

*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. 32247-25-26**

**Child's Name:**

A.B.

**Date of Birth:**

[redacted]

**Parent(s):**

[redacted]

**Counsel for Parent(s):**

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**Hearing Officer:**

Michael J. McElligott, Esquire

**Date of Decision:**

07/02/2026

## Introduction

This special education due process hearing concerns the educational rights of A.B. ("student"), a student who attends school in the Marple Newtown School District ("District").<sup>1</sup> The student currently qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA")<sup>2</sup> as a student with intellectual disability, autism, and speech and language ("S&L") impairment.

The student's parent filed the complaint which led to these proceedings. The parent's claims are two-fold. First, parent claims that certain aspects of the student's transportation arrangements are inappropriate. Second, the parent claims that the student's placement at a specialized placement operated by the local intermediate unit ("IU") is inappropriate and that the student should attend a District placement.

Parent also asserts that the District failed to meet its obligations to the student under the Rehabilitation Act of 1973, particularly Section 504 of that statute ("Section 504").<sup>3</sup>

The District counters that at all times it has met its obligations to the student under IDEA and Section 504.

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

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

<sup>3</sup> It is this hearing officer's preference to cite to the pertinent federal implementing regulations of Section 504 at 34 C.F.R. §§104.1-104.61. See *also* 22 PA Code §§15.1-15.11.

For reasons set forth below, I find in favor of the District.

## **Issues**

1. Should changes be ordered to the student's transportation arrangements?
2. Should the student's placement remain at the IU, or should it be changed to a District-based placement?

## **Findings of Fact**

All evidence of record was reviewed. The citation to any exhibit or aspect of testimony is to be viewed as the necessary and probative evidence in the mind of the hearing officer.

1. The parties have long been engaged in special education due process proceedings regarding the student. (School District Exhibit ["S"]-29A, S-30).
2. The most recent special education due process decision was issued in February 2025 and included the parties working through a federal court process which, in October 2025, resulted in a resolution of their dispute. (S-29A, S-30).
3. The student is largely non-verbal and exhibits significant developmental, learning, and behavioral needs related to the student's intellectual disability, autism, and S&L needs. (Parent Exhibit ["P"]-3; S-21; Notes of Testimony ["NT"] at 46-122, 127-201, 211-266, 488-507, 598-654, 669-748).

### Transportation

4. As of January 2025, the student began attending a specialized placement at the local IU. (NT at 46-122, 435-470).
5. In early February 2025, the physician providing services to the District issued a letter providing medical approval for the use of a harness during transportation of the student for schooling. (S-3).
6. Until the spring of 2025, the student had been transported by the District utilizing a seatbelt for safety. The student would purposely slide down in the seat, out of the lap-belt, onto the floor of the vehicle. (NT at 281-349, 354-386).
7. The student would engage in hitting, pinching, scratching, kicking, and throwing objects ([apparel]), which led to potentially dangerous situations during transport with the student out of the seat and on the floor. (NT at 354-386, 392-430).
8. Beginning in March 2025, in addition to the seatbelt, the District began to utilize a two-point harness when transporting the student. The two-point harness was placed on the student. A seat-mount was affixed to the seat with clips at the shoulders to attach the harness to the mount. The student was still able to purposely slide down in the seat, out of both the lap-belt and the two-point harness, and onto the floor of the vehicle, and the potentially dangerous behaviors continued. (NT at 281-349, 392-430).

9. The student continued to attend the IU placement in the 2025-2026 school year. (P-3, P-4, P-7; S-21; NT at 46-122, 127-201, 435-470).
10. In September 2025, the District began to utilize a four-point harness for the student's transportation to prevent the student from sliding onto the floor of the vehicle during transport. (NT at 281-349).
11. Prior to the switch to a four-point harness in September 2025, the District supervisor of transportation had researched harnesses for student transport and had consulted with student-transportation colleagues about the use and selection of options for the use of a new harness. (NT at 281-341).
12. A seat-mount was affixed to the seat with clips at the shoulders and hips to attach the harness to the mount. (*See generally* S-23).
13. In the front of the harness, two adjustable straps come down over the student's shoulders. A support strap runs across the abdomen and a second strap runs across the student's hips, akin to a lap-belt. A metal ring is affixed to the front of each of the shoulder straps at the pectoral level and to the lap-belt at each hip; the clips on the seat-mount clip into the metal rings at the shoulders and the hips. Two loops of material are affixed to the lap-belt where the seatbelt can be snaked through the loops. A small strap is also attached to the lap-belt at approximately the belly-button of the student, a strap which goes

between the student's legs to the back of the harness. (*See generally* S-23).

