

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. 30431-24-25

Student:

J.S.

Birthdate:

[redacted]

Parent:

[redacted]

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Hearing Officer:

Charles W. Jelley Esq.

Decision Date:

July 25, 2025

Background

The Parent filed the pending Due Process Hearing Complaint alleging multiple violations under the Individuals with Disabilities Education Act (IDEA) and the Section 504 regulations.¹ The Parents rejected the District's offer of a free appropriate public education (FAPE) and now seek tuition reimbursement at a private School. The District, on the other hand, seeks a declaration that at all times relevant, it complied with the IDEA and Section 504.

After a thorough review of the record—including both intrinsic and extrinsic evidence—I find that the Parents failed to prove a procedural or substantive violation. To the extent that the Parents' Section 504 FAPE claims overlap with their IDEA FAPE claims, those claims are denied as the Section 504 claims are inextricably intertwined with the IDEA FAPE claims. Finally, I now conclude that the resolution of the IDEA claims here fully disposes of the derivative Section 504 FAPE allegations.

¹The following Findings of Fact were made as necessary to resolve the issues; thus, not all of the testimony and exhibits were explicitly cited or given equal weight. However, in reviewing the record, while the testimony of all witnesses and the content of each admitted exhibit were thoroughly considered, as were the parties' closing statements not all testimony or exhibits were given proper weight. In the interest of confidentiality and privacy, Student's name, gender, and other potentially identifiable information are not used in the body of this decision. All personally identifiable information, including details appearing on the cover page of this decision, will be redacted prior to its posting on the website of the Office for Dispute Resolution in compliance with its obligation to make special education hearing officer decisions available to the public pursuant to 20 USC § 1415(h) (4) (A); 34 CFR § 300.513(d)(2); 34 CFR § § 104.1- 104.36) and 22 Pa Code § Chapter 14. References to the record throughout this decision will be to the Notes of Testimony (NT) School District /LEA Exhibits (S-) followed by the exhibit number, and Parent Exhibits (P-) followed by the exhibit number.

Statement of the Issues

- a) Whether the District's IEP, as offered failed to provide the Student a FAPE in the least restrictive environment during the 2024-2025 school year, under both the IDEA and Section 504? If not, what relief, if any, is appropriate?

Findings of Fact

1. The Student ended the 2024-2025 school year as a [redacted] grader in a [redacted] private school. [NT p. 51; S-6; S-2]
2. The Parties agree that the Student is eligible to receive IDEA FAPE services as a person with an Other Health Impairment. However, they disagree about the identification and evaluation of other secondary IDEA disabilities. The Parents contend that the Student is a person with Autism and a Specific Learning Disability, but the District disagrees. The Parents further disagree with the District's proposed individual education program (IEP) and the action to educate the Student in the District. [NT p. 52; S-6; S-2]
3. A prior dispute about the Student's FAPE services between the parties was resolved through a settlement agreement dated November 2023. [NT p. 53; S-6; S-2]
4. The settlement agreement funded partial tuition at the private School for the 2022-2023 and 2023-2024 school years. [NT p. 54; S-6; S-2]
5. The settlement agreement specified that the District would complete a reevaluation and propose a new IEP by May 15, 2024. [NT p. 55; S-6; S-2]
6. The District completed a new reevaluation in April 2024, which included a comprehensive review of records, Parent and teacher input, cognitive and academic testing, social-emotional behavior rating scales, executive functioning assessments, autism spectrum assessments, speech and language measures, an occupational therapy evaluation, a functional behavioral assessment, a direct observation at the private School, and a transition questionnaire. [NT p. 56, S-6; S-2]

7. The reevaluation assessed the Student in all areas of suspected disability, including IDEA eligibility as a person with an Other Health Impairment, Autism, and a Specific Learning Disability. The reevaluation also determined the current need for specially designed instruction. [NT p. 57; S-6; S-2]
8. The reevaluation found the Student was IDEA eligible under the category of Other Health Impairment (OHI). The report also noted a prior history of Autism spectrum disorder. The team concluded that the Student did not meet IDEA eligibility criteria under Autism due to a lack of severe social or nonverbal communication difficulties or the need for specially designed instruction. The team next determined that the Student did not display a pattern of strengths or weaknesses, or a significant discrepancy between ability and achievement; therefore, the Student was not considered a person with a Specific Learning Disability. The team, however, agreed that the Student was a person with an Other Health Impairment. [S-2; NT p. 58; S-6; S-2]
9. The District proposed an IEP on May 8, 2024, for the 2024-2025 school year, recommending an itinerant level of emotional support with services focused on coping and self-regulation skills. [NT p. 59; S-6; S-2]
10. The proposed services included 30 minutes weekly direct instruction in coping and self-regulation, twice-weekly executive functioning coaching, and additional accommodations. [NT p. 60; S-6; S-2, p. 20]The Student's IEP includes an annual goal stating that the Student will identify strategies to handle challenging social situations and self-regulate in 8 out of 10 opportunities for three out of four marking periods, offered through direct instruction in social and coping skills. Progress will be tracked by weekly data sheets and reported quarterly. [S-6; NT p. 151; S-6; S-2]
11. The IEP includes a measurable annual goal for self-advocacy: with direct instruction and opportunities to ask for help or clarification, the Student will advocate for needs in 8 out of 10 trials or maintain an average of 80% across data points during the IEP term, measured by data sheets and reported quarterly. [S-6; NT p. 152; S-6; S-2]
12. The IEP includes specially designed instruction (SDI), which includes daily direct instruction in coping and self-regulation skills,

praise for positive peer interactions, regular student-teacher conferences, and a designated safe place with identified staff to support [the student] when [the student] is anxious. [S-6; NT p. 153; S-6; S-2]

