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. 32001-25-26 & 32002-25-26

Childrens' Names:
Student 1: S.G.; Student 2: K.G.

Dates of Birth:
Student 1: [redacted]; Student 2: [redacted]

Parent:
[redacted]

Local Education Agency:
Governor Mifflin School District
10 S. Waverly Street
Shillington, PA 19607

Counsel for the LEA:
Thomas Warner, Esq.
Sweet Stevens
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New Britain, PA 18901

Hearing Officer:
James Gerl, CHO

Date of Decision:
February 6, 2026

BACKGROUND

The parent filed due process complaints for two siblings alleging that the school district committed a denial of FAPE for procedural violations involving various NOREPs; that the school district denied FAPE to the students by failing to implement their transfer IEPs or comparable services; and that the school district denied the parent meaningful participation by filing a complaint with Children and Youth Services against the parent in retaliation for the parent having exercising rights protected under IDEA. The school district contends that it provided a free and appropriate public education to both students, that the NOREPs were correctly issued and had correct content, that the transfer IEPs were implemented and that there was no retaliatory motive behind filing a complaint with Children and Youth Services.

I find in favor of the parent with regard to the school district's failure to implement the students' transfer IEPs. I find in favor of the school district with regard to the other issues raised by the due process complaint.

PROCEDURAL HISTORY

The parties to this case really do not like each other. The toxic nature of the relationship was apparent in the prehearing proceedings. Prior to the hearing a number of prehearing motions were filed. The school district filed a sufficiency challenge to both due process complaints. The sufficiency challenges were denied as being without any legal merit. The parent filed motions to find the school district and/or its lawyer in contempt or to impose sanctions of various kinds upon the school district or its lawyer. The parent's motions were denied as being beyond the jurisdiction of a special education hearing officer and without any legal merit.

The parent failed to disclose the parent's evidence at least five business days prior to the hearing despite having been informed of the disclosure rule. 34 C.F.R. § 300.512(a)(3). Because the parent was not represented by a lawyer and because the school district did not show any prejudice resulting from the late disclosure, the district's motion to ban parent's evidence was denied. The school district was, however, given the opportunity to request an additional virtual session solely to respond to any surprise evidence due to the late disclosure, but the school district did not elect to pursue that option.

The parties failed to stipulate to any facts. As a result of this failure, the hearing was elongated and the decisional process was delayed.

The hearing was conducted in one in-person session. Five witnesses testified at the due process hearing, including the director of special education, who testified during the parent's case and also for the school district as a rebuttal witness. Parent's exhibits P-4, P-5, P-6, P-11 and P-12 were admitted into evidence. All other parent exhibits were excluded as being not relevant. School district exhibits S-1 through S-22 were admitted into evidence.

After the hearing, the unrepresented parent and counsel for the school district presented written closing arguments/posthearing briefs and proposed findings of fact. All arguments submitted by the parties have been considered. To the extent that the arguments advanced by the parties are in accordance with the findings, conclusions and views stated below, they have been accepted, and to the extent that they are inconsistent therewith, they have been rejected. Certain arguments and proposed findings have been omitted as not relevant or not necessary to a proper determination of the material issues as presented. To the extent that the testimony of various witnesses is not in accordance with the findings as stated below, it is not credited.

To the extent possible, personally identifiable information, including the names of the parties and similar information, has been omitted from the text of the decision that follows. FERPA 20 U.S.C. § 1232(g); and IDEA § 617(c).

ISSUES PRESENTED

The due process complaints raised a number of issues over which a special education officer has no jurisdiction. At the prehearing conference for this case, the following issues in the complaints were dismissed because of a lack of jurisdiction: neglect of a minor child, discrimination against a protected class in violation of the equal protection clause, and issues under other state laws concerning the enrollment process and documentation related thereto. The parent offered arguments concerning some of these issues in the posthearing brief, but the arguments were not considered herein because of a lack of jurisdiction. As determined at the prehearing conference, after a full discussion of the issues, the following three remaining issues are presented by the due process complaints:

1. Whether the parent has proven that school district denied a free and appropriate public education to the students by committing an actionable procedural violation of IDEA with respect to the issuance or non-issuance of certain NOREPs?

2. Whether the parent has proven that the school district denied a free and appropriate public education to the students by failing to implement their transfer IEPs from the previous school district.?