14. In the back of the harness, the adjustable shoulder straps come down to a piece of flexible fabric which covers the student's entire lower back. The piece of fabric is bisected by a zipper, which is the means by which the harness is positioned around the student's abdomen and allows the entire harness to be secured or removed. Two plastic clips dangle from the bottom of the harness, roughly aligned with each buttock of the student. The small strap which comes through the student's legs from the front of the harness splits at the back of the harness into two small straps which are clipped into the two clips that dangle from the back of the harness. The strap running between the student's legs, which is clipped in the back of the harness, prevents the student from sliding out of the harness entirely. (*See generally* S-23; NT at 281-349).

15. Since utilizing the four-point harness, the student has been unable to slide out of the seat, and onto the floor. In the 2025-2026 school year, the student's behavior during transport has improved, although the student still attempts to use hands, legs, and feet to contact the driver and transportation aides; but there are fewer safety concerns since the student remains in the seat. (S-25; NT at 281-349, 392-430, 514-554).

16. During the student's transportation, the student is the sole student transported in a passenger van. The van has two bucket seats in front, one for the driver and one for the front-row passenger; two bucket seats for passengers in the second row; and a bench seat for passengers in the third row. (NT at 281-341).
17. The student sits in the second-row seat behind the front-row passenger; the second-row seat behind the driver is unoccupied. The student is accompanied in the van by two aides, one who sits in the front-row passenger seat (called the "secondary aide") and one who sits in the third-row seat behind the student (called the "primary aide"). (NT at 281-349, 354-386, 392-430, 514-554, 561-598).
18. In the morning, the student's mother places the harness on the student. In the afternoon, IU staff place the harness on the student. Once the student is seated in the van for transportation, the primary aide uses the clips on the seat-mount to connect the harness to the seat-mount. (NT at 46-122, 127-201, 514-554).
19. At times, the student has had significant behavioral episodes when exiting or entering the van at the IU. (P-5; S-13, S-25; NT at 211-266, 392-430, 514-554, 561-598).<sup>4</sup>

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<sup>4</sup> P-5 is identical to the exhibit at S-12. P-5 will be cited in the decision. Likewise, S-13 is identical to the exhibit at P-6. S-13 will be cited in the decision.

20. The use of the harness for transporting the student was part of the student's individualized education program ("IEP"). (P-3, P-7, P-8; S-21).<sup>5</sup>
21. In November 2025, the student's parent sought advice from medical providers regarding the use of the four-point harness. The providers recommended that alternatives to the harness be explored but recognized that the use of the harness was largely an educational concern and nothing in their work with the student indicated a medical concern with the use of the harness. (P-24, P-25, P-26, P-27, P-28, P-29; NT at 46-122).
22. In November 2025, the parent began to communicate with the District that she felt the harness was marking the student (bruising, scratches, skin discoloration). (P-30; NT at 46-122, 127-201, 669-748).
23. In November 2025, the student's IEP team met to discuss the harness/transportation issue. (P-7).
24. Beginning in November 2025 and continuing intermittently through April 2026, the student's mother would email to the District photographs she had taken with images of the student's body which she believed showed marks, bruising, scratches, and skin discoloration

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<sup>5</sup> S-21 is identical to the exhibit at P-4. S-21 will be cited in the decision.

from the use of the harness. (P-30, P-31 to P-50; NT at 46-122, 127-201, 435-470, 669-748).