13. The IEP SDIs also includes advance notice of assignments and tests, chunking of long-term assignments, flexible deadlines for multiple tasks with a focus on content mastery, permission for fidgets, frequent breaks, and small group testing with extended time and advance study guides. [S-6; NT p.154; S-6; S-2]
14. The IEP includes SDIs that feature small, structured classes, clarifying and repeating directions for new materials, preferential and flexible seating arrangements, slower pacing, and guided notes to support processing and maintain focus. (S-6). The Student is allowed to use a computer, work in pairs and small groups, and receive models of expected work. (S-6; NT p. 155; S-6; S-2]
15. For writing assignments, the Student will receive extra adult support, as well as access to graphic organizers, planning tools, timelines, and brainstorming activities to help organize thoughts and reduce anxiety. [S-6; NT p. 156; S-2]
16. The IEP includes daily 90-minute Study and Organization class to complete assignments for other courses, build social skills, and develop executive functioning skills with support from a special education teacher and additional adult personnel. [S-6; NT p. 157; S-6; S-2]
17. The IEP includes related services, such as counseling, which is provided twice a month for 15 minutes per session, to support the Student's needs for coping and emotional regulation. [S-6; NT p. 158; S-2]
18. All staff working with the Student will receive weekly consultation from a special education teacher to implement the Student's IEP effectively and consistently. (S-6; NT p.159; S-6; S-2]
19. The IEP team reviewed Extended School Year (ESY) eligibility and determined that the Student does not qualify for ESY services because [the student] shows no regression or recoupment concerns and continues to benefit educationally from his IEP during the school year. [NT p. 160; S-6; S-2]

20. The IEP team considered and rejected general education without special education supports, determining the Student's primary disability of Other Health Impairment (OHI) requires specially designed instruction and modifications to ensure progress. [S-6; NT p. 161; S-6; S-2 S-2]
21. The IEP includes Itinerant Emotional Support for more than 20% but less than 80% of the school day, with services classified under Emotional Support. [S-6; NT p. 162; S-6; S-2]
22. The IEP states that the Student would not participate with nondisabled peers only during daily Study and Organization class (90 minutes) and twice-monthly counseling sessions (15 minutes each). [S-6; NT p. 164; S-6; S-2]
23. The Student will receive counseling services twice a month, each session lasting 15 minutes. This related service addresses the Student's ongoing emotional and coping needs during the school day. [S-6; NT p. 166; S-6; S-2]
24. All staff working with the Student will receive regular consultation from a special education teacher once per week. This professional support ensures that the Student's IEP is implemented with fidelity across settings. [S-6; NT p. 167; S-6; S-2]
25. The IEP includes a transitional goal to live independently after high School or college. [S-6 p.20; NT p. 169; S-6; S-2]
26. The District acknowledged that the Student is a high-performing college-bound student whose needs could be met through regular education programming with supplemental supports. [NT p. 61; S-6; S-2]
27. The Parents' primary concern at the IEP meeting was that the Student could not receive FAPE at Pennsbury High School due to its large size and the stress it would cause [the student]. [NT p. 62; S-6; S-2]
28. The Student attended the private School for eighth and ninth grades and never attended Pennsbury High School. [NT p. 63; S-6; S-2]
29. The IEP team also considered Village Park Academy as an alternative placement within the District. [NT p. 64; S-6]
30. Village Park Academy is described as a regular education program designed for students who struggle in large school environments, offering small classes and special education instruction.

Village Park Academy is located on the same campus as the high School. [NT , p. 65, S-6; S-2]

31. The District proposed that the Student attend Village Park Academy, a full-time placement that offers a small, supportive environment in line with Parents' expressed concerns. [NT p. 66; S-6; S-2]

32. Parents rejected the District's proposed IEP and filed for due process to compel the District to fund another year of tuition at The Lewis School. [NT p. 67; S-6; S-2]

33. The District maintains that its proposed IEP offers FAPE in the least restrictive environment and that it is not obligated to fund a private school placement for 2024-2025. [NT p. 68; S-6; S-2]

34. To address the Student's complex needs, the proposed IEP includes robust, specially designed instruction and accommodations. [S-6; NT p. 69; S-6; S-2]

35. The IEP notes that the Student will receive twice-monthly counseling services and weekly teacher consultation to implement supports consistently. These related services address anxiety, coping, and staff readiness. [S-6; NT p. 70; S-6; S-2]

36. The IEP team determined that general education without SDI is not an appropriate option. The Student's primary classification as Other Health Impairment requires SDI, program modifications, and supplementary aids to meet [the student's] educational needs in the least restrictive environment. [S-6; NT p. 71; S-6; S-2]

37. The IEP team reviewed ESY eligibility and found that the Student shows no significant regression or recoupment concerns that would require summer services at this time. [S-6; NT p. 73; S-6; S-2]

38. The Student's postsecondary transition plan indicates the goal is to attend college and pursue a career in [redacted]. The transition program, like the IEP, requires support for study skills, self-advocacy, and independent living skills to meet these goals. [S-6; NT p. 74; S-6; S-2]

39. The Student was first identified with Autism and Speech/Language Impairment at age [redacted], as per the 2015 Initial Evaluation Report [P-12, p. 1; NT p. 76; S-6; S-2]

40. By 2018, the District's S-2 removed the Autism classification, retaining Other Health Impairment due to executive function and motor needs [P-12, p. 2; NT p. 77; S-6; S-2]

41. A private independent evaluator in 2022 and 2024 confirmed Autism Spectrum Disorder, ADHD Combined Type, and Specific Learning Disorder in written expression [P-17 p.2; P-23 p.1. [NT p. 78; S-6; S-2]
42. Over the years, writing has remained a challenge; fluency, spelling, grammar, and graphomotor tasks are consistently flagged as average across all reports [P-12, p. 1; P-17, p. 2; P-23, p. 3; NT p. 79; S-6; S-2]
43. The Student's math reasoning has been consistently at a high average to superior level, with Applied Problems at SS 117 [87%] in 2018 and WJ-IV showing superior levels in 2024 [P-12, p. 2; P-23, p. 3]. [NT p. 80; S-6; S-2]
44. While the District removed the Autism classification in 2018 based on classroom improvements, Parent reports and private assessments continue to support ASD diagnosis, with elevated ADOS-2 and ASRS scores [P-12 p.2; P-17 p.2; P-23 p.2]
45. The Parents note a consistent discrepancy between home and school ratings, while the school staff observe minimal autistic-like traits, whereas parents report significant social, communication, and sensory needs [P-23, p. 3; NT p. 82; S-6; S-2]
46. Earlier reports supported OT services for fine motor and graphomotor weaknesses [P-12, p.1; NT p. 83; S-6; S-2]
47. By 2024, the District OT found no significant functional deficits; typing and visual-motor skills are average [P-23, p. 3; NT p. 84; S-6; S-2]
48. Speech-language services for articulation were provided, and the deficit was resolved early. Pragmatic concerns persist at home but are not observed at School [P-12, p. 1; P-23, p. 3]
49. Records document persistent generalized anxiety and past severe depressive episodes in larger school settings [P-17, p.2; NT p. 86; S-6; S-2]
50. The private evaluator and the latest S-2 team agree that the Student requires supports for anxiety management, self-advocacy, and social functioning, which are better met in small, structured settings like Lewis School [P-17, p. 2; P-23; NT p. 87; S-6; S-2]
51. As part of the reevaluation, the entire team, including the Parents, reviewed a 2022 Independent Educational Evaluation (IEE)

