

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. 32677-25-26

Child's Name:

T.P.

Date of Birth:

[redacted]

Parent(s):

[redacted]

Local Education Agency:

Washington School District
311 Allison Avenue
Washington, PA 15301

Counsel for the LEA:

Rebecca Heaton Hall, Esq.
Tucker Arensberg, P.C.
One PPG Place
Suite 1500
Pittsburgh, PA 15222

Hearing Officer:

Savannah L. Murphy, Esq.

Date of Decision:

05/29/2026

Procedural Background

The present matter concerns T.P. (hereinafter referred to as “Student¹”), a [redacted]-grade student who is currently enrolled and resides within the Washington School District (hereinafter referred to as “District”). Student has been identified as eligible for special education pursuant to the Individuals with Disabilities Education Act² (IDEA) under the disability categories of Emotional Disturbance (ED), Autism, and Other Health Impairment (OHI).

On February 27, 2026, Parent filed a Due Process Complaint after rejecting a Notice of Recommended Educational Placement/ Prior Written Notice (NOREP) issued by District on January 9, 2026. The NOREP recommended Student be placed in a Full-Time Emotional and Autistic Support placement in a school-based setting with necessary therapeutic supports. Parents complaint requests Student be placed in a school without restraint paperwork.

District filed an Answer to Due Process Complaint on March 13, 2026 arguing that Student’s current placement, in the District’s Cyber Academy, is not appropriate, and that Parent has refused all placement proposals. District requests an Order placing Student at an approved private school offered to Parent and for the Parent to sign any acknowledgment of restraint forms, and that no violations of Section 504³ of the IDEA exist.

Following a full hearing session, complete review of the record, and for all reasons set forth below, I find in favor of District. District’s January 9, 2026 NOREP proposing a Full-Time Emotional or Autistic Support placement in a school-based setting with necessary therapeutic supports in an

¹ This Decision will be made available to the public. Therefore, the final published version of this decision has been redacted for the purpose of concealing the Student’s personally identifiable information. 34 C.F.R § 1513(d). 20 U.S.C. § 1415 (h)(4)(A); 34 C.F.R § 300.513(d)(2).

² 20 U.S.C. §§ 1400-1482, implementing federal regulations 34 C.F.R. §§ 300.1-300.818, and applicable Pennsylvania regulations in 22 Pa. Code §§14.101-14.163.

³ 29 U.S.C § 701 *et seq.*, implementing federal regulations 34 C.F.R. §§104.1-104.61, and applicable Pennsylvania regulations in 22 Pa. Code §§ 15.1-15.11.

approved private school is appropriate and would provide Student a free and appropriate public education (FAPE). An appropriate order follows this decision.

Issues Presented

1. Whether District's proposed placement of Full-Time Emotional and Autistic Support placement in a school-based setting with therapeutic supports and services in an approved private school is appropriate, and will provide student a Free and Appropriate Public Education (FAPE) under the IDEA.

Findings of Fact

I have reviewed the record in its entirety. However, the record contains evidence outside the scope of the issues presented in the instant matter. Therefore, the below Findings of Fact and subsequent Discussion and Application of Law and Fact will only address that which is relevant to the instant matter.

Background Facts

1. Student has been diagnosed with Autism Spectrum Disorder (Autism), Attention Deficit Hyperactivity Disorder (ADHD), Disruptive Mood Dysregulation Disorder (DMDD), Oppositional Defiant Disorder (ODD), Specific Learning Disability with impairment in reading and written expression, and rule/out Post Traumatic Stress Disorder (PTSD). (S-4 at 3).
2. Student is eligible for special education services under the disability categories of ED, Autism, and OHI. (S-4 at 23). Student currently receives Supplemental Emotional Support and Speech and Language Support in a cyber setting. (S-2; S-6 at 7).
3. Student has significant behavioral and social-emotional deficits. Student's behaviors escalate quickly, requiring direct support and prompting to manage emotions. (N.T. at 27, 33-34, 46, 67-68, 75-76,

82). Student has a tendency to elope when dysregulated. (N.T. at 28, 33-34, 67-68).

4. Student benefits from role playing and consistent modeling of appropriate behaviors and responses. (N.T. at 38-39, 62).
5. Student has a significant placement history. Notably, prior to Student's enrollment within District, Student attended a private school (hereinafter referred to as "TL") during the end of the 2018-2019 school year into the beginning of the 2029-2020 school year. (S-4 at 2; 58). Student transferred out of TL due a restraint that resulted in Student's injuries. (N.T. at 34-35; 56-58, 60).
6. Student began attending the Intermediate Unit 1 (IU1) [redacted] in their [redacted] program starting the 2021-2022 school year. (S-4 at 3).
7. Student responds well to a highly structured environment with predictable routines, clear classroom expectations, and positive reinforcement. (S-1 at 8).
8. Student tends to be impatient, and can become combative when not called on. Student does not accept constructive directives, and can respond with aggression and disruptive behaviors. (S-1 at 9-10, 15). When Student is engaged in behaviors, Student will yell at peers, or act aggressively toward peers or staff. Student will also purposefully touch a peer's supplies. (S-1 at 15). Student's social-emotional and behavioral deficits significantly impacted Student's learning. (S-1 at 6, 9-10).
9. Student struggles with accountability. When staff or private support personnel attempted to reason with student and encourage positive behaviors, Student would escalate, blame others, and fail to engage coping skills. (S-1 at 15-16).

