identical documents. In this decision, where specific exhibit-page references are included in duplicative party exhibits, citation is made to only one of the exhibits (with an attempt to alternate between parents exhibits and school district exhibits); an asterisk indicates an identical exhibit in the record in addition to the cited exhibit.

7. In June 2022, the student's individualized education program ("IEP") team met for the student's annual IEP meeting. (P-8; S-4).

2022-2023 School Year / [redacted] Grade

8. The student's June 2022 IEP was in place at the outset of the student's [redacted] grade year. (P-8; S-4).
9. The June 2022 IEP was revised in October 2022 and February 2023. (P-8; S-4).
10. The June 2022 IEP, as revised, was in place on March 28, 2023, when parents' claims accrued for adjudication. (P-8 at page 2; S-4\*, S-6).
11. In late March 2023, the student was assessed in word-finding by a S&L therapist. The student exhibited mild weaknesses in word-finding abilities; the evaluator recommended that specially-designed instruction be added to the student's IEP to address word-finding. (P-7\*; S-12 at pages 2-3).
12. The June 2022 IEP, as revised through the 2022-2023 school year, continued to identify the student's needs in reading comprehension and listening comprehension, in addition to the need in word-finding identified in March 2023. (P-8 at page 26; S-4\*).

13. The June 2022 IEP, as revised, contained two goals, one in listening comprehension and one for vocabulary development. (P-8 at pages 34-36; S-4\*).
14. The June 2022 IEP, as revised, contained six pages of specially-designed instruction and modifications. (P-8 at pages 37-42; S-4\*).
15. Through the June 2022 IEP, as revised, the student received 210 minutes of group S&L services per quarter and 105 minutes of individual S&L services. (P-8 at page 43; S-4\*).
16. For two 48-minute periods per cycle, the student participated in an executive functioning lab “to support...reading comprehension and listening comprehension needs”. (P-8 at page 46; S-4\*).
17. The June 2022 IEP, as revised, indicated that the student “requires direct instruction of specified skills in the areas of reading comprehension and listening comprehension which are not part of the general curriculum at (the student’s) grade level and cannot be addressed meaningfully within the regular education classroom even with adaptations and modifications”. (P-8 at page 46; S-4\*).
18. The placement data in the June 2022 IEP, as revised, indicated that the student would participate in the regular education environment for 98% of the school day. (P-8 at page 48; S-4\*).

19. In late May 2023, at the end of the [redacted] grade year, the student's IEP team met for the student's annual IEP meeting. (P-10; S-7, S-8).
20. The student's [redacted] grade teachers provided input for the May 2023 IEP, as part of the present levels of academic performance. (P-10\*; S-7 at pages 9-16).
21. In the May 2023 IEP, the student's progress on the listening comprehension and vocabulary goals in the June 2022 IEP was strong. The IEP team discussed whether, in light of this progress, the student's S&L services should be reduced. The IEP team decided to keep the level of services—210 minutes of group S&L services, 105 minutes of individual S&L services— in place. (P-10\*; S-7 at pages 18-19, 20).
22. The description of how the student's disabilities impacted the student in the general education curriculum in the May 2023 IEP was as follows: "Because of the (student's) disability in the areas of listening comprehension and reading comprehension,...involvement in the general curriculum will need to be modified. In order to maintain progress in the general curriculum, (the student) will need additional supports as well as modifications to instructional strategies, curricular materials, and/or assessments as documented in this IEP". (P-10\*; S-7 at page 20).