- along with an updated report from the same independent evaluator.
[NT p. 88; S-6; S-2]
52. In 2022, a private evaluator conducted an Independent Educational Evaluation (IEE). [P-17 p.2; NT p. 90; S-6; S-2]
53. The IEE evaluator concluded the Student was a person with an Autism Spectrum Disorder (ASD) eligibility. [P-17 p.2; NT p. 91; S-6; S-2]
54. The IEE also confirmed diagnoses of ADHD Combined Type and Specific Learning Disorder (SLD) in Written Expression. [P-17 p.2 [NT p. 92; S-6; S-2]
55. As part of the IEE, the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2) was administered. [P-17 p.2; NT p. 93; S-6; S-2]
56. The ADOS-2 results confirmed Autism classification for the Student. [P-17 p.2; NT p. 94; S-6; S-2]
57. Parent Autism Spectrum Rating Scales (ASRS) results were elevated in all core domains, consistent with a diagnosis of Autism. [P-23; NT p. 95; S-6; S-2]
58. Teacher Autism rating scores were low to average but did indicate some concern regarding Behavioral Rigidity. [P-23 p.5 [NT p. 96; S-6; S-2]
59. The Social Skills Improvement System Social-Emotional Learning Edition (SSIS-SEL) teacher reports indicated that Self-Awareness and Social Skills were rated as below average. [P-23 p.5-6; NT p. 97; S-6; S-2]
60. The SSIS-SEL rated Responsible Decision-Making in the average to above-average range, showing mixed performance. [P-23 p.5-6; NT p. 98; S-6; S-2]
61. The Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2) parent forms showed significant issues with shifting, initiation, and self-monitoring. [P-23 p.6; NT p. 99; S-6; S-2]
62. According to two teacher raters, the Student's overall SSIS SEL Composite scores were 84 and 85, placing the Student in the 15th to 17th percentile. Both raters describe the Student's overall social-emotional functioning as below average to low average, indicating that the Student shows multiple social-emotional learning (SEL) skill deficits compared to peers. This consistent finding confirms that

Student needs explicit, structured instruction focused on core SEL competencies. [NT p. 100; S-6; S-2]

63. In the SSIS subscales, Teacher 1 rated the Student's Self-Awareness extremely low (3rd percentile), indicating poor recognition of his own emotions and how they connect to behavior. Teacher 2's rating for Self-Awareness was higher (20th percentile) but still showed fragile skills. Self-management scores from both raters showed an average range of skills, suggesting that the Student can manage basic tasks and stay on task when supported. Social Awareness differed by rater: Teacher 1 rated [the student] average (24th percentile), while Teacher 2 found this area weaker (10th percentile), showing inconsistency in recognizing others' feelings. Both raters agreed that the Student's Relationship Skills are below average (3rd and 7th percentiles), showing [the student] struggles to interact and maintain peer relationships effectively. Both raters found the Student's Responsible Decision-Making, Core Skills, and Academic Competence to be average or slightly above average, indicating that while the Student is motivated to learn, they lack foundational social-emotional skills. A summary of the Student's scores follows: [NT p. 103; S-6; S-2]
64. The Teacher's BRIEF-2 scores were mainly within the typical range, indicating discrepancies in school/home functioning. [P-23 p.6; NT p. 107]
65. The Behavior Assessment System for Children, Third Edition (BASC-3) parent forms indicated internalizing problems. [P-23 p.7; NT p. 108; S-6]
66. The Student's BASC-3 self-report did not endorse significant anxiety or depression. [P-23 p.7; NT 109; S-6; S-2]
67. The Parents' BRIEF-2 Executive Functioning (EF) ratings reveal elevated scores across self-monitoring, working memory, and planning, indicating consistent EF challenges at home. The Student's self-report underestimates the Student's own EF difficulties, highlighting a lack of self-awareness when tasks are incomplete. Teacher 3's ratings showed average EF in the structured Lewis class setting, suggesting that built-in supports mask the actual EF needs. Together, these results confirm that the Student needs explicit EF skills training, with strategies to plan, organize, shift tasks, and monitor the Student's work. [NT p. 111; S-6; S-2]

68. The private Autism Diagnostic Observation Schedule (ADOS-2) data identifies the Student with an Autism Spectrum Disorder diagnosis. Observations show the Student struggles with social nuance, literal language, and figurative speech. Speech/Language subtests show [the student] has below-average scores in recalling sentences, making inferences, and understanding figurative language. These weaknesses indicate that the Student needs frequent, repeated practice with inferencing, understanding idioms and sarcasm, perspective-taking, conversation flow, and reading subtle social cues. [NT p. 114; S-6; S-2]
69. The ADOS-2 helps confirm the presence of social awkwardness, literal language, and difficulties with idioms, irony, and sarcasm. Speech/Language subtests show below-average scores in Recalling Sentences and Making Inferences, as well as mild weakness in understanding figurative/abstract language. The Student needs repeated practice with inferencing, perspective-taking, idioms, conversation flow, asking/answering questions, and reading subtle social cues. [NT p.115; S-6; S-2]
70. The Student earned the following scores on recent norm-referenced testing: [NT p. 116; S-6; S-2]
71. The private evaluator also administered the Feifer Assessment of Writing (FAW) to provide more detailed information on written expression skills. [P-23 p.4]. The Student earned the following FAW scores: FAW Alphabet Tracing Fluency was SS 82 (12%). (P-23 p.4 FAW Motor Planning was a strength at SS 108 (70%)). [P-23 p.4. FAW Retrieval Fluency was significantly impaired at below the 0.1 percentile. [P-23 p.4. [NT p. 119; S-6; S-2]
72. A comparison of the Student's writing Achievement and cognitive scores indicates an overall average achievement. [NT p. 120; S-6; S-2]
73. The Student needs to learn the following core skills, which include recognizing, naming, and linking feelings to action. Perspective-taking skills involve reading faces, tone, and social context. Relationship practice includes opening and maintaining conversations, resolving conflicts, and initiating group activities. [NT p. 123; S-6; S-2]
74. The Student also needs to learn Executive Functioning skills, including task initiation/completion strategies, multi-tasking, shifting

focus, planning complex tasks step by step, self-monitoring, and self-correction. [NT p. 124; S-6; S-2]. Finally, the Student needs to improve social language skills, such as practicing idioms, sarcasm, and figurative language, as well as inferring what others feel/think, and distinguishing between abstract and concrete thinking. [NT p. 125; S-6; S-2]