3. Whether the parent has proven that the school district denied the parent meaningful participation by filing a complaint against the parent with

Children and Youth Services in retaliation for the parent exercising parent's rights under IDEA.?

FINDINGS OF FACT

Based upon the evidence in the record compiled at the due process hearing, I have made the following findings of fact: [1]

1. Student 1's date of birth is [redacted]. (S-1)

2. Student 2's date of birth is [redacted]. (S-2)

3. Student 1 is friendly and has a positive attitude . (S-1)

4. Student 2 is a cheerful student with an [redacted](S-2)

5. Student 1 is eligible for special education under the category of specific learning disability with a secondary eligibility category of autism. Student 1 also has a seizure disorder. (P-11)

6. Student 2 is eligible for special education under the eligibility category of autism with a secondary eligibility category of intellectual disability. (P-12)

7. The two students transferred into the school district from another school district for the 2025 – 2026 school year. (S-5, S-6; NT 161, 191-192)

8. The IEP for Student 1 from the prior school district makes specific reference to a "safety plan to ensure [the student's] safety and well-being in

[1] (Exhibits shall hereafter be referred to as "P-1," etc. for the parents' exhibits; "S-1," etc. for the school district's exhibits; references to page numbers of the transcript of testimony taken at the hearing is the hereafter designated as "NT___").

regard to [the student's] diagnosis with [seizure disorder]. This will include collaboration, staff training, communication, accommodations, emergency response and documentation." (S-1; NT 162 – 170)

9. Student 2's IEP from the prior school district included a provision that the student will have a direct one-on-one aide during the school day to keep the student on task and to assist with facilitating accommodations. (S-2, NT 312-315)

10. The school district convened IEP team meetings on September 2, 2025 for both students in order to determine their program, including a discussion of comparable services to the previous school district's IEPs. The parent participated in the comparable services IEP team meeting for each student. (S-3, S-4; NT 193 – 194, 231-232)

11. At the September 2, 2025 IEP team meetings, the parent made the school district staff aware that student 1 was being treated for a seizure disorder by the Childrens Hospital of Philadelphia (CHOP). The parent signed a release on September 2, 2025 allowing school district staff to communicate with CHOP medical staff concerning student 1's seizure disorder, safety plan and the protocol for treating the student in the event of a seizure. Student 1's seizure protocol required that an ambulance be called immediately if the student had a seizure. (NT 165 – 170)

12. At the September 2, 2025 IEP team meetings, the parent made the school district staff aware that the IEP from the prior school district for student 2 required that the student have a one-on-one aide. (NT 312-315)

13. At the September 2, 2025 IEP team meeting, the parent and school staff expressed concerns about the speech/language evaluations done by the prior school district for both students. There was concern that some areas of speech/language were not assessed appropriately by the previous

district. The team determined that additional speech/language evaluations of the students were warranted. (NT 89, 96 – 99, 102 – 103)

14. The school district contacted the previous school district to determine whether additional evaluation results for the students were available, but no such additional records existed. The school district speech/language pathologist then developed an evaluation plan for both students. (NT 90, 95, 99, 108)

15. On September 8, 2025, the school district issued a Notice of Recommended Educational Placement (NOREP) or Prior Written Notice (PWN) for each student to receive comparable services to their prior IEPs as determined at the September 2, 2025 IEP team meeting for each student. (S-5, S-6; NT 232)

16. The school district staff did not contact the Childrens Hospital of Philadelphia to obtain Student 1's safety plan/seizure protocol or to discuss the appropriate treatment of the student in the event that the student had a seizure. The school district staff who worked with Student 1 were not trained on the student's safety plan/seizure protocol. (NT 162 – 170; record evidence as a whole.)