23. The May 2023 IEP continued to identify the student's needs in reading comprehension, listening comprehension, and word-finding. (P-10\*; S-7 at pages 20-21).
24. The May 2023 IEP contained a listening comprehension goal (retell after verbal presentation of material). (P-10\*; S-7 at page 29).
25. The specially-designed instruction and program modifications in the May 2023 IEP largely mirror the same content in the June 2022 IEP, as revised. (P-8 at page 48, P-10\*; S-4\*, S-7 at page 29).
26. Anticipating the student's [redacted] grade year at the high school, the May 2023 IEP indicated that the student's time in executive-functioning/organizational lab would increase from two periods per cycle to three periods per cycle. (P-10\*; S-7 at page 37).
27. The placement data in the May 2023 IEP indicated that the student would participate in the regular education environment for 92% of the school day. (P-10\*; S-7 at page 39).
28. The student's [redacted] grade teachers who testified at the hearing did not report learning problems in the student's profile. Each indicated that the student did not require significant modifications in their classes. (NT at 425-449, 887-907, 909-923).
29. The student received straight As in all [redacted] grade classes. (S-9).

30. The student's scores on the [redacted] grade PSSA testing were all in the basic range for reading, mathematics, and writing. (P-5).

2023-2024 School Year / [redacted] Grade

31. The May 2023 IEP was in place at the outset of the student's [redacted] grade year. (P-10; S-7).
32. The student discontinued the use of the FM system upon entering [redacted] grade. (NT at 278-317).
33. The student's transition to high school was unsettled. The student began the school year in upper-level mathematics and social studies classes but in October 2023, the student transitioned to a college-preparation mathematics and social studies classes. In November 2023, the student's biology class was also changed; in the first class-assignment, a new biology curriculum was being implemented and, given the student's work/comfort in the class, the student transitioned to a college-preparation biology class. (P-13; NT at 525-572, 1015-1035).
34. In mid-October 2023, the student's IEP was revised. (P-14; S-13).
35. As part of the student's IEP team deliberations, the student's IEP team discussed and implemented the student's mathematics and social studies schedule changes. (P-13, P-14; S-13).

36. In late October 2023, the student's IEP was further revised. (S-13, S-15).
37. The late October 2023 IEP revisions included the addition of a program modification for concrete extensions of time to complete assignments, as well as meetings with the student's special education case manager to preview study guides for upcoming classroom assessments. The IEP team also discussed whether or not the student had received the required number of S&L support sessions to that point in the school year. (S-13 at page 2, 34, 37).
38. The notice of recommended educational placement ("NOREP") issued in late October 2023 considered whether or not the student should participate in the regular education setting with regular education supports. This option was rejected: "Because of (the student's) disability in the areas of listening comprehension and reading comprehension, (the student's) involvement in the general curriculum will need to be modified. In order to maintain progress in the general curriculum, (the student) will need additional supports as well as modifications to instructional strategies, curricular materials, and/or assessments as documented in [the late October 2023] IEP". (S-15 at page 2).
39. In early April 2024, the District provided notice to the parents that the student's triennial re-evaluation needed to take place. In mid-

April 2024, parents provided permission for the re-evaluation. (S-37, S-38).

40. In late April 2024, in the spring of the student's [redacted] grade year, the student's IEP team met for the student's annual IEP meeting. (P-18; S-16).
41. Three of the student's [redacted] grade teachers provided input for the April 2024 IEP, as part of the present levels of academic performance. (P-18 at pages 6-12; S-16\*).
42. All of the teachers who provided input found aspects of the specially-designed instruction and program modifications to be effective. The health/wellness teacher and biology teacher found most of a fulsome list of specially-designed instruction and program modifications to be effective; the mathematics teacher found only two—preferential seating and requesting that material be read aloud—to be effective. (P-18 at pages 6-12; S-16\*).
43. The April 2024 IEP noted that the student had participated in the executive-functioning/organizational lab three periods per cycle. The student's transition goal in the IEP for education indicated that the student needed to continue development and improvement of executive functioning skills. The transition goal for employment indicated that the student needed to continue to build skills in reading

comprehension and listening comprehension. (P-18 at pages 14, 19; S-16\*).