75. Overall, the Student needs a safe, small learning setting; structured social coaching and peer modeling; frequent check-ins, and teacher feedback loops. [P-23; NT p. 126; S-6; S-2]

76. The Student requires structured social coaching to recognize emotions, take a perspective, initiate and maintain peer interactions, plan and complete tasks step by step, and practice abstract and figurative language in real-world contexts. A small, supportive setting with modeling, feedback loops, and regular check-ins is essential to build these skills. [P-23; NT p. 127; S-6]

77. Teachers at the private School described the Student as responsible, attentive, and motivated. One teacher noted that the Student takes notes, listens carefully, and can prioritize tasks but struggles with figurative language and expressing confusion. [S-6; NT p. 128; S-6; S-2]

78. Teachers at the private School stated that the Student benefits from small, structured classes and a multisensory approach, showing strong attention and appropriate peer interactions. Teacher reports confirm that consistent SDI, clarification, repetition, and reduced assignments help the Student succeed [S-6; NT p. 129; S-6; S-2]

79. Teachers at the private School noted that the Student works well with peers and completes work timely, but sometimes needs more self-advocacy support to express when [the student] feels overwhelmed, confirming the need for goals addressing self-advocacy and anxiety. [S-6; NT p. 130; S-6; S-2]

80. The Student earned A+ marks across core subjects, demonstrating a capacity to meet high standards when appropriate SDI and supports are in place. [S-6; NT p. 138; S-6; S-2]

81. To address the Student's learning and needs, the IEP includes specially designed instruction and accommodations. [S-6; NT p. 142; S-6; S-2]. The Occupational Therapy input into the reevaluation report found the Student's fine motor, typing, and visual perception skills within average ranges. [NT p. 145; S-6; S-2]

82. The District's occupational therapist (OT) concluded that no direct OT services were required under IDEA. [P-23; NT p. 146; S-6; S-2]
83. The 2024 Speech/Language assessment found Receptive and Expressive Language in the average range. [P-23 p.4-5]. The report also noted mild pragmatic language concerns remain. [P-23; NT p. 147; S-6; S-2]
84. The April 2024 reevaluation includes a Functional Behavioral Assessment (FBA). The evaluator concluded that she did not observe significant problem behaviors. [P-23 p.7; NT p. 148; S-6; S-2]
85. The District conducted an FBA, and the FBA did not result in a Positive Behavior Support Plan (PBSP). [P-23 p.7; NT p. 149; S-6; S-2]
86. The record includes a history of persistent generalized anxiety along with a history of severe depressive episodes in larger school settings [P-17, p.2; NT p. 171; S-6; S-2]
87. The private evaluator's conclusions and the District's reevaluation report data set agree that the Student requires supports for anxiety management, self-advocacy, and social functioning in a small, structured setting [P-17 p. 2; P-23 p. 2]. Over the years, the parties have disagreed about the Student's primary disability, unique needs, and circumstances. [NT p. 172; S-6; S-2]

IDEA – Conclusions of Law

1. **IDEA Evaluation Compliance:** The District's 2024 reevaluation met all procedural and substantive requirements under 34 C.F.R. §§ 300.304–300.306. It assessed the Student in all areas of suspected disability using a variety of technically sound instruments and multiple sources of data.
2. **Appropriate Eligibility Determination:** The District appropriately identified the Student as eligible under the category of Other Health Impairment (OHI) and did not violate 34 C.F.R. § 300.8 in declining to identify the Student under Autism or Specific Learning Disability (SLD), as the data did not support those classifications.
3. **No Violation of IDEA Child Find Obligations**
The District met its child find obligations under 20 U.S.C. § 1412(a)(3) and 34 C.F.R. § 300.111 by identifying and evaluating the Student within a reasonable time and prior to proposing services.

4. **IEP Developed Through a Collaborative and Informed Process:** The IEP was developed through a legally compliant process that included Parental participation, team-based decision-making, and consideration of all relevant data, as required under 34 C.F.R. § 300.321 through § 300.324.
5. **The IEP Was Procedurally and Substantively Appropriate Under *Endrew F.*:** The May 2024 IEP was reasonably calculated to enable the Student to make progress appropriate in light of their circumstances, satisfying the substantive standard articulated in *Endrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. 386 (2017) and procedural standard in *Rowley*.
6. **IEP Goals and Services Were Tailored to Student's Needs:** The IEP included measurable annual goals and specially designed instruction (SDI) and a schedule for progress monitoring that addressed the Student's executive functioning, anxiety, and coping needs consistent with 34 C.F.R. § 300.320(a)(2). The transition services were based on the Student's needs, interests, and preferences.
7. **Least Restrictive Environment (LRE):** The proposed placement at Village Park Academy satisfied the LRE requirement under 34 C.F.R. § 300.114 by allowing the Student to receive instruction alongside nondisabled peers to the maximum extent appropriate.
8. **The District's Placement Was Educationally and Legally Appropriate:** The District's proposed placement was neither overly restrictive nor insufficiently challenging, and was reasonably calculated to confer educational benefit in light of the Student's profile and preferences. 34 C.F.R. § 300.114.
9. **A Private Placement Not Warranted Under *Burlington/Carter*:** The Parents did not demonstrate that the District denied FAPE; therefore, I did not proceed to complete the analysis under *School Comm. of Burlington v. Dep't of Educ.*, 471 U.S. 359 (1985), or that unilateral private placement was appropriate under *Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7 (1993).
10. **No Reimbursement or Compensatory Education Required:** Because the District offered a FAPE and complied with IDEA's procedural and substantive obligations, the Parents are not entitled to tuition reimbursement or other equitable remedies.