10. Student has a long history of behavioral referrals. In the 2019-2020 school year, Student had 28 referrals; in the 2020-2021 school year student had 15 referrals; in the 2021-2022 school year, Student had 27 referrals; in the 2022-2023 school year, student had 41 referrals; in the 2023-2024 school year, student had 2 behavior referrals; and in the 2024-2025 school year, student had 7 referrals. (S-1 at 13). Student's absences and virtual learning contributed to the data collection in the 2023-2024 and 2024-2025 school years. (*Id.*).
11. Behaviorally, Student eloped from the classroom when frustrated or to escape tasks and demands. (S-1 at 11, 14). According to Student's Positive Behavior Support Plan (PBSP), Student's behaviors of concern included disruptive behavior (screaming or yelling), leaving the classroom or designed area, and banging the classroom door, flipping [furniture], and tearing classroom [items]. (S-1 at 28).

2024-2025 School Year

12. Student began the 2024-2025 school year at the IU1 [redacted] campus receiving Full-Time Emotional Support with Speech and Language Support, Occupational Therapy (OT), social work services and support via a PBSP. (S-1 at 8, 58; N.T. at 88). Student was able to participate in the regular education setting for specials. (*Id.*).
13. Student's areas of need included reading comprehension, math computation and problem solving, coping skill and self-regulation, responses to social interactions and articulation. (S-1 at 27). Student's behavioral areas of need specifically included, accepting direction upon first request without becoming argumentative or disrespectful, and improve attendance. (S-1 at 9, 10).
14. Student also struggled with written expression. (S-1 at 9).
15. When present in class, Student was an active participant, and displayed a clear eagerness to learn. (S-1 at 9).

16. Student received a math goal to solve grade level problems with 90% accuracy in 4 of 5 trials. By December of 2024, Student was only able to complete single digit addition and subtraction probes. (S-1 at 12).
17. Student received a reading comprehension goal assessing Student's ability to read a grade level story and answer 5 "WH" questions with 90% accuracy. (S-1 at 12).
18. Student's coping skills goal assessed Student's ability to use self-regulation or coping skills to avoid engaging in unexpected behavior within 3 prompts. Student did not make progress in this goal, displaying an ability to employ coping skills with 65% accuracy for Quarter 1 and 30% accuracy for Quarter 2. (S-1 at 16).
19. Student received a goal assessing Student's ability to appropriately respond to a non-preferred task or undesirable directive with 100% accuracy. This goal specifically assessed Student's eloping from the classroom. Again, Student displayed 60% and 30% accuracy respectively. (S-1 at 16-17).
20. Student also received an annual goal assessing Student's ability to follow classroom rules with 95% accuracy or higher. (S-1 at 17).
21. Student received grades primarily in the A to B range. However, Student's grades only reflected completed work. When Student would refuse to complete missed work, Student would engage in behaviors to avoid work completion. (S-1 at 9-11).
22. Student's attendance was inconsistent, which prevented Student's ability to complete work timely and to attend class instruction. (S-1 at 9-10).
23. From the beginning of the 2024-2025 school year to December of 2024, Student was absent for a total of 35 school days. (S-1 at 14; S-5 at 21).

24. Student continued to received Speech and Language services to address articulation deficits. (S-1 at 18).
25. Student's IEP contained several SDIs including, but not limited to, daily communication with home, token economy system, use of visual schedules, extended time for transitions, clear behavior expectations, regularly planned breaks, a designated calm-down area, reinforcement of learned skills. (S-1 at 55-57).
26. On December [redacted] 2025, Student engaged in a physical incident with a staff member at the IU1. (S-5 at 11; N.T. at 88). Student was observed [injuring staff member]. Student was eventually restrained by a School Resource Officer. (N.T. at 93).
27. This incident resulted in Student being discharged from the IU1 [redacted] program. (S-5 at 11; N.T. at 93).
28. District began to search for a Full-Time TES placement in a center-based school, including approved private schools. (N.T. at 95). District attempted to schedule an IEP meeting in January of 2025, but Parent refused to participate, and refused any proposed placement except for cyber instruction. (N.T. at 96).
29. District issued a referral to [private] School, an approved private school, who indicated they had availability for Student's enrollment. (S-9; N.T. at 105). In February of 2025, [private] School notified District that they were unable to accept Student because Parent revised the Passive Physical Restraint Form and did not provide any emergency contact. (S-9 at 1; N.T. at 104-05). On [private] School's Acknowledgment of Practice form, Parent, crossed out "passive restraints" and wrote "No Restraints". [private] School could not accept the revised form. (S-9 at 1, 4).
30. Student subsequently enrolled within District's Cyber Academy, and was provided 5 hours of tutoring per week, 30 minutes of

individual social work per week, 30 minutes of Speech and Language Support per week, and one OT consultation per month with Parent. (S-1 at 7, 58; S-5 at 11-12; N.T. at 96-97).