17. On September 18, 2025, the school district issued NOREP/PWNs for both students to notify the parent of the proposed reevaluations of the students. (S-7, S-8; NT 89 – 92)

18. The school district and the parent agreed that a functional behavioral assessment would be a "good next step" for Student 2 because of certain behaviors that had arisen. (NT 91 – 92, 118 – 119, 221)

19. The school district issued NOREP/PWNs for the reevaluations on September 26, 2025- a speech/language evaluation for Student 1 and a speech/language evaluation and a functional behavioral analysis for Student

2. The parent signed and approved the corresponding NOREPs on September 27, 2025. (S-11, S-12)

20. Student 1 suffered a seizure while at school on [redacted], 2025. (NT 154, 162)

21. When the student suffered the seizure on -[redacted], 2025, the school district staff did not have a copy of the student's seizure protocol or safety plan which was referred to in the student' IEP. The school district had not contacted CHOP to obtain the seizure protocol or to discuss the student's seizure disorder with the medical staff. (NT 162 – 170,)

22. When Student 1 suffered a seizure on [redacted], 2025, the school district did not utilize the student's seizure protocol, which required that an ambulance be called immediately when the student suffered a seizure. Instead, the school district used its general standing protocol of calling an ambulance only after a seizure had lasted five minutes or more. (NT 138, 155-161, 295-297)

23. The school district staff called the parent when the student suffered the seizure on [redacted], 2025. When the parent arrived at the school and the ambulance had not yet been called, the parent stated that Student 1's seizure protocol required that an ambulance be called immediately. The school district staff then called an ambulance. (NT 156)

24. The parent emailed the school district a copy of Student 1's safety plan/seizure protocol on September 26, 2025 and provided the emergency medication for Student 1 on the same day. (NT 178)

25. The school district did not provide a one-on-one aide for Student 2, as required by the transfer IEP from the previous school district for the first days of the 2025 – 2026 school year. At the September 2, 2025 IEP team meeting, the school district staff said that they did not have a one-on-one

aide. By the end of the meeting, school team members agreed that they would find a one-on-one aide for Student 2. Later, the student's mother independently arranged for a one-on-one aide for Student 2 through a Medicaid program. (NT 312 – 327)

26. The students' IEP teams were convened again on September 30, 2025. The parent attended the IEP team meetings, which lasted most of the school day. IEPs were developed for each student and the school district issued corresponding NOREP/PWNs on October 1, 2025. (S-13, S-14, S-15, S-16, S-9, S-10; NT 234 – 237, 209)

27. The school district staff filed a complaint against the parent with Children and Youth Services because the parent had not provided the school district with the student's seizure medication and a copy of the student's safety plan/seizure protocol. Under state law, school staff are mandatory reporters concerning issues of potential abuse and neglect. (NT 171, 180 – 184)

28. The school district issued Reevaluation Reports for both students on November 21, 2025. (P-11, P-12)

29. The students' IEPs were revised on November 20 and 21, 2025 and corresponding NOREP/PWNs were issued on November 21, 2025. Student 1's IEP incorporates the student's seizure protocol. The specially designed instruction for student 2 includes individual support from a classroom aide. (S-17, S-18, S-19, S-20, S-21, S-22)

CONCLUSIONS OF LAW

Based upon the arguments of the parties, all of the evidence in the record, as well as my own legal research, I have made the following conclusions of law:

1. A parent or a local education agency may file a due process complaint alleging one or more of the following four types of violations of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq, (hereafter sometimes referred to as "IDEA"): an identification violation, an evaluation violation, a placement violation or a failure to provide a free and appropriate public education (hereafter sometimes referred to as "FAPE"). IDEA §615(f)(A); 34 C.F.R. § 300.507(a); 22 Pa. Code § 14.162.

2. The United States Supreme Court has developed a two-part test for determining whether a school district has provided a free appropriate public education (hereafter sometimes referred to as "FAPE") to a student with a disability. There must be: (1) a determination as to whether a school district has complied with the procedural safeguards as set forth in IDEA, and (2) an analysis of whether the individualized educational program is reasonably calculated to enable the child to make progress in light of the child's unique circumstances. Endrew F by Joseph F v. Douglass County School District RE-1, 580 U.S. ___, 137 S. Ct. 988, 69 IDELR 174 (2017); Board of Educ., etc. v. Rowley, 458 U.S. 178, 553 IDELR 656 (1982); KD by Theresa Dunn and Jonathan Dunn v. Downingtown Area School District, 904 F.3d 248, 72 IDELR 261 (3d Cir. 2018).

3. For a procedural violation to be actionable under IDEA, the parent must show that the violation results in a loss of educational opportunity for the student, seriously deprives the parents of their participation rights, or causes the student a deprivation of educational benefit. Ridley School District v. MR and JR ex rel. ER, supra; IDEA § 615(f)(3)(E); 34 C.F.R. § 300.513(a).