Section 504 of the Rehabilitation Act: Conclusions of Law

11. **Section 504 Evaluation Requirements Were Met:** The District's comprehensive IDEA-compliant evaluation also satisfied the evaluation

procedures under Section 504 as outlined in 34 C.F.R. § 104.35, including consideration of multiple sources of data and a knowledgeable team.

12. **Section 504 FAPE Standard Was Satisfied:** The IDEA-compliant IEP meets the Section 504 FAPE requirement under 34 C.F.R. § 104.33(b)(2), which permits an IEP developed in accordance with IDEA to fulfill 504 obligations. *C.G. v. Commonwealth of Pennsylvania Dep't of Educ.*, 62 IDELR 41 (3d Cir. 2013) (holding that accommodations must be comparable in effect to the services provided to others); *K.K. ex rel. L.K. v. Pittsburgh Pub. Sch.*, 590 F. App'x 148, 154 (3d Cir. 2014) (non-precedential); *T.F. v. Fox Chapel Area Sch. Dist.*, 589 F. App'x 594, 600 (3d Cir. 2014); *D.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 565 (3d Cir. 2010); *T.R. v. Kingwood Twp. Bd. of Educ.*, 205 F.3d 572, 577 (3d Cir. 2000).
13. **No Basis for Additional Relief Under Section 504:** Consistent with *Le Pape v. Lower Merion Sch. Dist.*, 103 F.4th 966 (3d Cir. 2024), where claims are based on separate theories—such as disability-based harassment, denial of access, or intentional discrimination must be adjudicated through summary judgment and or trial. The Student's Section 504 claims under *B.S.M. v. Upper Darby Sch. Dist.*, 103 F.4th 956 (3d Cir. 2024), must be evaluated independently. Applying 34 C.F.R. § 104.33, I now conclude that the derivative 504 FAPE claims are denied. While the 504 claims are not precluded by a finding that the IDEA was satisfied, they were fully and fairly adjudicated and exhausted at the due process hearing. In this instance, where a student is eligible under both IDEA and Section 504 and receives a procedurally and substantively appropriate IEP, that IEP presumptively satisfies the school district's obligations under Section 504's FAPE standard. See, e.g., *Mark H. v. Lemahieu*, 513 F.3d 922, 933 (9th Cir. 2008) ("adopting a valid IDEA IEP is sufficient but not necessary to satisfy the § 504 FAPE requirements"); *K.M. v. Tustin Unified Sch. Dist.*, 725 F.3d 1088, 1099 (9th Cir. 2013) ("provision of a FAPE under the IDEA meets Section 504 FAPE requirements"); *Bryant v. N.Y. State Educ. Dep't*, 692 F.3d 202, 216 n.10 (2d Cir. 2012) (Section 504's FAPE obligation "can be satisfied by, *inter alia*, providing the student an IEP"); *D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 253 n.8 (3d Cir. 2012) (finding of no IDEA FAPE denial "equally dispositive" of § 504 claim); *A.M. ex rel. Marshall v. Monrovia Unified Sch. Dist.*, 627 F.3d 773, 782 (9th Cir. 2010) ("a school may establish compliance with Section 504 by implementing a valid IEP"); *Miller ex rel. S.M. v. Bd. of Educ. of Albuquerque Pub. Schs.*, 565 F.3d 1232, 1246 (10th Cir. 2009); *N.L. ex rel. Mrs. C. v. Knox Cnty. Schs.*, 315 F.3d 688, 695–96 (6th Cir. 2003); *M.P. v. Indep. Sch. Dist. No. 721*, 439 F.3d 865, 867–

68 (8th Cir. 2006)(collecting examples of successful § 504 claims); *D.A. v. Houston Indep. Sch. Dist.*, 629 F.3d 450, 454 (5th Cir. 2010); *Dear Colleague Letter*, OCR (Jan. 25, 2013), n.8 ("one way to meet the Section 504 FAPE obligation is to implement an individualized education program (IEP) developed in accordance with the IDEA.")

Credibility and Persuasiveness of the Witnesses' Testimony

In a due process hearing, it is the hearing officer's responsibility to assess the credibility of the witnesses, weigh the evidence, and determine the persuasiveness of the testimony presented. *J.P. v. County School Board*, 516 F.3d 254, 261 (4th Cir. 2008); *A.S. v. Office for Dispute Resolution (Quakertown Community School District)*, 88 A.3d 256, 266 (Pa. Commw. Ct. 2014).

All witnesses testified in a candid and forthright manner. The District's staff responded thoughtfully and coherently to questions concerning the Parents' participation in the development of the IEP, evaluation process, IDEA eligibility determinations, the drafting of the Student's coping strategies for anxiety, writing skills, executive functioning, goal statement, and the specially designed instruction (SDI). In particular, the District's school psychologist provided clear, cogent, and persuasive testimony regarding how the District considered and interpreted the private evaluation. Her testimony was instrumental in understanding the District's eligibility determination process.

The private evaluator also contributed valuable clinical insight into the Student's profile. However, after weighing all of the testimony, I accord greater weight to the testimony of the District's witnesses. The District staff offered detailed explanations of how the IDEA eligibility criteria were discussed, reviewed, and applied to the Student's situation, supported by educational data.

In contrast, the private evaluator adopted a more eclectic approach, drawing from both her clinical background and her school psychology training. While this interdisciplinary perspective can be informative, in this instance, the testimony introduced uncertainty into her IDEA eligibility analysis, particularly with the additional identification of clinical diagnoses. For example, although she relied on Autism checklists—generally considered reliable tools—she did not clearly explain why she prioritized the parents' responses over the District staff's input. Additionally, her testimony lacked a careful and specific application of the IDEA's "adversely affects" criterion, which is central

to IDEA eligibility determinations. Therefore, I gave that testimony less weight.

