

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. 31608-25-26

Child's Name:

B.D.

Date of Birth:

[redacted]

Parent(s):

[redacted]

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Hearing Officer:

Michael J. McElligott, Esquire

Date of Decision:

06/23/2026

Introduction

This special education due process hearing concerns the educational rights of B.D. ("student"), a student who resides in the Downingtown Area School District ("District").¹ The student currently qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA")² as a student with an emotional disturbance.

The student's parents filed a series of complaints (an initial complaint, an amended complaint, and a second amended complaint) which led to these proceedings. Generally across the three complaints, the parents claim that the District's special education programming was inappropriate in a variety of ways, including identification of the student, evaluation of the student, the individual education programs ("IEPs") of the student, and various procedural allegations, all amounting to various aspects of the student's education denying the student a free, appropriate public education ("FAPE") over multiple school years. Parents' claims are asserted under IDEA and the Rehabilitation Act of 1973, particularly Section 504 of that statute ("Section 504").³

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

² 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").

³ 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.

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

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

Issues⁴

1. Was the District's December 2024 re-evaluation of the student appropriate? (HO-3)
2. Should the student have been identified as a student with autism as of October 2023 or thereafter? (HO-3)
3. Have the student's IEPs been appropriate as of October 2023 through mid-December 2025?⁵ (HO-3, HO-5)

⁴ The issues here are presented chronologically. Given parents' multiple amendments of their complaint, however, certain issues appear in different documents and did not surface in a chronological manner. Parents' initial complaint (Hearing Officer Exhibit ["HO"] – 1), filed in mid-July 2025, contained no substantive allegations related to the identification of, evaluation of, placement of, or provision of FAPE to, the student; it was a complaint solely related to records requests by parents and a request for the expungement or redaction of certain student educational records. An amended complaint was filed in early August 2025. (HO-3). A second amended complaint was filed in early October 2025. (HO-5).

Furthermore, the denial-of-FAPE evidence was developed as of October 2023, the result of an evidentiary ruling about the date(s) parents knew or should have known ("KOSHK") of the basis of their claims. Parents' claims for retrospective claims were presented only in the October 2025 second amended complaint, and the KOSHK ruling found that parents knew or should have known of their claims prior to October 2023. (HO-7). Therefore, the denial-of-FAPE evidence was developed as of that point in time.

⁵ After these proceedings had begun, in late December 2025 parents unilaterally enrolled the student in a private placement and sought tuition reimbursement. That claim is at issue in a different proceeding before a different hearing officer. The findings of fact below will show that as of mid-December 2025, the student's IEP team met to consider the student's IEP. Because the appropriateness of the December 2025 IEP on which the parents made their unilateral enrollment decision will be the basis of the parents' tuition reimbursement claim, a question at issue

4. Has a functional behavior assessment ("FBA") been the basis of the student's behavioral programming? (HO-3)
5. Did the District appropriately respond to a social/emotional/behavioral incident in October 2024?
6. Did the District appropriately respond to a behavior incident in May 2025, including procedural obligations related to a potential disciplinary change in placement?
7. Should certain educational records of the student be expunged, or should aspects of the student's IEPs, drafted after May 2025, be redacted?
8. Is the student entitled to compensatory education?
9. Are parents entitled to reimbursement for private evaluations?

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.

before a different hearing officer, there will be no denial-of-FAPE determinations as to the December 2025 IEP in the instant decision.

December 2024 Re-Evaluation

1. In December 2024, in the midst of the student's [redacted] grade year, the District issued its most recent re-evaluation report ("RR"). (P-3; Notes of Testimony ["NT"] at 603-685).⁶
2. The December 2024 RR contained summaries of the District's prior evaluations in February 2019 and February 2022, which both contained elements of difficulty with social communication and peer interactions. (P-3).
3. In the February 2019 evaluation, the student was identified as a student with specific learning disabilities ("SLDs") and a speech and language ("S&L") impairment. (P-2, P-3)
4. In the February 2022 evaluation, the student's identifications with SLDs and S&L impairment were removed. The student was identified as a student with an emotional disturbance. (P-3, S-6).
5. The December 2024 RR was a records-review re-evaluation and did not include any updated testing. (P-3).
6. In October 2024, the student was involved in a behavioral incident (see Findings of Fact below). The December 2024 RR did not include any information about the incident. (P-3).