31. The District's Cyber Academy is independently operated, and provides a mixture of asynchronous and synchronous learning. (N.T. at 62, 96).
32. Student's 1:1 tutoring was scheduled for Student directly with Parent for the allotted weekly hours, and focused on academic support. (N.T. at 97-98).
33. The February 2025 IEP Revision reflected Student's transition to remote learning, discontinued group social work services, and increased individual social work services. (S-1 at 7).
34. District intended to propose a program with Full-Time Emotional Support at a center-based building, comparable to Student's placement at IU1. The [another private] School was considered, but declined because [private] School had no openings at that time. (S-2 at 2; N.T. at 99-100). Further Full-Time Emotional Support at the [private] School was considered, but Parent declined due to disagreement with a restraint policy. (S-2 at 2; N.T. at 62, 99).
35. On March 7, 2025, District issued a NOREP offering supplemental emotional support in the Cyber Academy. The NOREP was not signed. (S-2 at 2-3; N.T. at 98).
36. Per Parent's request, no further placements were considered for the remainder of the 2024-2025 school year. (S-1 at 7; N.T. at 100).
37. Student made steady progress in Student's reading goal for the remainder of the year, achieving 90% accuracy in reading comprehension. (S-1 at 38).
38. Student's PBSP was revised to include cyber antecedent strategies including task breakdown and checklist, timers and

reminders, weekly check-ins, break schedule, positive reinforcement, modified workload, extended time and tutoring. (S-1 at 50).

39. Replacement behaviors included managing emotions, self-regulation, engage in respectful and appropriate communication, engage coping skills, and appropriate responses to interactions with peers and adults. (S-1 at 51).
40. Student's progress in math was inhibited by Student's failure to log into sessions from March 2025 to the end of the year. (S-1 at 40).
41. Student also made progress in Student's coping skills goal and ability to accept non-preferred tasks or undesirable directives. However, it was noted that Student's virtual environment limited the amount of opportunities for Student to use these skills. (S-1 at 42, 46). Due to the change from in-person to cyber learning, Student received Supplemental Emotional Support with Speech and Language Support, social skills, and OT consultative services, supported with a PBSP. (S-1 at 6, 58, 62; S-2).

2025-2026 School Year

42. On August 26, 2025, Student's IEP was revised to increase direct tutoring instruction from 5 hours to 10 hours a week. Student also continued to receive individual social work services, Speech and Language Support, and OT. (S-1 at 7; N.T. at 101-102).
43. In September of 2025, District engaged in correspondence with the [private] School and inquired whether they could accept Student without the Acknowledgement Form if District could take responsibility in acknowledging the restraint policy. (S-10 at 2; N.T. at 103). Bradley School reiterated that they could not accept Student without Parent's acknowledgment of their policies and emergency contact information. (S-10 at 1; N.T. at 103).

44. On September 16, 2025, District issued a NOREP proposing a change in placement from Supplemental Autistic Support via virtual instruction to Full-Time Autistic Support in a bricks and mortar classroom, specifically at the [private] School. (S-3 at 2-3; N.T. at 101).
45. Parent rejected the September 16, 2025 NOREP and requested mediation. (S-3 at 4; N.T. at 104).
46. Parent continued to reject the [private] School and refused to sign the proper enrollment paperwork. (S-3 at 3).
47. District issued a Reevaluation Report dated December 9, 2025 (2025 RR). (See S-4). The 2025 RR contained the following:
 - a. A record review indicated a Psychiatric Evaluation was completed in October of 2022. The Psychiatric Evaluation recommended Student receive updated cognitive assessments, full-time Autistic Support, OT, weekly school-based therapy, behavioral therapy, socialization, and support for asking for help. The report further recommended WRAPAROUND BSC and TSS services. (S-4 at 4).
 - b. Student's cognitive ability was last tested in 2018 using the Wechsler Preschool and Primary Scale of Intelligence – Fourth Edition (WPPSI-IV). Student received A Full-Scale IQ of 91, and Nonverbal IQ of 102, both in the average range. Student received average scores except in verbal comprehension, which was 81, low average range. (S-4 at 5).
 - c. Similarly, Student's academic achievement was assessed in 2018 using the Kaufman Test of Educational Achievement, Third Edition (KTEA-3). Overall, Student received scores in the low to very low range in all areas tested. (S-4 at 5). The Woodcock Johnson IV Test of Achievement (WIAT-4) Extended assessments also yielded low scores in all areas assessed (*Id.*).