Legal Analysis and Conclusions of Law

The District's Evaluation Was Comprehensive

The record reflects that the District's multidisciplinary reevaluation, conducted in 2024, was timely and fully compliant with IDEA requirements. According to 34 C.F.R. § 300.304(b), evaluations must include a range of tools and strategies to gather relevant information. Here, the District employed standardized testing, related services assessments, classroom observations, and input from teachers and parents. In particular, the District staff gave due weight to the private testing, including the ADOS, the ASRS, the SSIS-SEL, and its Functional Behavior Assessment. The evaluation team reviewed all of the Student's comprehensive assessments of existing abilities, academic achievement, social-emotional functioning, executive functioning, and adaptive behavior. While the Parents' private evaluator relied heavily on ADOS-2 and ASRA scores, as well as parent interviews, suggesting Autism Spectrum traits, the District's data-based findings demonstrated that the Student's classroom behavior, peer interactions, and academic participation were not adversely affected. Accordingly, I now conclude that the parents did not meet their burden of proof that the District's reevaluation was flawed.

The Student's Profile Reflects Average Performance

The District's reevaluation correctly concluded that the Student does not demonstrate a Specific Learning Disability (SLD) in written expression and does not require specially designed instruction in that area. Standardized achievement testing revealed average scores across multiple domains of written language: Broad Written Language – 90 (25th percentile), Spelling – 90 (26th percentile), Writing Samples – 95 (36th percentile), Sentence Writing Fluency – 90 (24th percentile), and Written Expression – 92 (29th percentile) (S-2 p.16). The school psychologist testified credibly that these scores place Student squarely within age-expected levels, and no severe discrepancy between ability and achievement was found (NT 480). The private evaluator reported the Student Written Expression score of 103 (58th percentile) on the Kaufman Test of Educational Achievement, which falls in the average range. (S-4 p.14). While the Parents, on the other hand, point to isolated low subtest scores in writing fluency, those scores do not reach the level of a significant weakness or a significant difference between ability and achievement. (22 Pa. Code §

14.125(1)); 34 CFR 300.307, 308, and 309. Thus, the Student's average performance indicates the ability to access and progress in the general education curriculum with appropriate regular education supports.

The Record Supports the District's OHI Eligibility Conclusion

As explained in *Ruari C.*, the educational classification under IDEA must reflect the Student's needs, not a private diagnosis alone. In *Ruari*, although the Student had a prior autism diagnosis, the Third Circuit deferred to the hearing officer's conclusion that the District acted appropriately when they relied on multiple valid sources in concluding the Student was identified correctly. In the Student's case here, the data *against* an autism classification are even stronger: the Student has consistently qualified under the "Other Health Impairment" (OHI) category due to significant anxiety and ADHD. The reevaluation correctly noted that the Student's ADHD condition directly impacts executive functioning, coping, attention, and task completion. However, the reevaluation, contrary to the Parents' contentions, did not identify core social-communicative functioning deficits or nonverbal communication deficits. Moreover, the District's evaluation included teacher observations, standardized assessments, and behavior rating scales (BRIEF, BASC), none of which identified autism-related behaviors. The absence of rigid behaviors in School, impaired social reciprocity, or nonverbal communication delays in the classroom environment reinforces that the Student's educational profile does not align with the criteria for Autism under 34 C.F.R. § 300.8. Accordingly, applying the IDEA regulations and relevant case law, I conclude that the Parents have not met their burden of proof.

The Proposed IEP Responds to the Student's Actual Needs, Regardless of Label

As the Third Circuit reiterated in *Ruari C.*, the IDEA does not elevate eligibility categories above the question of whether a child's IEP offers FAPE. Even if a child is misclassified, the legal standard remains whether the services are "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances" (*Endrew F.*, 580 U.S. at 399). The Student's IEP is tailored to the identified actual needs—executive functioning support, anxiety regulation, coping strategies, and structured study routines—without relying on an autism classification. The IEP includes a regular education placement, supported by a Study and Organization Skills class that utilizes an evidence-based curriculum, direct instruction, and self-monitoring strategies. There is no indication that the educational

program would differ in any material way if the Student were labeled as Autistic or with a learning disability. As in *Ruari C.*, the Parents' focus on a predetermined classification distracts from the core legal inquiry, which the record supports: the District offered FAPE relying on a comprehensive evaluation and otherwise appropriate, data-driven, and legally sufficient goals.

The Student's Executive Functioning Concerns Can Be Addressed in the Proposed Setting

Parents assert that the Student's instructional challenges lie in executive functioning skills, such as organization, planning, and initiating writing tasks. However, the teacher-completed and the Student-completed a BRIEF assessment, and the Student's scores fall in the average range. The Student's self-rating for planning/organizing was at the 74th percentile, and the teacher's rating was at the 50th percentile; these scores, while different, also fall well within average limits (S-2 pp. 22, 24–25). The Parents' BRIEF results were mildly elevated, and even those did not reach a level suggesting the need for specially designed instruction. Even if one accepts the Parents' characterization of the Student's executive functioning as an area of need, the District's IEP includes comprehensive supports like: a dedicated "Study and Organization Skills" class taught twice weekly by a special education teacher using a research-based executive functioning curriculum (S-3 p. 24; NT 78, 138). These services and supports are offered and embedded within the general education program. Based on my review of the District's reevaluation report and the Parents' private testing, I now conclude that the Parents did not prove that the District failed to locate, identify, evaluate, or offer an individualized program that addresses the Student's needs and circumstances.

The District's IEP Offered a Meaningful Educational Benefit

The IDEA does not require optimal services. It requires an IEP that is reasonably calculated to enable the child to make progress in light of their circumstances. *Endrew F. v. Douglas County School Dist.* RE-1, 580 U.S. 386 (2017). The May 2024 IEP addressed the Student's executive functioning, anxiety needs related to ADHD, and the need to develop coping skills. The IEP included modifications, supplemental services, and SDIs such as extended time, graphic organizers, teacher modeling, and use of assistive technology. Goals were measurable and tailored to address the surrounding circumstances, as well as academic and functional levels. The IEP included regular progress monitoring

and was responsive to data from teachers and the comprehensive functional assessment overall.

The IEP includes transition services and goal statements that foster the Student's transition to postsecondary education. Although the Parents argue that the IEP failed to address autism-related social deficits or the SLD written expression concerns, I disagree. The Parents' witness testimony did not undermine the school district's comprehensive testing or data set. Accordingly, I now find that the Parents did not meet their burden, and the record does not indicate that the IEP addresses the Student's unique needs or circumstances. Under *Rowley* and *Endrew F.*, this IEP satisfies the requirement of providing a FAPE.