⁶ The parties prepared duplicate party exhibits. Where two copies of an exhibit are in the record, only one is cited in this decision.

7. Parents' input in the December 2024 RR did not include any information about the October 2024 incident. (P-3).
8. The December 2024 RR contained behavioral rating scales completed by the student in November 2024 (after the October 2024 behavior incident). The rating scales showed extremely-elevated-risk in behavioral/emotional response index, internalizing risk index, and self-regulation risk index. (P-3, P-44).
9. Prior behavior ratings, from the previous school year in October 2023, showed normal-risk in the behavioral/emotional response index and self-regulation risk index, and elevated risk in the internalizing risk index. The December 2024 RR did not include these behavioral ratings or note the dramatic increase in scores between October 2023 and November 2024. (P-44).
10. The District evaluator did not seek input from the student's private therapist, even though the student's IEP team had discussed with her socialization issues and anti-bullying strategies. (P-3; NT at 603-685, 1391-1546, 1654-1823).
11. PSSA testing from [redacted] grade, the previous school year, in the December 2024 RR showed that the student was below-basic in reading and mathematics. (P-3).

12. In the fall of 2024, at the outset of [redacted] grade, curriculum-based assessment in mathematics indicated that the student's overall mathematics score was at the 3rd grade level. (P-3).
13. In the fall of 2024, on a classroom diagnostic tool, the student's overall score in reading was in the lower ranges of the tool. (P-3).⁷
14. In the fall of 2024, on the same classroom diagnostic tool, the student's overall score in writing was in lower ranges of the tool. (P-3).⁸
15. Additional curriculum-based assessments in the December 2024 RR indicated that the student was at medium-risk in reading and mathematics composites. (P-3).
16. The December 2024 RR contained teacher input. Most teachers did not note socialization difficulties with peers, although the student's mathematics teacher noted difficulties with peer interaction. (P-3; NT at 1233-1280, 1654-1823, 1880-1924).
17. The December 2024 RR identified the student as a student with an emotional disturbance. The RR identified needs in reading comprehension, math problem-solving, emotional regulation, and peer socialization. (P-3).

⁷ The diagnostic tool is at page 18 of p-3. The font and format of the data is very difficult to decipher. The overall score is to the far left of the tool categories and the date of the administration was October 1, 2024.

⁸ The font and format issues are difficult to decipher here as well. The overall score is to the far left of the tool categories and the date of the administration was September 18, 2024. P-3 at pages 18-19.

Autism

18. The student has long had difficulties with socialization and peer relationships in educational settings. (S-1, S-6; P-3).
19. The District's initial evaluation had evaluated the student for a potential identification as a student with autism. (S-6).
20. Although anecdotal, parents, multiple educators and the private therapist indicated across this record that the student engaged in behavior with peers that led to negative interactions or was characterized as atypical. The student often shared that, expressively, the student felt misunderstood by others and, receptively, did not understand why others reacted the way that they did. (NT at 334-447, 883-999, 1149-1176, 1307-1379, 1391-1546, 1654-1823, 1880-1924).
21. In October 2025, parents obtained a private school psychology evaluation. (P-15; NT at 334-447, 1994-2066).⁹
22. The October 2025 private evaluation contained comprehensive assessments, including cognitive testing, academic achievement testing, visual-motor integration, adaptive rating scales (parent and teacher), behavioral rating scales (parent, teacher, student self-report), social responsiveness (parent and teacher), sensory profile

⁹ Although the report was completed in October 2025, it was not submitted by the parents to the District until December 2025.

(parent), and autism assessments, as well as evaluator observations.
(P-15; NT at 1994-2066).