25. Over November 2025 – April 2026, the parent sent 28 emails with photographs, mostly as single photographs, although some emails contained multiple photographs. (P-30, P-31 to P-50).
26. Almost all of the photographs were images of the student's arms, hands, and legs, areas of the student's body which were not in contact with the harness. (P-31, P-32, P-33, P-38 to P-50).<sup>6</sup>
27. Seven photographs were images of the areas of the student's body (the upper thigh, lower back, pectoral area, abdomen) which were potentially in contact with the harness. (P-34, P-35, P-42, P-47).<sup>7</sup>
28. None of the marks, bruising, scratches, and skin discoloration were deep or indicated significant wounding. Most are accurately described as light or mild. One set of scratches show more significant redness and irritation. (P-31 to P-50; the exception is noted at P-37, page 2).
29. It is not possible to determine exactly where or how the marks appeared on the student's body, whether in the harness area or upon extremities. The transportation aides testified credibly that the

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<sup>6</sup> P-41 contains three images, two of which are duplicates. P-42 contains three images, two of which are images of the student's arm and leg; the third image is from the student's pectoral area.

<sup>7</sup> P-35 contains photographs which are identical to P-36. P-35 is dated by parent as documented on December 8, 2026, and P-36 is dated by parent as documented on December 9, 2026.

student's activity on the van (manipulating the body, attempting to pull away from the seat, kicking, attempting to grab or pinch), often forceful, may lead to certain marks. (NT at 392-430, 514-554, 561-598).

30. Based on the mother's concerns, and to document the student's physical condition, the IU began to institute daily body checks by an IU nurse, both at arrival and departure. The IU also began to submit pictures of the harness after it had been positioned on the student. (S-23; NT at 127-201, 598-654, 669-748).
31. In early December 2025, the student's IEP team met to discuss the status of events and approaches by the parent and educators to address the harness/transportation issue, including documentation of a functional behavior assessment ("FBA") during transportation which was being undertaken by the IU. (P-8; NT at 211-266).
32. In early December 2025, the parent filed the complaint which led to these proceedings. (P-1, P-2).
33. In January 2026, the IU issued its transportation-FBA and a positive behavior support plan ("PBSP") to be used during transportation. (P-5; S-13).
34. The January 2026 transportation-FBA was undertaken to assess the student's behaviors during transportation, including aggression (grabbing, scratching, hair pulling, kicking, hitting), physical contact

(lightly swatting or kicking legs towards others without force), removing [their] shoes, socks, and/or [redacted], and property disruption (throwing, swiping, or knocking over items/materials). (P-5).

35. The January 2026 transportation-FBA contained several observations of loading into, and exiting, the van, both in the morning and in the afternoon, as well as the entire transit. The transportation-FBA found no correlation of problematic behaviors and the time of day nor any pattern of behavior at certain points during the transit (although observations in the morning appeared to be issue-free; the student also clearly responded positively to interacting with the parent both when departing in the morning and arriving in the afternoon). The transportation-FBA noted that the aides did not interact with the student and did not engage in positive reinforcement of preferred behaviors. (P-5).

36. The January 2026 transportation-FBA hypothesized that: "When adults or items are within reach, adult attention is diverted/divided, or unavailable, and during transitions to/from the van, [the student] will engage physical contact, aggression, disrobing (removing shoes, socks, [redacted]), and property disruption, in order to access socially mediated positive reinforcement in the form of attention from adults

and access to adult interaction.” (P-5 at page 20, bracketed material edited for stylistic consistency).

37. The January 2026 transportation-FBA recommended that: “(The student) currently exhibits behaviors during transportation that pose a risk of physical harm to (self) or others. Therefore, an individualized plan to be implemented on the van ride is recommended at this time. The plan should include a predictable schedule of reinforcement throughout the van ride, including frequent adult interaction/attention and delivery of preferred items/activities.” (P-5 at page 20, parentheticals edited for stylistic consistency).
38. The January 2026 transportation-PBSP included antecedent strategies, replacement behaviors, reinforcement strategies, and intervention. (S-13).
39. The student utilizes an alternative augmentative communication (“AAC”) device, a portable technological tablet that allows the student to communicate using icons/images loaded into the device. (P-51; NT at 488-507).
40. The student does not have access to the AAC device because of the throwing behavior exhibited by the student during transportation; as a heavier object, the District considers its potential use as a projectile to be dangerous during transport. A District administrator testified that a picture-communication placard would be used to allow

for the student to communicate during transportation. (P-51; NT at 281-349, 392-430, 514-554, 561-598).