4. A local education agency is required to provide prior written notice to the parents of a child with a disability before it proposes or refuses to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child. Prior written notice must include a

number of necessary components, including a description of the action proposed or refused, an explanation of why the agency proposes or refuses to take the action; and a description of other options that the IEP team considered and the reasons why those options were rejected. 34 C.F.R. § 300.503; 22 Pa. Code § 14-102(a)(2)(xxix). In Pennsylvania, the prior written notice is generally called a Notice of Recommended Educational Placement (hereafter sometimes referred to as "NOREP"). Prior written notice is an important procedural safeguard required by IDEA in order to ensure that parents are afforded meaningful participation in the special education process. T.R. v. School District of Philadelphia, 4 F. 4th 279, 79 IDELR 33 (3d Cir. 2021).

5. If a child with a disability who had an IEP in a prior school district in the same state transfers to a new public agency in the same state, the new school district must provide FAPE to the student, including services comparable to those in the child's IEP from the previous school district until the new school district either adopts the previous IEP or else develops, adopts and implements a new IEP of its own. 34 C.F.R. § 300.323(e); IDEA § 614(d)(2)(C)(i)(1); YB ex rel SB v Howell Twp Bd of Educ, 4 F.4th 196, 79 IDELR 31 (3d Cir. 2021).

6. IDEA requires that a parent of a student with a disability be afforded meaningful participation in the evaluation process, the IEP process and in the education of the student. 34 CFR § 300.501. DS and AS ex rel. DS v. Bayonne Board of Educ., 602 F. 3d 553, 54 IDELR 141 (3d Cir. 2010); Fuhrmann ex rel. Fuhrmann v. East Hanover Bd. of Educ., 933 F. 2d 1031, 1036, 19 IDELR 1065 (3d Cir. 1993); See Deal v. Hamilton County Bd. of Educ., 392 F. 3d 840, 42 IDELR 109 (6th Cir. 2024).

7. A local education agency violates the law when it takes retaliatory action against a parent for exercising the right to meaningful participation,

including using the important procedural safeguards provided to parents by IDEA. See, Lauren W. v. DeFlaminis, 480 F.3d 259, 47 IDELR 183 (3d Cir. 2007); T.R. v. School District of Philadelphia, 4 F. 4th 279, 79 IDELR 33 (3d Cir. 2021).

8. An IDEA hearing officer has broad equitable powers to issue appropriate remedies when a local education agency violates the Act. All relief under IDEA is equitable. Forest Grove School District v. TA, 557 U.S. 230, 129 S. Ct. 2484, 52 IDELR 151 (n. 11) (2009); Ferren C. v. Sch. Dist. of Philadelphia, 612 F.3d 712, 54 IDELR 274 (3d Cir. 2010); CH by Hayes v. Cape Henlopen Sch Dist, 606 F.3d 59, 54 IDELR 212 (3d Cir 2010); School District of Philadelphia v. Williams ex rel. LH, 66 IDELR 214 (E.D. Penna. 2015); Stapleton v. Penns Valley Area School District, 71 IDELR 87 (N.D. Penna. 2017). See Reid ex rel. Reid v. District of Columbia, 401 F.3d 516, 43 IDELR 32 (D.C. Cir. 2005); Garcia v. Board of Education, Albuquerque Public Schools, 530 F.3d 1116, 49 IDELR 241 (10th Cir. 2008); In re Student with a Disability, 52 IDELR 239 (SEA W.V. 2009). The conduct of the parties is always relevant when fashioning equitable relief. CH by Hayes v. Cape Henlopen Sch Dist, 606 F.3d 59, 54 IDELR 212 (3d Cir 2010). See, Branham v. District of Columbia, 427 F.3d 7; 44 IDELR 149 (D.C. Cir. 2005).