44. As of April 2024, progress monitoring over the first three quarters of the [redacted] grade year on the student's listening comprehension goal showed inconsistent progress. The goal was written for 80% accuracy across three probes on retelling of verbally presented material. The student's quarterly progress monitoring was as follows: 1<sup>st</sup> quarter – 77%, 55%, 83%; 2<sup>nd</sup> quarter – 81%, 76%; 3<sup>rd</sup> quarter – 70%, 50%, 84%; 4<sup>th</sup> quarter (in process) – 84%, 85%. (P-18 at page 15; S-16\*).
45. The April 2024 IEP continued to identify needs in reading comprehension, listening comprehension, and word-finding. (P-18 at page 18; S-16\*).
46. The April 2024 IEP replaced the listening comprehension goal with a vocabulary/word-knowledge goal. (P-18 at page 26; S-16\*).
47. The level of S&L support in the April 2024 IEP remained the same. (P-18 at page 32; S-16\*).
48. The level of executive functioning support—three periods per cycle in the executive-functioning/organizational lab— in the April 2024 IEP remained the same. (P-18 at page 34; S-16\*).

49. The placement data in the April 2024 IEP indicated that the student would participate in the regular education environment for 96% of the school day. (P-18 at page 36; S-16\*).
50. The student's [redacted] grade teachers who testified at the hearing did not report learning problems in the student's profile. Each indicated that the student did not require significant modifications in their classes. (NT at 525-572, 786-831, 833-859, 1015-1035).
51. The student received nearly straight As in all [redacted] grade classes, except for a B in biology in the 1<sup>st</sup> quarter (prior to the class transfer). (S-18).
52. The student's scores on the [redacted] grade Keystone Exams were in the advanced range for algebra and in the basic range for biology. (S-11).
53. In early May 2024, the parents approved the District's recommendation that the April 2024 IEP be implemented for the remainder of [redacted] grade and for implementation in [redacted] grade. (S-17).

2024-2025 School Year / [redacted] Grade

54. The April 2024 IEP was in place for the student's [redacted] grade school year.

55. In late August 2024, on the cusp of the student's [redacted] grade year, the District issued its triennial RR. (P-21; S-21).
56. Parents provided input for the August 2024 RR. In terms of parents' views of academic/behavioral needs, they highlighted difficulties with organization, focus, comprehension, and language. Parents felt that the student's academic success was a result of the specially-designed instruction and program modifications in the student's IEPs. They also shared a view that they feel District educators did not share similar concerns. (P-21\*; S-21 at page 6).
57. The August 2024 RR contained teacher input. The student's social studies teacher indicated that the student was generally successful but "struggle(s) at times with reading/answering questions....[and] continues to work on...study skills and benefits from taking...tests/quizzes in a small separate location". The student's science teacher indicated that the student was resilient and self-imposed pressure for academic success; the teacher had no concerns. (P-21\*; S-21 at page 12).
58. The August 2024 RR contained input from the student's S&L therapist. In part, the therapist indicated: "Teachers report that with accommodations (the student) is able to access all general education content and is able to demonstrate progress towards and mastery of skills and concepts taught. Therefore, the school team is

recommending additional testing to determine to what degree, if any, (the student's) speech and language functioning impacts...day-to-day/functional educational progress and/or performance". (P-21\*; S-21 at pages 12-13).

59. Five of the student's [redacted] grade teachers provided input for the August 2024 RR. (P-21\*; S-21 at pages 13-15).

60. All teachers who provided input found aspects of the specially-designed instruction and program modifications to be effective. Four of the five teachers found most of a fulsome list of specially-designed instruction and program modifications to be effective; one teacher found only two—preferential seating and requesting that material be read aloud—to be effective. (P-21\*; S-21 at pages 13-15).

61. The August 2024 RR included an updated S&L evaluation. On a comprehensive language assessment, the student scored consistently in the average range on sub-tests and indices, except for below average scores on the idiomatic language sub-test (76 – the knowledge, retrieval, and oral expression of idioms, which are defined as a group of words that produce a meaning different from the literal meaning of the individual words) and the lexical/semantic index (82 – measure of overall word knowledge, both receptively and expressively, from a compilation of the receptive vocabulary, antonyms, synonyms, and idiomatic language sub-tests). (P-21\*; S-21 at pages 16-19).