The Proposed IDEA Placement in a Regular Education Environment

The IDEA placement, as described, offers the Student full access to the general education curriculum in a small, supportive environment that aligns with the identified needs expressed in the RR, without limiting grade-level academic exposure. All core academic classes at the placement and the high School use the same curriculum and are taught in person by certified teachers (NT, pp. 74, 97). The Student is not placed in a remedial or alternative curriculum track. Furthermore, the IEP confirms that the Student will spend the majority of the school day in regular education with specially designed instruction. Parental concerns that the placement is "not rigorous" or too flexible are contradicted by the staff testimony, which shows that instruction is differentiated to challenge students based on their academic performance (NT, p. 113). Furthermore, the concerns that the Student will not be able to take "honors" courses assume facts not otherwise supported by the evidence.

Small class sizes and low student-teacher ratios characterize the quasi-structured environment at the proposed placement. Therefore, based on this record, I now find that the placement is reasonably calculated to address the Student's current levels of anxiety and executive functioning. The Parents' and the private evaluators' observation comments are not dispositive. The mother's testimony about the comments made by the staff is uncorroborated hearsay and is not wholly dispositive. Likewise, while the Parents' evaluator is an experienced psychologist, her comments about the private placement positives and the District's negatives are lay opinion beyond her training and experience as a psychologist.

In summary, based on the Student's corroborated testing profile and after reviewing the extrinsic and intrinsic evidence, I now conclude that the private placement is neither necessary nor legally justified at the current time under these circumstances. Absent proof that the IEP is flawed, I do not need to move forward to step two of the IDEA's reimbursement framework. Accordingly, the Parents' reimbursement claim is denied.

IDEA FAPE Conclusion

The testimony and exhibits support the conclusion that the District offered a FAPE in the LRE at all times relevant. The District's evaluation methods were multi-sourced, adequate, and sufficient; its IEP was tailored and responsive to participation in a regular education classroom, and its placement is otherwise reasonably calculated. Parents' reliance on DSM- or clinically based diagnoses and private clinical assessments does not establish that the Student qualifies for IDEA services under the Autism or SLD label, or that the District failed to provide FAPE. In summary, I now conclude that the District has met its legal obligations under IDEA and is entitled to prevail in full.

Case Law Now Requires a Standalone Section 504 Analysis

In *Le Pape v. Lower Merion School District*, 103 F.4th 966 (3d Cir. 2024), the Third Circuit clarified that while a denial-of-FAPE communication claim under the ADA may be addressed through administrative proceedings, however, discrimination claims under the ADA or Section 504 that seek legal relief should proceed through summary judgment and, if necessary, trial.

In *B.S.M. v. Upper Darby School District*, 103 F.4th 956 (3d Cir. 2024), the Third Circuit next emphasized that Section 504 FAPE claims require a separate analysis from IDEA FAPE claims, even when based on similar IDEA facts. These decisions underscore the necessity for hearing officers and courts to conduct independent reviews of Chapter 15/Section 504 regulations in due process cases. Adding this analysis and review ensures that FAPE claims under Section 504 are evaluated separately from IDEA claims. Therefore, applying *Le Pape* and *Upper Darby*, I will assume jurisdiction and complete a separate, standalone analysis of the Student's Chapter 15/Section 504 FAPE claims.

Section 504 FAPE Standards

Section 504 of the Rehabilitation Act and its implementing regulations require public school districts to provide students with disabilities a FAPE. The Section 504 FAPE obligation, however, includes the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of individuals with disabilities as adequately as the needs of nondisabled individuals are met. 34 C.F.R. § 104.33(b)(1)(i). Unlike the IDEA—which defines FAPE as a specialized designed to confer meaningful educational benefit—the Section 504 regulations use a comparative standard. Specifically, it requires that services (1) are designed to meet the individual educational needs of disabled students as adequately as those of nondisabled students, 34 C.F.R. § 104.33(b)(1); (2) are based on proper placement decisions aligned with 34 C.F.R. §§ 104.34 and 104.35; and (3) are subject to procedural safeguards, including notice, parental participation, and an impartial hearing, per 34 C.F.R. § 104.36. Importantly, when a student is eligible under both the IDEA and Section 504, implementation of an IEP developed in accordance with IDEA procedures is deemed sufficient to meet the FAPE standard under Section 504. 34 C.F.R. § 104.33(b)(2); *Estate of Lance v. Lewisville Indep. Sch. Dist.*, 62 IDELR 282 (5th Cir. 2014); *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 280 (3d Cir. 2012)

For students eligible only under Section 504, however, the Third Circuit has explained that the applicable legal standard includes a duty to provide reasonable accommodations. In *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 280 (3d Cir. 2012), the court held that the Section 504 accommodations must offer "significant learning" and "meaningful benefit. See also *C.G. v. Commonwealth of Pennsylvania Dep't of Educ.*, 62 IDELR 41 (3d Cir. 2013) (holding that accommodations must be comparable in effect to the services provided to others); *K.K. ex rel. L.K. v. Pittsburgh Pub. Sch.*, 590 F. App'x 148, 154 (3d Cir. 2014) (non-precedential); *T.F. v. Fox Chapel Area Sch. Dist.*, 589 F. App'x 594, 600 (3d Cir. 2014); *D.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 565 (3d Cir. 2010); *T.R. v. Kingwood Twp. Bd. of Educ.*, 205 F.3d 572, 577 (3d Cir. 2000).

While IDEA FAPE represents an affirmative duty to design a personalized education plan that provides meaningful benefit, some courts have described the Section 504 obligation as a negative prohibition against denying students with disabilities equal access to "equally effective" benefits enjoyed by nondisabled peers. *Id.*

Courts in this Circuit have also rejected the proposition that plaintiffs asserting denial-of-FAPE claims under Section 504 must prove discriminatory intent. In *Centennial Sch. Dist. v. Phil L. ex rel. Matthew L.*, 799 F. Supp. 2d 473, 488–89 n.10 (E.D. Pa. 2011), the court declined to require proof that the denial of services was "solely on the basis of disability." Similarly, in *Neena S. ex rel. Robert S. v. Sch. Dist. of Philadelphia*, No. 07-4998, 2008 WL 5273546 (E.D. Pa. Dec. 19, 2008), the court allowed Section 504 FAPE claims to proceed without proof of discriminatory animus, affirming that denial of FAPE alone may establish a violation.