9. Compensatory education is one remedy that may be awarded to a parent when a school district violates the special education laws. In general, courts, including the Third Circuit, have expressed a preference for a qualitative method of calculating compensatory education awards that addresses the educational harm done to the student by the denial of a free and appropriate public education. GL by Mr. GL and Mrs. EL v. Ligonier Valley School District Authority, 802 F. 3d 601, 66 IDELR 91 (3d Cir. 2015); Gwendolynne S by Judy S and Geoff S v West Chester Area Sch Dist, 78 IDELR 125 (ED Penna 2021); see Reid ex rel. Reid v. District of Columbia, 401 F. 3d

516, 43 IDELR 32 (D.C. Cir. 2005). In Pennsylvania, in part because of the failure of special education lawyers to provide evidence regarding harm to the student caused by the denial of FAPE, courts and hearing officers have frequently utilized the more discredited quantitative or "cookie cutter" method that utilizes one hour or one day of compensatory education for each day of denial of a free and appropriate public education. The "cookie cutter" or quantitative method has been approved by courts, especially where there is an individualized analysis of the denial of FAPE or harm to the particular child. See, Jana K. by Kim K v. Annville Sch. Dist., 39 F. Supp. 3d 584, 53 IDELR 278 (M.D. Penna. 2014).

10. The parent has not proven that the school district committed procedural violations of IDEA with regard to the issuance or non-issuance of NOREPs.

11. The parent has proven that the school district failed to implement the transfer IEPs, or comparable services thereto, for both students after their enrollment in the school district.

12. The parent has not shown that the school district filed a complaint against her with Children and Youth Services in retaliation for the parent exercising her right to meaningful participation in the process.

DISCUSSION

I. Merits

1. Whether the parent has proven that the school district denied FAPE to the students by committing

procedural violations with regard to Notices of Recommended Educational Placement?

The parent contends that the school district denied FAPE to the students by failing to issue Notices of Recommended Educational Placement (Prior Written Notice) for IEP team meetings on or about September 2, 2025 and September 30, 2025. In addition, the parent challenges the NOREPs that were issued on the basis that they contained inaccurate or insufficient information. The school district contends that the NOREPs were properly issued and that the contents of the NOREPs were appropriate.

The parent does not pursue this issue in the parent's post-hearing brief. A party to a due process hearing waives an argument if it is not properly presented and argued before the hearing officer. JL v. Lower Merion Sch. Dist., 81 IDELR 251 (E.D. Penna. 2022); LB by RB and MB v. Radnor Township Sch. Dist., 78 IDELR 186 (E.D. Penna. 2021). Accordingly, it is concluded that the parent has waived this issue and is no longer pursuing this argument. The argument is rejected.

Even if the parent had not waived this argument, however, the record evidence reflects that appropriate NOREPs were issued for the IEP team meetings at issue. The record evidence also reveals that the NOREPs that were issued were proper and contained the appropriate content. No evidence in the record suggests otherwise. The parent's argument is rejected.

Moreover, even assuming *arguendo* that the NOREPs constitute a procedural violation of IDEA, they were clearly harmless. There is absolutely no evidence in the record that the NOREPs in question adversely affected the students' education or substantially impaired the parent's participation rights.

Because there are no disputed facts with regard to this issue, a credibility analysis is not required.

It is concluded the parent has not proven that the school district committed an actionable procedural violation with regard to the NOREPs in question.

2. Whether the parent has proven that the school district failed to implement the students' transfer IEPs from the previous school district in violation of IDEA?

The parent contends that the school district failed to implement the transfer IEPs from the previous school district or services comparable thereto. The school district contends that the transfer IEPs, or comparable services, were implemented.

The evidence in the record supports the parent's position with regard to this issue. After the students' transfer from the previous school district, the school district opted to implement the IEPs of the students from the previous school district. The previous district's IEP for Student 1 included material provisions that the student had a safety plan, or seizure protocol, which pertains to the student's [seizure disorder]. The IEP specifically noted that the safety plan required staff training, communication and emergency response in the event of a seizure. Student 1's seizure disorder and safety plan were relevant to the unique circumstances of this student.

The record evidence reveals that the safety plan and the student's [seizure disorder] were discussed at the September 2, 2025 IEP team meeting. The school district staff was aware that Student 1 was being treated for [seizure disorder] by the Childrens Hospital of Philadelphia (CHOP), and

on September 2, 2025, the student's mother signed a release allowing school district staff to be able to communicate with CHOP medical staff concerning the student's disability and safety plan. Despite obtaining the signed release, the school district staff did not contact CHOP to obtain the safety plan or other information concerning what procedures should be followed in the event that the student had a seizure.