41. The driver and transportation aides had received training for restraint, if needed. In March 2026, the driver and aides were provided with a copy of the transportation-FBA, which was reviewed with them by the District transportation supervisor. (S-13, S-26; NT at 281-349, 392-430, 514-554, 561-598).
42. The commute to and from the IU placement was approximately one hour each way. In the upcoming 2026-2027 school year, the IU is opening a new classroom, which the student would attend, which is approximately 30 minutes each way. (P-5; NT at 281-349, 435-470, 669-748).<sup>8</sup>

#### Placement

43. The IU placement in the 2025-2026 school year was a self-contained classroom utilizing the VB-MAPP for instruction. The student's classroom had eight students (including the student) and eight adults (the classroom teacher, the student's behavior technician, three classroom behavior technicians, and three one-on-one personal care aides for other students). The autism support program at the IU—involving the student's classroom as well as others—includes a

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<sup>8</sup> District witnesses testified that the student's one-way transportation time to the IU placement was approximately 50 minutes. The documented time of transit in the transportation-FBA was in excess of one hour each time. Therefore, an approximation of one hour for a trip seems to be fair.

dedicated behavior analyst to consult and to assist with behavior needs. (NT at 127-201, 435-470, 669-748).

44. The student received S&L services (pushed into the classroom), occupational therapy ("OT") (pushed into the classroom), and physical therapy ("PT") (pushed into the classroom as well as pullout services outside the classroom). (NT at 127-201).
45. The IU placement is specialized across all classrooms, and the student does not have access to regular education peers. (NT at 127-201, 435-470).
46. A District administrator testified about a potential District-based placement, including a description of the placement when the student last attended the District (approximately the middle of the 2024-2025 school year). (NT at 669-748).
47. The District-based placement would be at a District life-skills classroom, housed in the District elementary school which is the student's neighborhood school. (NT at 669-748).
48. The District's life-skills classroom has approximately 6-8 students. The student has a teacher, with the student having a dedicated behavior technician and a personal one-on-one aide. A District behavior analyst consults with and assists the classroom but has duties throughout the District and not just the elementary school. (NT at 669-748).

49. When the student last attended the District, due to safety concerns for staff and fellow students based on the student's aggression, the student was educated in a classroom without peers present. At that time, the student also exhibited aggressive behaviors in hallways and communal areas. The aggression often led to physical harm to staff or students. (S-30; NT at 669-748).
50. Educators from both the District and the IU indicated that the student pairing successfully with professionals (teachers, providers, aides) is important to the student's progress. (P-17, P-18, P-19; NT at 127-201, 211-266, 598-654, 669-748).
51. Both the District and the IU organize their school years on a trimester basis. (NT at 127-201, 669-748).
52. Educators from the District and the IU testified that, while services listed in the student's IEP could be delivered at the District, they felt the student continued to require a specialized placement for appropriate programming. (NT at 127-201, 435-470, 598-654, 669-748).
53. A District administrator testified that the District was not adverse to having the student return to the District but that she was concerned that the student's transition to the District would present a disruptive circumstance. It is planned, however, that whether the student transitions to the District or to the new IU placement, the student will

not be attending the same IU placement where the student attended the 2025-2026 school year. (NT at 669-748).

54. The notices of recommended educational placement, issued by the District, over the 2025-2026 school year recommended programming at the specialized IU placement. The student's mother has consistently disagreed with that recommendation. (P-7, P-8, P-9, P-10; NT at 46-122).