- d. The 2025 RR also included Student's significant history of absences from school. (S-4 at 6).
- e. From the start of the 2025-2026 school year, to the issuance of the 2025 RR Student had logged into tutoring sessions five times, all in October of 2025. (S-4 at 8; S-5 at 8).
- f. As of December 2025, Student had 21 assignments. Of those 21 assignments, 2 were completed and 2 were in progress. (S-4 at 24).
- g. Progress monitoring was provided as part of the 2025 RR. Student obtained 70-75% accuracy in Student's reading comprehension goal. However, Student's progress monitoring for math, coping skill, following directions, and response to unpreferred tasks goals were impeded by either the virtual learning environment or Student's failure to attend sessions. (S-4 at 6-7; S-5 at 12-14).
- h. According to Teacher input, when Student attended tutoring sessions, Student was engaged and carried a conversation. However, Student struggled with academic concepts, particularly math. (S-4 at 8).
- i. A Social Work Assessment was completed as part of the 2025 RR. The BYI-2, Beck Youth Inventories- Second Edition, was used to assess Student's emotional and behavioral functioning. Student rated [themselves] in the much lower than average range for self-concept. Student also provided mildly elevated scores in the anxiety and anger range. These results indicate that student holds a negative view of [themselves] and struggles with self-esteem and confidence. (S-4 at 8-9; S-5 at 14-20).
- j. The Social Skills Improvement System/Social Emotional Learning (SSIS-SEL) student form was completed to assess Student's social-

emotional and social skills functioning. Student scored primarily in the well-below average range. Student struggles sufficiently with self-awareness, self-management, relationship skills, and coping skills. (S-4 at 9-12; S-5 at 14-20).

- k. It was recommended that Student's annual social skills goal be updated to assess Student's ability to accurately identify feelings and explore positive coping strategies with 75% accuracy. (S-4 at 13).
- l. According to the Speech and Language input provided in the 2025 RR, Student's virtual attendance has created significant difficulty in completing Speech and Language sessions. Student often needed prompts to participate, and to put the camera on. By the issuance of the 2025 RR, Student failed to find access to the virtual meeting link once. (S-4 at 14).
- m. According to input provided by OT, monthly consultative sessions were attempted with Parent, which has been complicated by the virtual format, and failure of Parent to return calls. (S-4 at 15). OT shifted focus from handwriting to typing due to remote learning. (*Id.*).
- n. Testing observations indicated that Student was compliant and demonstrated an eagerness to work. Student put forth good effort, and only required minimal prompting to attend to task. (S-4 at 17).
- o. The Reynolds Intellectual Assessment Scales, Second Edition (RIAS-2). Student's verbal intelligence was scored at 81, which is considered below average. Student's nonverbal intelligence was scored at 73, which is moderately below average, resulting in a composite intelligence of 74, which is moderately below average. (S-4 at 18; S-5 at 9-10).

- p. The WIAT-4 was administered to assess Student's academic achievement. Overall, Student received low average to very low scores in all areas tested, except for word reading, which student scored in the average range. (S-4 at 19-21; S-5 at 10).
- q. District attempted to complete the Behavior Assessment System for Children, Third Edition (BASC-3) rating scales. However, teacher input was not reliable as Student was in an online virtual program for a year, and Parent refused to complete the BASC-3. (S-4 at 21).
- r. The last time the BASC-3 was completed was in 2019. Rating scales confirm a history of Student's externalizing problems, hyperactivity, aggression, depression, conduct problem, behavioral symptoms index, and attention problem deficits. (S-1 at 18-24).
- s. The Adaptive Behavior Assessment System-Third Edition (ABAS-III) was completed by parent with collaboration of Student's BSC. Results evidenced deficits in leisure, self-care, self-direction, and social composite. Student displayed below average scores in social, general adaptive composite, conceptual composite, and practical composite. (S-4 at 21-22; S-5 at 22-23).
- t. The 2025 RR concluded that Student was eligible for special education services under the disability categories of ED, Autism, and OHI. (S-4 at 23).
- u. Educational areas of need included, improve reading comprehension skills, improve math problem solving and math computations skills, improve positive coping strategies, and emotional regulation, improve social skills, improve keyboard/written communication skills, improvement of speech articulation skills, and transition services. (S-4 at 23).
- v. The 2025 RR recommended that student receive an educational program with higher level of support to meet academic, social,

emotional needs than what can be provided in the cyber program. (S-4 at 24).

w. The completion of a Functional Behavior Assessment (FBA) was considered, but it was determined that the FBA would be completed once Student transferred to a bricks and mortar setting. (S-4 at 24; N.T. at 108).

48. In December of 2025 to February of 2026, District contacted Steel City Academies to arrange for a tour for Parent and Student, and to inquire regarding availability. Parent toured Steel City Academies, but refused to sign enrollment forms. (S-11; N.T. at 113-15).

49. District issued a letter requesting that Steel City Academies enroll Student with District's assurance to be held responsible for Steel City Academies' policies. Steel City Academies indicated they cannot move forward with enrollment until Parent signs enrollment forms. (S-12; N.T. at 113-15).

50. An IEP Meeting convened on January 8, 2026 to discuss Student's 2025 RR, and placement. (S-5). Student's Behavior Support Consultant (BSC) attended the meeting on behalf of Parent, and Parent virtually participated in a separate room. (S-5 at 1).