62. The updated S&L evaluation in the August 2024 RR included an assessment of semantics and vocabulary. The student scored in the below-average range on the synonyms sub-test (82) and in the below-average range on the total test score (84). (P-21\*; S-21 at pages 19-20).
63. The updated S&L evaluation in the August 2024 RR indicated that other aspects of speech (articulation, voice/fluency, hearing, and pragmatics) were all anecdotally judged to be non-problematic. (P-21\*; S-21 at pages 20-21).
64. The S&L evaluator concluded that the student's assessed weaknesses (idiomatic language, lexical/semantic measures, synonyms, and overall semantics/vocabulary) were "negated...through other subtests and strengths in (the student's) overall language skills". The S&L evaluator recommended that the student no longer be identified as a student with a S&L impairment, although she indicated that specially-designed instruction and program modifications for support in the general education curriculum. (P-21\*; S-21 at page 21).
65. The August 2024 RR contained updated cognitive testing. The student's full-scale was scored solidly in the average range at 97. The verbal comprehension index on the cognitive assessment, however, including similarities and vocabulary sub-tests, was in the low-average

range and was markedly lower than other index scores on the assessment. (P-21\*; S-21 at pages 22-24).

66. The August 2024 RR contained updated academic achievement testing. The student scored in the average range across all sub-tests and composites. The student's scores on the word reading, reading comprehension, oral reading fluency, spelling, and oral discourse comprehension sub-tests, however, were markedly lower than other sub-tests, and the scores on the reading and listening comprehension composites were markedly lower than the other composites. (P-21\*; S-21 at pages 24-28).<sup>5</sup>
67. The August 2024 RR contained an executive functioning assessment, rating scales completed by the student's mother, four teachers, and a self-rating. (P-21\*; S-21 at pages 28-29).
68. The executive functioning ratings in the August 2024 RR were almost all uniformly in the average range across all raters. The student's [redacted] grade science teacher rated the student as potentially clinically significant in the initiation and working memory sub-scales. The student's [redacted] grade English teacher rated the student as clinically significant in the working memory sub-scale. (P-21\*; S-21 at pages 28-29).

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<sup>5</sup> The student's standard scores on most sub-tests and composites were consistently in the 90s or 100s. (The scored 99 on the total achievement composite, a compilation of all scores.) The sub-test and composite scores noted in this finding of fact ranged from 85-89.

69. The August 2024 RR contained a behavior rating assessment completed by the student's mother, three teachers, and a self rating. (P-21\*; S-21 at pages 28-33).
70. The behavior ratings in the August 2024 RR were almost all uniformly in the average range across all raters. The student's mother rated the student as at-risk on the attention problems sub-scale. The student's [redacted] grade social studies teacher rated the student as at-risk on the learning problems, leadership, and resiliency sub-scales. The student's [redacted] grade science teacher rated the student as at-risk on the withdrawal sub-scale. (P-21\*; S-21 at pages 29-31).
71. The behavior rating assessment also included an executive functioning component. All of the executive functioning indices were in the not-elevated range except for the mother's ratings on the attention problems index, which was in the elevated range. (P-21\*; S-21 at pages 31).
72. The August 2024 RR concluded that the student no longer qualified as a student with specific learning disabilities in reading comprehension or listening comprehension. The RR concluded that the student had a S&L impairment but did not require specially-designed instruction or supports to address that disability. (P-21\*; S-21 at pages 34-35).