#### Programming

55. The IEP which guided the student's instruction in the 2025-2026 school year was drafted in June 2025. The June 2025 IEP was revised multiple times in the months thereafter. At the hearing, the parties focused particularly on the content created in June 2025 and on the March 2026 revisions. (P-3; S-21).
56. The student's June 2025 IEP contains an extensive PBSP for implementation in the school setting, including attention-to-task, instructional-readiness, instances of aggression toward peers or adults, elopement/dropping, toileting, transitions, and disrobing. The June 2025 IEP included a crisis plan. March 2026 revisions included the transportation-FBA and the transportation-PBSP. (P-3; S-21).
57. The June 2025 IEP, as revised through March 2026, contained seven goals, one each in manding (requesting objects), labeling, one-step directions, PT (balance/coordination/ball skills), and OT (bilateral

hand coordination & fine motor skills); the IEP contained two behavior goals (appropriately obtaining adult attention, transitions to new space). (S-21 at pages 101-125).

58. The June 2025 IEP, as revised through March 2026, contained both the site-based and transportation PBSPs. (S-21 at pages 34-53, 126-137).

59. The June 2025 IEP, as revised through March 2026, contained extensive program modifications and specially-designed instruction, including use of the student's AAC device and incorporation of the student's PBSPs. (S-21 at pages 138-160; NT at 488-507).

60. The June 2025 IEP included related services in S&L, OT, PT, and the dedicated support of a behavior technician, as well as the requirement for specialized transportation. (S-21 at page 161).

61. In November 2025, the student exhibited significant reductions in all behaviors targeted through the PBSP (physical contact, aggression, disrobing, [redacted], dropping, elopement, throwing objects). (P-17).

62. While the student's behavior has improved over the course of the 2025-2026 school year, the student still engages in behavior which, at times, requires restraint. (NT at 127-201, 669-748).

63. In December 2025, the student exhibited upticks in certain problematic behaviors (physical contact, aggression, disrobing, elopement, throwing objects.) (P-18).
64. In January 2026, the student again exhibited reductions in behaviors that had ticked up in December 2025 and maintained appropriate behaviors in areas where there had been no uptick. (P-19).
65. Over the first two trimesters of the 2025-2026 school year, the student broadly made progress on IEP goals, including multiple instances of IEP goal mastery (with subsequent revision). (P-15, P-16; S-21 at pages 101-125).
66. At the time the evidence concluded, the student's IEP team was attempting to schedule an IEP meeting for early June 2026 which could accommodate attendees' schedules, including those of counsel. (NT at 669-748).

## **Credibility of Witnesses**

All witnesses testified credibly. The testimony of the IU classroom teacher (who worked most closely with the student), the IU behavior analyst who worked with the student prior to March 2026 and who completed the transportation FBA and PBSP, and especially regarding the student's behavior during transportation, the testimony of the District supervisor of

transportation, were all found especially persuasive and were accorded heavy weight. (NT at 127-201, 211-276, 281-349).

## **Legal Framework**

To assure that a child eligible under IDEA receives a free appropriate public education ("FAPE") (34 C.F.R. §300.17; 22 PA Code §14.102(a)(2)(iv)), the child's special education programming must be reasonably calculated to yield meaningful educational benefit to the student. (Board of Education v. Rowley, 458 U.S. 176, 187-204 (1982)). 'Meaningful benefit' means that a student's program affords the student the opportunity for significant learning in light of his or her individual needs, not simply *de minimis*, or minimal, or 'some', education progress. The child's education programming must be appropriately ambitious in light of the child's strengths and needs, current levels of programming, and goals. (Endrew F. ex rel. Joseph F. v. Douglas County School District, 580 U.S. 49, 137 S. Ct. 988, 197 L. Ed. 2d 335, (2017); Dunn v. Downingtown Area School District, 904 F.3d 208 (3d Cir. 2018)).

Where necessary, transportation arrangements to afford a student access to a special education placement and programming should be part of a student's IEP. (34 C.F.R. §300.34(c)(16); 22 PA Code §14.102(a)(2)(vii)).

A necessary aspect of the provision of FAPE requires that the placement of a student with a disability take into account the least restrictive

environment ("LRE") for a student. Educating a student in the LRE requires that the placement of a student with disabilities be supported, to the maximum extent appropriate, in an educational setting as close as possible to regular education, especially affording exposure to non-disabled peers. (34 C.F.R. §300.114(a)(2); 22 PA Code §14.102(a)(2)(xii); Oberti v. Board of Education, 995 F.2d 1204 (3d Cir. 1993)).