51. Prospective placements were discussed at the January 2026 IEP Meeting, but all in-person options were declined by Parent due to Parent's refusal to sign acknowledgment/ waivers for restraints. (S-6 at 1; S-6 at 3-4).

52. Student continued to attend District's Cyber Academy and received 10 hours a week of tutoring with a special education teacher, 30 minutes a week of social work services, 30 minutes a week of speech and language therapy, and 1 direct OT consult with parent per month. (S-6 at 7).

53. Student's academic IEP goals were revised to assess Student's ability to verbally and accurately answer literal and inferential questions when 60% accuracy when given a grade-level text and Student's ability to solve multi-step math computation problems involving whole numbers, fractions, and decimals with 60% accuracy. (S-5 at 8-9, 39-40).
54. Student's coping skills goal was updated to assess Student's ability to identify and apply two coping strategies to manage anxiety during virtual lessons in 80% of observed opportunities. (S-5 at 41).
55. Student's cyber instruction created particular issues regarding Speech and Language Support. (S-5 at 12-14). Of the 17 attempts at correspondence or attempts to hold a Speech and Language session, Parent or Student failed to respond or attend 10 times. On 6 documented occasions, Student attended the session, but was unable to successfully turn on the camera, which impeded the Speech and Language Pathologist's ability to work on articulation deficits with Student. The first session where Student attended with the camera on was January of 2026. (S-5 at 13).
56. Student's January 2026 PBSP contained cyber and brick and mortar strategies. Student would receive checklists, weekly check-ins and a positive reinforcement system with a modified workload. (S-5 at 46).
57. Replacement behaviors included using pre-taught phrases to express concerns, follow directives and request clarification after compliance, use of coping strategies, accept redirection, raise hand, request a break, use of first-then strategy, ask for help, remain in designated area, and use of positive reinforcement. (S-5 at 47).
58. Student's January 2026 IEP determined that Student was eligible for ESY. (S-5 at 56). It was proposed Student receive Full-Time

Autistic Support with individual social work services, Speech and Language Support, and OT consultation. (S-5 at 55, 60).

59. District issued a corresponding NOREP on January 9, 2026 recommending Full-Time Autistic Support in a bricks and mortar classroom. (S-6 at 2; N.T. at 110-11).
60. Full-Time support within District was rejected because District does not have the staffing, structure, supervision, therapeutic supports and environmental controls to meet Student's needs. (S-6 at 3; N.T. at 109). District's Junior High School has a social worker available for therapy, but is not available as frequently as Student requires. Also, District's class sizes range between 10-20 students. (N.T. at 139-40).
61. District utilizes the restraint program, Safety-Care, and Student would be subject to restraints as a last resort if enrolled within District's Junior High School. (N.T. at 139-40).
62. Parent signed the January 9, 2026 NOREP on February 18, 2026, rejecting District's recommendation, and requested a due process hearing. (S-6 at 5; N.T. at 112).
63. On March 19, 2026, District completed a referral to [private] Schools again. (S-7; N.T. at 117). [private] Schools indicated they had space for Student. However, Parent refused the placement suggestion and withdrew the referral on March 25, 2026. (S-8; N.T. at 63-64, N.T. at 118).

Prospective Private Placements

64. The [private] School provides Full-Time Emotional Support programming that implements UGrow, a crisis management that does not engage physical restraints. When a student is a danger to themselves or that of others, shields are used, and deescalation protocols are employed. (N.T. at 99-100, 127). The [private] School

contains small class sizes, and has the ability to customize a student's academics to their achievement level. (N.T. at 128).

65. The [other private] School is licensed to support students with Emotional Disturbance and Autism. They have therapeutic staff in the classroom and for transitions. The [other private] School offers small class sizes. (N.T. at 127).

Discussion and Application of Law

Burden of Proof and Witness Credibility

In an administrative due process hearing, the burden of proof encompasses the burden of production and the burden of persuasion. The party seeking relief bears the burden of persuasion. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Bd. of Educ*, 435 F.3d, 384, 392 (3rd Cir. 2006). Accordingly, the burden of persuasion rests with the filing party, in this case the Parent. For reasons set forth below, I find that Parent has not met their burden of persuasion, and that Student must be prospectively placed in Full-Time Emotional or Autistic Support in a school-based setting with therapeutic supports and services at an approved private school.

Special education hearing officers must also make credibility determinations of witnesses called to testify before them. I find that all witnesses called to testify did so credibly. However, additional weight was specifically afforded to Student's BSC (with regard to Student's behaviors), District's Special Education Director and District's Assistant Director of Special Education and Cyber Coordinator. Student's BSC has worked with Student since Student was three years old. (N.T. at 27). Student's BSC honestly and fully described Student's strengths and needs. District witnesses were able to provide detailed history of procedural events, and had knowledge of the multiple available appropriate placements.

It is evident to this Hearing Officer that Student is surrounded by competent and passionate case managers, and support service providers. However, some of Parent's witnesses had only worked with Student for a few months, or only observed Student in the home or community setting. None of Parents witnesses were able to provide any detail regarding available placements and the services they offer. It must be noted that all witnesses testified truthfully, all opined that virtual instruction was not appropriate for Student, and that Student should be placed in a bricks and mortar setting.