73. The August 2024 RR concluded that the student required regular education accommodations and recommended that the student receive a Section 504 plan. (P-21\*; S-21 at pages 35-36).
74. In September 2024, the District undertook a reading assessment. (P-22; S-22).
75. The reading comprehension results of the reading assessment showed that, without lookbacks at the text, the student comprehended below the instructional level for reading-aloud at the [redacted] grade level and in the instructional level for reading-silently at the [redacted] grade level. These results were reversed at the [redacted] grade level— the student comprehended below the instructional level for reading-silently at the [redacted] grade level and in the instructional level for reading-aloud at the [redacted] grade level. With lookbacks at the text, the student comprehended solidly at the independent level. (P-22; S-22).
76. The reading specialist who performed the assessment testified that, in gauging the reading comprehension scores, she asked “clarifying questions” based on the student’s comprehension answers, which is allowable under the assessment protocol. (NT at 384-422).
77. Following issuance of the August 2024 RR and the results of the September 2024 reading assessment, the District formally recommended that the student be exited from special education.

Parents disapproved the District's recommendation and requested mediation. (S-23).

78. In mid-October 2024, the District formally offered, through the issuance of a NOREP, compensatory services for S&L sessions missed over the period August 26<sup>th</sup> – October 1<sup>st</sup>. (S-24).

79. In November 2024, the parties entered into a mediation agreement where, in pertinent part, the parties agreed to a re-evaluation process by the District (with specific assessment instruments), the assignment of a new special education case manager for the student, and scheduling considerations regarding the executive-functioning/organizational lab. (S-25).

80. In mid-November 2024, parents provided permission for the District to perform the re-evaluation. (S-26).

81. The parties could not agree about the scheduling considerations regarding the executive-functioning/organizational lab. In mid-December 2024, the parties entered into a second mediation agreement to resolve the dispute. As a result of the agreement, the student would participate in the lab three periods per cycle. (S-28).

82. In early 2025, the District issued the RR undertaken as a result of the November 2024 mediation agreement. (P-34; S-29).

83. The January 2025 RR included updated parent input and concerns. (P-34 at pages 4-7; S-29\*).

84. The January 2025 RR included classroom observations from December 2024. (P-34 at 30-32; S-29\*).
85. Eight of the student's [redacted] grade teachers provided input for the January 2025 RR. (P-34 at pages 32-40; S-29\*).
86. Four teachers (jewelry and metals, science, health education, strength and conditioning) did not provide information about the use of accommodations in class. The student's English teacher indicated that the student received benefit from the accommodations in the student's IEP. The student's social studies teacher indicated that the student "struggles with vocabulary, which limits (the student's) reading comprehension" and "often needs assistance with vocabulary to understand questions" but indicated that the student employed "fact recall and can answer reading comprehension and analytical questions as long as (the student) understands the vocabulary". The social studies teacher employed certain accommodations. The student's Spanish teacher employed certain accommodations. During the executive-functioning/organizational lab, the student's special education teacher indicated that he assists the student with organization and vocabulary in academic classes. The special education teacher shared that the student utilizes the lab effectively, including the support of the teacher. (P-34 at pages 32-40; S-29\*).

87. Formal assessments undertaken as part of the January 2025 re-evaluation process included updated achievement testing, memory assessment, executive functioning/attention, a neuropsychological assessment for listening comprehension, behavioral/emotional screening, and a central auditory processing disorder. (P-34 at pages 46-63; S-29\*).
88. The January 2025 RR included updated achievement testing. The student's scores in the reading comprehension sub-tests (administered through two forms to deepen an understanding of the results) were well below average, both in light of the other sub-tests and the student's cognitive assessment from August 2024. The student's standard scores for reading comprehension were 65 and 66, easily the lowest sub-test score in the assessment. (P-34 at pages 46-50; S-29\*).
89. The listening comprehension sub-test score (77) on the achievement testing was also markedly lower than other sub-test scores. (P-34 at pages 46-50; S-29\*).
90. The January 2025 RR included a memory assessment. The memory assessment is a standardized instrument where "a student's general memory should be commensurate of their intelligence". (P-34 at pages 50-52; S-29\*).