## **Discussion & Conclusions**

### Transportation

Here, the more approachable issue on this record is the transportation issue. It is clear that the student requires the four-point harness to be transported safely and appropriately. There is a clear history that any other form of securing the student during transportation creates a situation where the student and the other occupants of the vehicle are not safe because of the student's ability to escape from the belting and to move to the floor of the vehicle. The words of the IU behavior analyst who authored the transportation-FBA ring true: "(The student) currently exhibits behaviors during transportation that pose a risk of physical harm to [self] or others." (P-5 at page 20). While her focus was on the behaviors exhibited by the student during transport, the insight applies to the use of the four-point harness which is a concrete and necessary approach to address this very issue.

It must be noted here, too, that moving to a four-point harness was not hasty or precipitate on the part of the District. The District moved through stages of unsuccessful belting to arrive at the use of the four-point harness. And even that decision was undertaken with study and consultation by the District supervisor of transportation with other transportation professionals. The issue of the student's placement will be addressed below. But regardless of where the student is educated, transportation must take place as it currently unfolds—a van where the student can be secured with a four-point harness, accompanied by two aides in attendance.

Additionally, on this record, parent's evidence is not preponderant that the four-point harness is ill-fitted or causing the student injury. The four-point harness appears in every respect to be appropriate in design and as operationalized by the parent and IU in securing it on the student and by the District in utilizing it during transport.

There is a minor, but important, note that will be addressed in the order below. It is understandable that the AAC device, as a loose object and in light of the student's history of throwing objects during transit, not be accessible to the student during transportation. But it is not precisely clear that the picture-communication placard is available to the student. Therefore, the order below will direct that this be developed, secured in some way, but accessible to the student to allow for communication during transit.

Accordingly, the order below will contain a directive that the District's daily transportation arrangements remain in place.

### Placement

The more complicated issue on this record is the placement issue. Based on the evidence developed on this record, the 2025-2026 school year can only be described as widely successful. The student exhibited academic and behavioral progress across most IEP goals and, the student's behaviors targeted through the PBSP, especially, showed dramatic improvement. In the abstract, there would be significant momentum to continue the student's placement at the IU specialized program.

Of course, the issue is not presented in the abstract, or in a vacuum. The requirement for the student to be educated in the LRE is in the background of the entire record and was well-developed from an evidentiary perspective by parent's counsel. On balance, though, the order below will direct that the student's placement remain at the IU, with the important requirement, however, that the student begin to attend the new IU location approximately 30 minutes from the student's home.

Specifically: The issue of LRE is always coupled with dual consideration—the LRE that is appropriate for the student. Less restrictive placements are not uniformly appropriate, especially where a student's progress may be jeopardized. That duality is not always present. An IEP team may agree that a student requires a more restrictive placement to

engage in significant learning; an IEP team may agree that a less restrictive setting is wholly appropriate and LRE does not even enter into the orbit of the team's deeper considerations. But that is not the case here. The parties heartily dispute the restrictiveness of the IU placement in light of the view of each party as to the student's progress or potential progress.

On the parent's side of the ledger is the obvious and important fact that the student has no access to regular education peers in the IU placement. This is a vital point and is a foundational element of LRE; it should be made part of an IEP team's consideration where restrictiveness is in the constellation of considerations.

It cannot alone be dispositive, however, where other factors impact the question of appropriateness of programming. On the District's side of the ledger in this regard is the phenomenal progress, nearly across the board, that the student made in the 2025-2026 school year, especially in light of the student's lack of progress—indeed, the student's lack of availability for instruction in many instances—prior to the current school year.

It is a close call. In fact, in weighing the evidence, one can feel one way about the issue and, only minutes later, feel differently. On balance, though, this hearing officer considers the evidence, both documentary and testimonial, to weigh in favor—at least in the short-term—of continuing the student's placement at the IU.