Provision of FAPE under the IDEA

Children with disabilities are entitled a free and appropriate public education which provides them with special education and related services "designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 USC § 1400(d)(1)(A).

The IDEA requires the state to provide FAPE "to all children residing in the State." 20 U.S.C. § 1412(a)(1)(A). FAPE requires an educational program that is "reasonably calculated to enable the child to receive educational benefits." *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.*, 137 S.Ct. 988, 995-96 (2017) (quoting *Bd. of Educ., Etc. v. Rowley*, 458 U.S. 176, 207). (1982). Further, a Student receives FAPE when "personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction" the student is receiving FAPE. *Rowley*, 458 U.S. at 189.

FAPE requires specially designed instruction (SDI) that will assist the child. *Id.* at 201. The student's Individualized Education Program (IEP) must be designed to "enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other educational needs..." 20 U.S.C § 1414(d)(1)(A)(i)(II). *Endrew* emphasized that the IEP "must be 'specially designed' to meet a child's 'unique needs' through an individualized education program." 137 S.Ct. at 999. *Endrew* rejected the

“more than de minimis” test and instead requires the student to “have the chance to meet challenging objectives.” *Id.* at 1000. Applying a “more than de minimis” standard to students with disabilities does not provide “education for all.” *Id.* at 1001..

The IEP process is the “central vehicle” for collaboration regarding Student’s needs and programming. *Schaffer*, 546 U.S. at 53. The IDEA’s procedural safeguards protect and empower the parent in the IEP process. *Id.* Particular to this matter, when a Parent disagrees with an educational change in placement, then the student must remain in the “then-current educational placement”. § 1415(j).

Appropriate Educational Placement and Least Restrictive Environment

There is “a ‘strong congressional preference’ for integrating children with disabilities in regular education classrooms.” *Oberti v. Bd. of Ed. of Clementon Sch. Dist.*, 995 F.2d 1204, 1214 (3rd Cir., 1993) (internal citations omitted). Specifically, the Local Education Agency must ensure “to the maximum extent appropriate” a student with a disability be included and educated with nondisabled students. 20 U.S.C §1412(5); 34 C.F.R § 300.114(2)(i). Special education classes or “separate schooling” is deemed appropriate and can occur “only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” § 1412(5); § 300.114(2)(ii). Further, the Local Education Agency must “ensure a continuum of alternative placements is available to meet the needs” of the student for special education and related services. 34 C.F.R § 300.115.

To determine whether District’s mainstreaming requirement has been satisfied, it must be determined: (1) whether education in the regular classroom with supplementary aids and services can be achieved satisfactorily; and (2) whether the school district has mainstreamed the student to the maximum extent appropriate. *Oberti*, 995 F.2d at 1215. The

first question takes into consideration three factors: (a) the steps taken by the school district to include the student in the general education setting; (b) a comparison of the benefits the student will receive in the general education setting with supplemental aids and services with benefits of a special education class; and (c) negative implications of a student's inclusion with the general education setting. *Id.* at 1216-18.

Application of Law and Fact

In the instant matter, the Parties agree that Student's current placement, Supplemental Emotional Support and Speech and Language Support in a cyber setting, is not appropriate. (*passim*). The dispute that initiated the instant proceedings regards *where* Student should be placed in order to receive FAPE. Parent requests that Student be placed at District's Junior High School with 1:1 support. (N.T. at 28, 53, 78). District recommends Full-Time Emotional or Autistic Support in a school-based learning environment at an approved private school (APS) with therapeutic supports and services. (*passim*). District has attempted to peruse their placement recommendation since at least January of 2025. (S-9; N.T. at 95-96, 105). Parent's failure to cooperate in District's attempts to search and secure an appropriate placement has resulted in Student's confinement to cyber instruction. Whereas Student has shown statistical improvement behaviorally in this setting, the implications of Student's long-term cyber placement has inhibited Student's functional use of coping-skills and strategies. For the foregoing reasons, District's recommendation to place student in an APS is appropriate and will provide Student a FAPE.

Placement at District's Junior High School

Student is entitled to a program that is "reasonably calculated to enable the child to receive educational benefits." *Endrew*, 137 S.Ct. at 995-96 (quoting *Rowley*, 458 U.S. at 207). To determine whether a placement at District's Junior High School is appropriate, it must be considered whether

education in the regular classroom with supplementary aids and services can be achieved satisfactorily. *Oberti*, 995 F.2d at 1215.

It must be noted that a Full-Time placement was considered at District's Junior High School, but the evidence is not clear as to what extent Student would participate with general education peers. (S-6 at 3). Parent failed to offer any evidence regarding why placement at District's Junior High School was appropriate. In weighing the *Oberti* factors, the benefit of placing Student within District's Junior High school are far outweighed by the negative implications of Student's participation in this setting. *Oberti*, 995 F.2d at 1216-18.