The safety plan required school staff to call an ambulance immediately in the event that Student 1 had a seizure. On September 25, 2025, Student 1 had a seizure while at school. The school district staff did not follow the student's safety plan. Instead, school district staff followed the school district's standing protocol of calling an ambulance only after a seizure lasted for five minutes or more.

When the student's mother arrived at the school on [redacted], 2025, the mother asked school district staff if they had immediately called an ambulance when the seizure had begun. They had not done so. The district staff called an ambulance at that time, and an ambulance came to the school for the student.

In addition to not calling CHOP or obtaining the seizure protocol, there is no evidence in the record that the school district made any effort to train its staff concerning the seizure protocol or to otherwise communicate about the seizure protocol as specifically required by the IEP. These provisions from the prior district's IEP were material to Student 1's educational program and were simply ignored by the school district.

Student 2's IEP from the previous school district included a material provision that the student would have a direct one-on-one aide. The parent brought up the one-on-one aide at the September 2, 2025 IEP team meeting.

The initial reaction of school district staff was that they did not have one available for the student. By the end of the IEP team meeting, school district staff stated that they would find a one-on-one aide for the student. After a short time, the student's mother independently arranged for Student 2 to have a one-on-one aide at school to be provided through a Medicaid-related program. The school district did not provide the one-on-one aide for Student 2.

It is rudimentary that it is not the responsibility of a student's parent to implement a student's IEP. In this case, the school district staff took no responsibility for obtaining the safety plan for Student 1 even though they had a release to discuss the student's seizure disorder and safety plan with CHOP medical staff. The school district failed to obtain the seizure protocol and any other necessary information with regard to Student 1's disability. The school district also took no steps to train staff or otherwise communicate about the seizure protocol. The testimony of school district witnesses was that it is customarily the parent who provides the safety plan for a student. Because it is the responsibility of a local education agency to implement an IEP for a student with a disability, however, it is not the responsibility of a parent to provide components of an IEP to a school district. It is true that the process is collaborative, and parents and school districts should work together to ensure smooth implementation of a student's IEP. However, it is ultimately the responsibility of the school district, and not the parent, to obtain a safety plan or to otherwise implement a student's IEP. By failing to obtain Student 1's safety plan from the healthcare providers and by failing to train staff concerning the plan, the school district was unable to implement the student's IEP when the student in fact had a seizure. Clearly, the school district violated IDEA.

Concerning Student 2, it is not the responsibility of the parent to provide a one-on-one aide for a student with a disability where the IEP requires a one-on-one aide. Although the parent was resourceful enough to get another program to provide a one-on-one aide for Student 2, the student was denied FAPE for the period of time where there was no one-on-one aide. Thus, the school district failed to implement a material component of Student 2's IEP. Accordingly, the parent has established that by failing to provide a one-on-one aide for the student, the school district violated IDEA.

The testimony of the parent was more credible and persuasive than the testimony of the school district witnesses with regard to this issue. This conclusion is made because of the demeanor of the witnesses, as well as the following factor: the school district witnesses were evasive and uncomfortable when testifying concerning their failure to contact CHOP concerning Student 1's safety plan.

It is concluded that the school district violated IDEA by failing to implement material provisions of the transfer IEPs, or services comparable thereto, for the two students.

3. Whether the parent has proven that the school district denied the parent meaningful participation by retaliating against her by filing a complaint with Children and Youth Services?

The parent contends that the school district filed a complaint against her with Children and Youth Services in retaliation for exercising her right to meaningful participation on behalf of the two students. The school district contends that the school district staff are mandatory reporters and that they

had to file the complaint. The record evidence supports the school district's argument with regard to this point.

Both parties agree that a complaint was filed against the students' mother by school district staff. The evidence in the record when taken as a whole, however, does not establish that there was a retaliatory motive for filing the complaint. The complaint that was filed with Children and Youth Services concerned the parent's failure to provide Student 1's safety plan and the parent's failure to provide certain seizure medication for Student 1.

Although it is concluded that the CYS complaint was not filed in retaliation by the mandatory reporters of abuse and neglect, it must be noted that it is outrageous that the school district filed a complaint with Children and Youth Services in part because the student's mother did not obtain the safety plan for Student 1 and provide it to the school district. It is not the responsibility of the parent to implement a student's IEP. The school district failed to implement Student 1's IEP by failing to contact CHOP after receiving a release to speak with the medical professionals despite having been told at the September 2, 2025 IEP team meeting that the student had a seizure disorder and a safety plan. The school district had received the student's transfer IEP that noted the safety plan and the seizure disorder and stated that the components of the safety plan included staff training, communication and emergency response. It was clearly not the duty of the parent to obtain the safety plan for the school district.