Having said that, this determination comes with several understandings, set forth here and, where appropriate, in the order below. First, the establishment of a new IU location much closer to the student's home, resulting in a significant reduction in transportation time, is not only welcome but vital. Certainly, programming must address the student's behavior needs; but reducing the opportunity for the student to engage in problematic behaviors is critical. In fact, as set forth below, if events turn out that the new IU placement is not available to the student, the order will envision a potential placement at the District for this reason alone. But the testimony of the District special education administrator is credited here: She was firm in the indication that the IU placement at the new location would be pursued by the District (pending this order). The order below relies on this understanding.

Second, pairing for the student (that is, familiarity and bonding with educators) clearly increases the student's response to educational interventions and forms a foundation for longer-term effectiveness and progress. Educating the student at the District amounts to a certainty that the student will be educated by an entirely new cadre of educators, with whom the student will need to bond. But there is the possibility that IU educators who worked with the student in the 2025-2026 school year might be made part of the student's education team at the new IU location. This

possibility is not a driver of this decision, but where it is a potentiality, it should be at least pursued.

Third, the possibility remains that the student continues to exhibit academic and behavioral progress, which is hoped-for by all. The order below will account for this hoped-for continuation of progress by putting in place an explicit timeline for consideration of progress by the IEP team in the first trimester of the 2026-2027 school year, and a potential transition from the IU to a District-based placement. Not only will this ensure that the IEP team remains vigilant to the issue of progress in light of LRE, but it will also give the IEP team the valuable perspective of a year's time, where, at the conclusion of the first trimester of the upcoming 2026-2027 school year, the student's progress can be compared to the very strong behavioral improvement in the first trimester of the 2025-2026 school year.

For the conclusions and reasoning set forth above, the student's placement for the 2026-2027 school year, at least at its outset, shall be at the newly-opened IU placement.

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## **ORDER**

In accord with the findings of fact and conclusions of law as set forth above, the Marple Newtown School District ("District") shall continue to transport the student as it has been doing, namely utilizing a four-point

harness in a vehicle with two transportation aides. The exact type and configuration of the vehicle is left to the discretion of District transportation decision-makers.

To the extent that a picture-communication placard has not been developed or utilized during transportation, the individualized education program ("IEP") team shall develop such a placard, to be secured in the transportation vehicle but accessible to the student, using the icons/images from the student's AAC device to allow the student to communicate the wants/needs the IEP team feels are most important for the student during transit.

The student's placement for the 2026-2027 school year shall be at the intermediate unit ("IU") location which, as described on this record, is approximately 30 minutes from the student's home and which will be newly-opened in the 2026-2027 school year. To the extent that the student's IEP team has not yet met to craft the student's program for the upcoming 2026-2027 school year, the IEP team shall meet within 20 calendar days of the date of this order to develop the student's IEP for implementation at this placement.

Because the IU placement will be new to the student, the IEP team shall make an explicit consideration, to be documented in the IEP, the development of a transition plan to allow the student's transition to the IU

placement to be as seamless as possible and, where necessary, addressed through programming.

This hearing officer has no authority to determine staffing or personnel decisions by the IU. In an effort to continue the success of pairing educators with the student, however, the District shall communicate with the IU to see if educators from the 2025-2026 placement will be assigned to the newly-opened IU location and, if possible, whether the assigned duties of those educators can include working with the student under the terms of the student's IEP.

Within 10 school days after the conclusion of the first trimester of the 2026-2027 school year at the IU, the IEP team shall meet to consider behavioral data, and the student's progress on IEP goals, for the first trimester.

If the newly-opened IU placement is unavailable to the student because the newly-opened IU placement ultimately has not been opened, or is not ready for occupancy as of September 15, 2026, or the IU has declined to allow the student to attend the placement, the student's educational placement shall be at the District's life-skills classroom. In this event, the following aspects of this order remain in place: the student's transportation arrangements, the directive regarding the picture-communication placard,

the required meeting of the IEP team within 20 calendar days of this order, and the directive to craft a transition plan.

Any claim not specifically addressed in this decision and order is denied and dismissed.

s/ Michael J. McElligott, Esquire

Michael J. McElligott, Esquire  
Special Education Hearing Officer

07/02/2026