Student simply will not be afforded a meaningful educational benefit because the class sizes range between 10-20 students, a social worker is available, but not frequently, and this placement cannot offer the level of therapeutic supports Student requires. (S-6 at 3; N.T. at 109, 139-40). Student's educational needs are significant. Student's social-emotional and behavioral deficits cause Student to escalate quickly. (N.T. at 27, 33-34, 46, 67-68, 75-76, 82). Student's BSC has noted that student requires consistent modeling, a highly-structured environment, and direct support to manage Student's emotional regulation to keep Student from behavioral escalation. (N.T. at 28; 33-34).

The last time Student was presented with the demands of a typical bricks and mortar school day, Student struggled with accepting direction upon the first request, Student was combative, was verbally and physically aggressive, and would elope when dysregulated. (S-1 at 9-10, 15). Importantly, Student was impatient, and behaviors would escalate when Student was not promptly called on, or if Student was presented with an undesired or unpreferred demand. (S-1 at 9-10, 15).

Placing the Student, after a functional year and a half in cyber instruction, into an environment with 10-20 Students with less structured

therapeutic supports and services *would be a major disservice to Student*. Student would not be afforded a meaningful educational benefit in this setting. Student has not had a meaningful opportunity to employ coping skills, because the demands of cyber instruction have been minimal. Student currently receives 10 hours of 1:1 tutoring a week, Speech and Language support, social work services, and OT consultative services in addition to the cyber curriculum. (S-1 at 7; S-6 at 7; N.T. at 101-02). From the beginning of the 2025-2026 school year until January of 2026, Student had logged into tutoring sessions 5 times, functionally participated in Speech and Language once, and completed 2 of 21 assignments. (S-4 at 8, 14, 24; S-5 at 8, 12-14). Further, Student's progress monitoring has been significantly impacted by Student's failure to attend sessions, and the limitations of virtual environment. (*passim*). Therefore, whereas Parent's witnesses testified to Student's behavioral improvement in the cyber setting, Student has been devoid of any functional opportunity to use coping skills, as the educational demand is extremely limited.

Parent asserts an appropriate placement for Student would be at District's Junior High School with a 1:1. Whereas District would be obligated to provide Student with a 1:1, should the need be established, this supplementary aid and service alone would not enable District's programming to be appropriate. Evidence overwhelmingly suggest that student requires more than 1:1 support. Student requires support from trained professionals who can provide therapeutic support consistently in the school setting.

Parent's written closing argument invokes a wealth of ethos, and illuminates Student's struggles, fear, anger, and emotional instability. Parent notes that Student has communication, emotional regulation, processing trauma, and anxiety deficits that impact Student's learning. Significantly, Parent notes that Student is not a "bad" child, and that Student "deserves

patience, guidance, support, and the opportunity to receive an education in an environment where [Student] feels safe and valued.” I agree. District’s avid attempts to secure an APS is the support, guidance, and opportunity Student requires to receive FAPE.

The recommendation to place Student at an APS is not because Student is “bad”, and anyone who would base this rationale on that assumption would be grossly misguided. Student’s trauma, social-emotional, and behavioral needs require a high level of structure to manage Student’s explosive and reactive behaviors. (N.T. at 33-34). Further, whereas the December [redacted], 2025 incident was significant, caused actual harm to an innocent staff member, and resulted in Student’s removal from the IU1 [redacted] classroom, this incident was considered as one factor in this analysis. (S-5 at 11; N.T. at 88, 93). The December [redacted], 2025 incident represents one data point in a history of behavioral data that evidences Student’s social-emotional regulation and behavioral deficits. After reviewing the record in its entirety, establishing a detailed account of Student’s educational need, it is clear that placement in an APS is appropriate.

Approved Private School Placements

Since January 2025, District has offered Parent effectively four APS placement options. One of the placements was immediately rejected when Parent informed the District of a significant and traumatic past experience involving Student. (S-4 at 2; N.T. at 34-35; 56-58-60, 112). However, the [private schools] were offered, indicated openings at one point, and were rejected by Parent. (passim).

The [private] School specifically supports students with ED and Autism, and has the staff and therapeutic in a small classroom setting and during transitions. (N.T. at 127). The [private] School had openings for Student in February and September of 2025, but they were unable to accept

Student because Parent refused to provide emergency contact information and refused to sign the Acknowledgment of Practice Form including use of passive restraints. (S-3; S-9; S-10; N.T. at 103-05). The [private] School's use of passive restraints does not make it an inappropriate placement for Student.

The law allows for "application of physical force... for the purpose of restraining the free movement of a student... *only* when the student is acting in a manner as to be a clear and present danger" to the student or others including peers and staff. 22 Pa. Code § 14.133(b)(i)-(c) (emphasis added). Further, restraints can *only* occur when "less restrictive measures and techniques have been proven to be or are less effective." § 14.133(c). The record did not contain the [private] School's restraint policy, but the law significant limits the application of restraints. Further, Student's placement within District's Junior High School could subject the Student to restraints, and does not solve Parent's concern. (N.T. at 139-40).