91. The student's scores on the memory assessment were scattered across the average, low average, and below average ranges. One score, the verbal immediate index (a measure of immediate/working memory for auditory/verbal information), was in the borderline range (78) and was statistically discrepant from the student's full-scale IQ (97). (P-34 at pages 50-52; S-29\*).
92. The January 2025 RR contained an updated self-rating by the student for executive functioning/attention. The student's self-ratings were typical across all scores and clusters. (P-34 at pages 52-55; S-29\*).
93. The January 2025 RR contained a neuropsychological assessment for listening comprehension. The student's score on the subtest was in the borderline range (11<sup>th</sup> – 25<sup>th</sup> percentile). The evaluator opined that the student "continues to demonstrate weakness with the understanding of instructions in the sense of the ability to receive, process and execute oral instructions of increasing demands". (P-34 at pages 55-56; S-29\*).
94. The behavioral/emotional screening in the January 2025 RR showed that the student was at no higher risk for behavior or emotional needs than other students. (P-34 at pages 56-57; S-29\*).
95. The January 2025 RR included an updated evaluation for central auditory processing disorder. The evaluation found that the student did



not have a central auditory processing disorder but found that there were areas of weakness with rapidly presented speech and left ear disadvantage. The evaluator noted that these weaknesses “may be exacerbated by other underlying cognitive needs (such as attention/memory/language, etc.)”. (P-34 at pages 57-63; S-29\*).

96. The January 2025 RR concluded that due to “the student weaknesses with reading comprehension and listening comprehension...(the student) continues to be a student who meets the first prong of the eligibility criteria under special education”, particularly specific learning disabilities in reading comprehension and listening comprehension. The District found, however, that the student did not require special education as a result of these disabilities. (P-34 at pages 65-67; S-29\*).

97. The January 2025 RR concluded that the student continued to meet criteria as a student with a S&L impairment but did not direct S&L instruction. (P-34 at pages 68; S-29\*).

98. In mid-January 2025, the District issued a NOREP, formally recommending that the student be exited from special education. The District recommended that the student receive regular education supports through a Section 504 plan. Parents rejected the NOREP, feeling that the student should continue to receive services under an IEP. (S-30).

99. In early February 2025, the District proposed a Section 504 plan.  
(P-40; S-31).

100. The Section 504 plan included the following proposed regular education accommodations, to be implemented by regular education teachers:

- word banks for fill-in-blank and/or required written responses
- new vocabulary provided prior to introductions with lessons to increase word knowledge and memory
- opportunities to preview and review new vocabulary across subjects with a teacher
- check-ins with teachers to ensure comprehension of new learning concepts
- check-ins with teachers to ensure comprehension of task directions/test questions
- ability to have test questions read aloud if the assessment is not testing reading comprehension
- phonetic/semantic cues during word-finding difficulty
- provision of study guides/guided notes to ensure comprehension of verbal instruction provided

- provision of graphic organizers, rubrics, or other similar tools for larger assignments and/or written assignments
- access to a word processing system for all written responses
- preferential seating/reduction of noise, checking for comprehension
- visual supports to accompany verbal instruction
- use of a moderate pace of speaking during instruction
- extra time to allow (the student) to process verbal information/questions [think time]

(P-40; S-31; parenthetical utilized for student confidentiality, bracketed material in the original).

101. The student attended the Section 504 meeting. The student had prepared a letter regarding the student's feelings/views on the student's education, intending that the letter would be read by team members ahead of the meeting. The letter was read aloud at the meeting by the student's school counselor. Hearing the letter read aloud, the student became emotional and departed the meeting, accompanied by the school counselor while they awaited the end of the Section 504 meeting. (P-50; NT at 63-192, 1037-1074).