However, the record evidence reveals that a portion of the complaint to Children and Youth Services also involved the parent's failure to provide medication to the school district to administer to the student in event of a seizure. Because the complaint also involved a medication issue, it cannot be concluded that the complaint to Children and Youth Services was lacking in

any good faith basis. Because there was at least partially a good faith basis for the complaint and because there is no other evidence to support an improper motive, it cannot be concluded that there was a retaliatory motive underlying the CYS complaint.

It is concluded that the totality of the evidence in the record does not support a retaliatory motive. The school district staff denied that there was any intent to retaliate against the parent by filing the complaint with Children and Youth Services. Moreover, school district staff, and indeed all school employees who deal with children, are mandatory reporters under the law. It cannot be concluded from the evidence in the record that the school district filed the complaints with Children and Youth Services to punish the mother for advocating on behalf of the students or using IDEA's procedural safeguards.

The testimony of the school district witnesses was more credible and persuasive than the testimony of the students' mother with regard to this issue. This conclusion is made because of the demeanor of the witnesses and the lack of evidence to demonstrate a retaliatory motive.

It is concluded that the parent has not proven that the school district retaliated against her by filing a complaint with Children and Youth Services because of her advocacy on behalf of the students and her meaningful participation in the special education process.

II. Relief

The parent has not proven that the school district committed any procedural violations with regard to NOREP/PWNs, and the parent has not proven that a complaint to a state agency was filed in retaliation to inhibit the parent's meaningful participation in the process. The parent has, however,

proven that the two students were denied a free and appropriate public education to the extent that the school district failed to implement material provisions of the transfer IEPs from the previous school district or services comparable thereto. An award of compensatory education is appropriate.

Concerning Student 1, the record is not entirely clear regarding the educational harm that the student suffered as a result of the failure by the school district to implement the safety plan after the student suffered a seizure. The student suffered a denial of FAPE on the day of the seizure and on any subsequent days that the student may have missed school as a direct result of said seizure. Accordingly, the period of denial of FAPE for Student 1 is the day of the seizure, [redacted], 2025, until the student recovered from the seizure and was able to attend school again.

With regard to Student 2, the record is not clear as to how many days the student attended school without a one-on-one aide. Although it was the district's responsibility to provide the aide, the parent independently arranged for an aide through a Medicaid program, and there was no educational harm to student 2 on the days that an aide was present with the student at school, regardless of which party arranged for the aide. However, it is clear that the school district was not able to provide a one-on-one aide for at least some period of time. Accordingly, the period of denial of FAPE for Student 2 is the number of days that the student attended school without a one-on-one aide. That is, the period of time from the student's first day of school through the day that a one-on-one aide for the student was present.

Because all relief under IDEA is equitable relief, it should be flexible, and because special education under IDEA works best with a collaborative process, Schaffer v. Weast (546) U.S. 49, 44 IDELR 150 (2005), the parties shall have

the option to agree to adjust or amend the relief awarded herein, so long as both parties and any counsel of record agree in writing.

ORDER

Based upon the foregoing, it is **HEREBY ORDERED** as follows:

1. The school district is ordered to provide one full day of compensatory education to each of the two students in this case for each school day during the period of denial of FAPE for each student, as described above. The order of compensatory education is subject to the following conditions and limitations:

a. The student's parent may decide how the compensatory education is provided. The compensatory education may take the form of any appropriate developmental, remedial or enriching educational service, product or device for the student's educational and related services needs;

b. The compensatory education services may be used at any time from the present until the student turns age twenty-one (21); and

c. The compensatory services shall be provided by appropriately qualified professionals selected by the parent. The cost to the school district of providing the awarded days of compensatory education may be limited to the average market rate for private providers of those services in the county where the district is located;

2. The parties may adjust or amend the terms of this Order by mutual written agreement signed by all parties and all counsel of record; and

3. All other relief requested by the due process complaint is hereby denied.

IT IS SO ORDERED.

ENTERED: February 6, 2026

James Gerl

James Gerl, CHO
Hearing Officer