The Student's Section 504 Derivative Claims Were Adjudicated and Resolved Through the IDEA Due Process Hearing Process

Where a student is IDEA-eligible and Section 504 eligible and receives an IEP that addresses all needs and circumstances developed in accordance with IDEA procedures, Section 504 provides that such implementation may satisfy Section 504's FAPE requirement. 34 C.F.R. § 104.33(b)(2); *Estate of Lance v. Lewisville ISD*, 62 IDELR 282 (5th Cir. 2014); *Scanlon v. SFUSD*, 20 IDELR 1383 (N.D. Cal. 1994). Courts in the Third Circuit have similarly recognized that although the statutory schemes of the IDEA and Section 504 differ in structure and remedies, compliance with IDEA procedural and substantive requirements can resolve derivative Section 504 FAPE claims. *W.B. v. Matula*, 23 IDELR 411 (3d Cir. 1995), *abrogated in part by A.W. v. Jersey City Pub. Schs.*, 486 F.3d 791 (3d Cir. 2007); *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 280-81 (3d Cir. 2012).

Applying the Section 504 child find, evaluation, and FAPE standards, at 34 C.F.R. §§ 104.31-104.36, I now find that my IDEA analysis above confirms that the Student's IEP as offered resolves the Student's derivative Section 504 claim. Therefore, applying the 504 FAPE requirements, I now conclude that the Parents did not offer any independent evidence of a Section 504 denial of a FAPE. Furthermore, the record is preponderant that the Parents did not prove a denial of a benefit, denial of access, or failure to provide equally effective benefits otherwise provided to nondisabled peers. Assuming, *arguendo*, that the Section 504 regulation endorsing a finding of an offer of an IDEA FAPE is not dispositive, incorrect, or incomplete, the following standalone Section 504 FAPE analysis favors the District.

The IDEA Evaluation Satisfies the Section 504 Evaluation Requirement

Section 504 regulations at 34 C.F.R. § 104.35 require districts to conduct evaluations before providing or changing special education or related services. These evaluation procedures align closely with those under the IDEA (20 U.S.C. § 1414) and, in practice, can be completed simultaneously through a unified, multidisciplinary team process. Courts have acknowledged that a procedurally valid and comprehensive IDEA evaluation can satisfy 504's procedural evaluation standards. *Grieco v. N.J. Dep't of Educ.*, 48 IDELR 74 (D.N.J. 2007). In this case, the record is preponderant that the District followed all procedural requirements for evaluating the Student under the IDEA and Section 504. The IDEA multidisciplinary team also satisfies the Section 504 requirement that a team of knowledgeable people conduct a full and individualized evaluation, review multiple data sources, including private assessments, and issue a decision or a report with comprehensive recommendations. Because Section 504 and IDEA share overlapping evaluation requirements—including the obligation to use nondiscriminatory tools, consider multiple sources of information, and avoid one-size-fits-all testing—I now find that the District's thorough IDEA evaluation satisfies Section 504's procedural FAPE obligations.

The IDEA Due Process Decision Resolves the Student's Derivative Section 504 FAPE Claims

In the present matter, the Parents' Section 504 claims arise from the same facts and circumstances underlying their IDEA claims, unlike *Le Pape v. Lower Merion Sch. Dist.*, 103 F.4th 966 (3d Cir. 2024), where the Student asserted a standalone ADA communication preference claim, the Parents here allege a derivative denial of FAPE claim based on alleged violations of the District child find duty, evaluation practices, the adequacy of the proposed FAPE, the appropriateness of the IEP, the Student's alleged exclusion from participation and denial of meaningful educational benefit, as stated, the 504 claims are identical to the IDEA claims.

Therefore, based on the applicable case law outlined above, I conclude that the Section 504 allegations presented here do not raise distinct factual claims but instead offer an alternative legal theory grounded in the same underlying conduct and circumstances. The Section 504 claims do not allege actionable discrimination, unequal treatment, or a

denial of equally effective services or access. Instead, they are premised solely on the assertion that the District failed to provide appropriate and reasonable FAPE services. *CTL v. Ashland Sch. Dist.*, 62 IDELR 252 (7th Cir. 2014); *Mark H. v. Lemahieu*, 49 IDELR 91 (9th Cir. 2008).

Section 504 Conclusion

Where claims are based on separate theories—such as disability-based harassment, denial of access, or intentional discrimination—those must be evaluated independently and are not automatically precluded by a finding that the IDEA was satisfied. See, e.g., *C.G. v. Pa. Dep't of Educ.*, 734 F.3d 229, 235 (3d Cir. 2013); *Ellenberg v. N.M. Military Inst.*, 478 F.3d 1262, 1281–82 (10th Cir. 2007); *M.P. v. Indep. Sch. Dist. No. 721*, 439 F.3d 865, 867–68 (8th Cir. 2006). In sum, where a student is eligible under both IDEA and Section 504 and receives a procedurally and substantively appropriate IEP, that IEP presumptively satisfies the school district's obligations under Section 504's FAPE standard, unless an independent violation grounded in discrimination or exclusion is credibly alleged.

Pursuant to the FAPE provisions at 34 C.F.R. § 104.33 and binding precedent, I find that the Student's Section 504 FAPE claims here were fully resolved through the IDEA due process hearing, Findings of Fact and Conclusion of Law. The record as a whole does not support a separate finding of a Section 504 FAPE violation. Accordingly, no further relief is granted under Section 504. The Parents' claims are denied, and the dispute is resolved in favor of the District.

FINAL ORDER

AND NOW, this 25th day of July 2025, the Parents' claims are denied:

1. The Student's IDEA and Section 504 child find claims are **Denied**.
2. The Student's IDEA and Section 504 denial of a FAPE claims are **Denied**.
3. The Parents' request for reimbursement for the independent evaluation is **Denied**.
4. All other claims for appropriate relief, causes of action, demands, or affirmative defenses not argued for in the Parents' or

the District's closing statements and not discussed herein are now dismissed with prejudice.

July 25, 2025,

/s/ Charles W. Jelley, Esq.

Hearing Officer

ODR FILE # 30431-24-25