Implementing Parent's logic, if the [private] School is not appropriate due to their restraint policy, then the Junior High School, and any other school, is also inappropriate. This dangerous logical fallacy has kept the Student inappropriately confined to virtual learning for a year and a half. The purpose of proposing an APS for Student was to provide an appropriate program that would enable meaningful educational progress. With the appropriate supports and services, Student is less likely to be restrained.

District also completed a referral to [private] Schools, which offers Full-Time Emotional Support programming in a small class setting with the ability to customize a Student's academic and educational programming. (N.T. at 99-100, 127-28). [private] Schools uses UGrow, a crisis management system that does not implement physical restraints. Parent refused the placement suggestion and withdrew the referral. (S-8; N.T. at 63-64, 118). Parent has failed to produce any evidence regarding why either

of these prospective placements are inappropriate, even when advised by the District that the IEP team would develop an IEP that would consider Student's history and trauma, taking into consideration Parent's restraint concerns. (N.T. at 141-42).

Finally, District offered to place Student at [a third proposed private school], a new APS that was actively enrolling new students. Student could have been enrolled at [this private school] within 48 hours, with Parent's cooperation. (N.T. at 114). Parent had an opportunity to tour this APS, but refused to sign the enrollment forms because [private school] also has a restraint policy. (S-11; S-12; N.T. at 113-115).

The evidence overwhelmingly suggests that District's proposed placements are appropriate to meet Student's unique educational needs. District has engaged in extensive efforts to locate and secure an appropriate placement for Student. Parent's refusal to participate in IEP meetings, consult with District, openly communicate regarding Student's needs, encourage and assist Student in facilitating cyber attendance, and failure to rationally consider any prospective placement offer abjectly disabled the District's in their efforts to provide Student FAPE. District cannot be faulted for maintaining Student in an inappropriate Cyber Academy setting after having demonstrated their extensive efforts to seek an appropriate placement and for complying with the IDEA's "stay-put" provision in honoring the last approved March 2025 NOREP⁴.

Placement at one of the aforementioned APS is appropriate to meet Student's needs because they offer Full-Time Emotional or Autistic Support Services, provide intensive therapeutic services, structured and individualized class settings in a small environment that would allow Student to be closely supervised, receive instruction at Student's educational level,

⁴ See 20 U.S.C. §1415(j); *see also* S-4 and S-6 (rejected NOREPs).

and provide consistent reinforcement of coping-skills and appropriate replacement behaviors.

Student's placement in one of these appropriate settings would enable Student meaningful educational progress. Student is entitled to the opportunity to obtain appropriate coping skills, positive behaviors, and social-emotional regulation. Once Student has obtained these essential skills, Student will have greater opportunities to showcase Student's cognitive ability, enthusiastic personality, eagerness to learn, and potentially enable Student to transition to a lesser restrictive environment. That is the ultimate goal supported by the principals and mandates of the IDEA.

Conclusion

For the reasons set forth in the above Discussion and Application of Law and Fact, District's recommended placement of Full-Time Emotional or Autistic Support in a school-based setting with therapeutic supports and services in an approved private school is appropriate. Student must be placed in one of the APS offered by District, pending availability.

This Decision, its conclusion, and Order, should not be interpreted to contain Student in a Full-Time Emotional or Autistic Support setting indefinitely. As it aligns with the purpose of the IDEA, an appropriate placement is expected to enable meaningful educational progress to Student. Nothing in this decision terminates District's ongoing obligation under the IDEA's FAPE requirements, nor the Parents right to request evaluations in response to Student's changing needs. See 20 U.S.C. § 1414.

Whereas District shall put forth every effort to enforce this Decision and its corresponding Order, District shall not be liable for their inability to effectuate the attached Order if Parent refuses to collaborate with District, participate in IEP meetings, and/or fails to take all necessary steps to enroll Student in an APS.

An appropriate Order follows.

Order

AND NOW, this 29th day of May, 2026 in accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** as follows:

1. District's proposed placement of Full-Time Emotional or Autistic Support in a school-based setting with therapeutic supports and services in an approved private school is appropriate;
2. Student shall be placed in a prospective placement aligned with District's January 9, 2026 NOREP;
3. An IEP meeting must convene within 15 calendar days of the issuance of this decision to review and discuss available placements for Student;
4. Once a placement is identified and secured, an IEP team meeting must convene within 30 calendar days, with District, Parent, and the prospective placement to develop an appropriate IEP including development of a detailed crisis management plan that addresses Student's behavioral and trauma needs, and a transition plan addressing Student's successful return to bricks and mortar learning;
5. District shall not be held liable for failure to provide Student FAPE should Parent fail to cooperate in the development of an appropriate IEP or fail to take all necessary steps to ensure Student's enrollment in a prospective placement, as outlined above.

It is FURTHER ORDERED that any claim not specifically addressed in this Order is **DENIED** and **DISMISSED**. With issuance of this final decision, jurisdiction over this matter is hereby **RELINQUISHED**.



Savannah L. Murphy, Esquire.
Special Education Hearing Officer
ODR File Number 32677-25-26