102. As final grades in [redacted] grade, the student received straight As in all classes. (S-39).
103. The student's IEP goal, implemented throughout [redacted] grade, was as follows: "Using academic materials to increase word knowledge, (the student) will a) state unfamiliar vocabulary terms, b) use strategies [e.g. context clues, breaking down the word, dictionary], and c) paraphrase the meaning to ensure understanding with 80% accuracy for each criterion across three consecutive data probes." (P-54; bracketed material in the original, brackets used for stylistic reasons).
104. Progress monitoring on the IEP goal indicated that goal-progress varied over the course of the [redacted] grade year. (P-54).
105. On the unfamiliar-vocabulary criterion, the student's progress was uneven, although improving over time: 1<sup>st</sup> quarter – 60%, 100%; 2<sup>nd</sup> quarter – 100%, 100%, 50%; 3<sup>rd</sup> quarter – 75%, 90%, 89%; 4<sup>th</sup> quarter – 92%, 100%, 100%. (P-54).
106. On the use-of-strategies criterion, the student consistently mastered the criterion: 1st quarter – 100%, 100%; 2nd quarter – 100%, 100%, 100%; 3rd quarter – 100%, 100%, 100%; 4th quarter – 100%, 100%, 100%. (P-54).
107. On the paraphrase-meaning criterion, the student's progress was declined: 1st quarter – 50%; 2nd quarter – 75%, 100% (in limited

trials), 100% (minimal to moderate prompting); 3rd quarter – 50%, 75%, 75%; 4th quarter – 50%, 0%, 75%. (P-54).

108. In late March 2025, parents filed the complaint which led to these proceedings. (S-35).

## **Legal Framework**

*FAPE.* To assure that a student 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 student’s special education programming must be reasonably calculated to yield meaningful educational benefit to the student or, if implemented, must have yielded meaningful education benefit. (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 student’s education programming must be appropriately ambitious in light of the student’s strengths and needs, current levels of programming, and goals. (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)).

*Eligibility.* Qualifying for eligibility under IDEA has two distinct aspects:  
(1) A student must have one or more of the qualifying disability profiles

under IDEA/Chapter 14 and, (2) as a result of that disability, the student requires specially-designed instruction (i.e., special education). (34 C.F.R. §§300.8, 300.39; 22 PA Code §14.101(a)(2)(ii, viii)). A student without a qualifying disability is not eligible for services under IDEA. A student with a qualifying disability who does not require specially-designed instruction as a result of the disability is not eligible for services under IDEA. Both prongs of qualification must be present to qualify for services under IDEA.

## **Discussion**

*FAPE* – [redacted] *Grade through* [redacted] *Grade*. The District has provided FAPE to the student through the programming provided through the IEPs in place over [redacted] through [redacted] grade. Each of the student's IEPs were reasonably calculated to yield meaningful education benefit in the form of significant learning in light of the student's unique needs. Those IEPs were consistently revised and, as implemented, concretely provided meaningful education benefit.

And while not cited in the findings of fact above, the parents were very active and communicative, sending a large volume of emails, some of those emails being quite detailed and lengthy. District educators were fully engaged in responding, both to the emails and to parents' substantive programming concerns. (Hearing Officer Exhibit ["HO"] – 1, HO-2).

The record taken as a whole fully supports a finding that the District provided FAPE to the student. Accordingly, there will be no award of compensatory education.

*Exit from Special Education.* The student remains eligible for services under IDEA. The student clearly has qualifying disabilities under IDEA in the form of specific learning disabilities in reading comprehension and listening comprehension (22 PA Code §14.125(1)(ii, vi)), as well as a S&L impairment (34 C.F.R. §300.8(c)(11); 22 PA Code §14.102(a)(2)(ii)). While the August 2024 RR found that the specific learning disabilities were no longer present, the January 2025 RR corrected this. Indeed, across the evaluation processes and IEP development, results of assessments and teacher input paint a very consistent picture of a student with these qualifying disability profiles.

The crux of the parties' disagreement is the second prong of the eligibility determination: Does the student require specially-designed instruction to address the needs created by those disabilities? On balance, the record weighs in favor of answering "yes" to this question. Broadly, the student's IEPs have addressed goals and specially-designed instruction/program modifications in two areas— one, receptive language/vocabulary and reading comprehension (although, at times, these have been viewed by educators as somewhat separate areas of need), and two, executive functioning/organization.

On the first area of need, receptive language/vocabulary and reading comprehension, the student has received specially-designed instruction and program modifications which have been effective. Indeed, even over the past school year ([redacted] grade), the progress monitoring shows that the student has certain strengths and relative weaknesses which lead to an overall sense of progress. But that progress monitoring, and the record taken as whole, does not lead to a conclusion that the student no longer requires that goal, or that instruction, or those modifications.

On the second area of need, executive functioning/organization, the student has long benefited from the executive functioning/organizational lab, overseen by the student's special education teacher and present as part of the student's programming since middle school. This executive functioning/organization aspect of the student's IEPs are especially important in light of the student's needs related to receptive language/vocabulary and reading comprehension. The nexus of needing to work through the latter by utilizing the supports offered by the former are clear, especially in light of the [redacted] grade special education teacher's input in the January 2025 RR and testimony (NT at 452-520).

In sum, the record taken as a whole supports a finding that the student has qualifying disabilities (specific learning disabilities in reading comprehension, listening comprehension, and a S&L impairment) that



require special education in the form of specially-designed instruction and program modifications delivered through an IEP.

Having determined these things, there are two points to be made about the evidence. First, while the evidence weighs in favor of continued eligibility for special education, eligibility is not a slam-dunk answer. Aspects of the testimony of the student's [redacted] grade special education case manager sum this up. He testified that as the [redacted] grade year ended, the April 2024 IEP process and August 2024 re-evaluation created questions in his mind: The student was "was very close to not needing those (special education) services"; the student "was right on the cusp of either having an IEP or having a 504"; "I could have went either way. It wasn't like I knew [the student] (needed) one or the other...." (NT at 766, 770, 774). This is honest, authentic insight.

Second, every educator who testified at the hearing—from [redacted] grades—uniformly testified that they did not feel the student required special education. Hearing that (or reading it in the transcripts), one might conclude that the question of eligibility is not very nuanced. But comparing the testimony of many of those same witnesses in the contemporaneous views of the student in their classes when they provided input through the student's IEP or evaluation processes, one sees a different mosaic, namely a student presenting with a consistent profile of needs where many anecdotal observations and interactions by those teachers support a more nuanced

picture of the student's needs. This is not to say, at all or any level, that any of the teachers who testified were disingenuous or lacked credibility. But sorting through multiple aspects of evidence, both documentary and testimonial, presents, to repeat, a more nuanced picture of the student's needs.

*2025-2026 Programming.* The student's pendent IEP was developed in April 2024. It is critical that the student's IEP team meet to develop a new IEP. The undersigned hearing officer has no explicit directives for the student's IEP team but offers that the IEP team consider strengthening the student's programming geared to receptive language/vocabulary and reading comprehension by creating a goal in each area with a further consideration for some degree of intentional, specialized instruction in reading comprehension. Additionally, where the IEP team feels that additional services might be something that the student requires, the team might consider reducing the executive functioning/organization lab from three to two, or even one, period per cycle to create more time in the student's schedule.

As indicated, these are only considerations offered by way of dicta. To make sure that the IEP team is diligent about devising the student's programming, however, the order below will direct that the IEP team meet expeditiously.

## ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Downingtown Area School District has provided a free appropriate public education to the student over the period from March 2023 through the date of this decision. There is no basis for an award of compensatory education.

The student shall remain eligible under the terms of the Individual with Disabilities in Education Improvement Act of 2004 as student who requires special education to address needs related to identified disabilities in reading comprehension, listening comprehension, and speech and language impairment.

On or before Monday, September 8, 2025, the student's IEP team shall meet to develop an IEP for the student for implementation in the 2025-2026 school year.

Nothing in this decision and order should be read to limit the ability of the parties to agree otherwise, to the extent that any such agreement is in writing.

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

08/21/2025