23. The results of the academic achievement testing in the October 2025 private evaluation are discounted because the evaluator provided the instrument to the family prior to administration of the assessment.
(NT at 1994-2066).
24. The October 2025 private evaluation diagnosed the student with mild presentation of autism spectrum disorder, and learning disorders in reading and written expression. (P-15).
25. The October 2025 private evaluation noted that certain elements of the student's needs related to attention, self-regulation, and emotionality intersected with the student's mild presentation of autism. (P-15).

Appropriateness of IEPs: Social/Emotional/Behavioral Needs

January 2023 IEP

26. A January 2023 IEP, the student's annual IEP and revised through May 2023, was in place at the outset of the student's [redacted] grade year and in place in October 2023. (S-10).
27. The January 2023 IEP, including revisions, indicated that the student's behavior impeded the student's learning or that of others.
(S-10).

28. In its present levels of functional performance, the January 2023 IEP, including revisions, included a positive behavior support plan, including the structure and content of a FBA, to address coping and self-regulation when the student exhibited outbursts or dysregulation. (S-10).
29. The January 2023 IEP, including revisions, identified the following needs: emotional regulation, symptoms of anxiety, symptoms of depression, and social skills/peer relationships. (S-10).
30. The January 2023 IEP, including revisions, contained a positive behavior support plan and a behavior goal based on the antecedents, behaviors, and desired consequences in the positive behavior support plan. (S-10).
31. Through the specially-designed instruction in the January 2023 IEP, including revisions, the student received direct instruction for social/emotional/behavioral needs, twice per 6-day instructional cycle. (S-10).

January 2024 IEP

32. In January 2024, the student's drafted the annual IEP which was revised through June 2024. (P-21).
33. The January 2024 IEP, including revisions, indicated that the student's behavior impeded the student's learning or that of others. (P-21).

34. In its present levels of functional performance, the January 2024 IEP, including revisions, included a positive behavior support plan, including the structure and content of a FBA, to address coping and self-regulation when the student exhibited outbursts or dysregulation. (P-21).
35. The January 2024 IEP, including revisions, continued to identify needs in emotional regulation, symptoms of anxiety, symptoms of depression, and social skills/peer relationships. (P-21).
36. The January 2024 IEP, including revisions, contained a positive behavior support plan and a behavior goal based on the antecedents, behaviors, and desired consequences in the positive behavior support plan. The goal in the January 2024 IEP had been mastered to reflect the student's new baseline. (P-21).
37. Through the specially-designed instruction in the January 2024 IEP, including revisions, the student continued to receive direct instruction for social/emotional/behavioral needs, twice per 6-day instructional cycle. The IEP added 30 minutes of group social work support per 6-day instructional cycle. (P-21).
38. The January 2024 IEP, including revisions, was in place in October 2024 when the student experienced a significant behavior incident involving peers (see Findings of Fact below). The IEP was not updated or revised to document the October 2024 incident nor did

parents share, in their input in the IEP, their input about the incident.
(P-21).

39. The student's positive behavior support plan in the January 2024 IEP and its revisions, was not updated or revised. The District did not undertake a specific FBA as a result of the October 2024 incident. (P-21).

40. The January 2024 IEP, including revisions did not include the student's extremely-elevated-risk scores on the behavioral rating from November 2024, shortly after the October 2024 incident. (P-21, P-44).

41. District educators consulted with the student's private therapist in early November 2024 regarding the student's affect and needs, and potential anti-bullying strategies. The first step in the private therapist's anti-bullying intervention was the identification of the bullies; the student declined to identify the bullies, so the intervention could not be implemented. (P-4, P-5, P-49; NT at 1391-1546, 1654-1823).

42. In December 2024, the student declined to continue with weekly sessions with a District mental health specialist. Educators and parents did not object and the student stopped meeting with her. (NT at 563-601).

January 2025 IEP through April 2025

43. Following the issuance of the December 2024 RR, the student's IEP team drafted the annual IEP, which was revised in April 2025. (S-24).
44. The January 2025 IEP, through the April 2025 revisions, indicated that the student's behavior impeded the student's learning or that of others. (S-24).
45. In its present levels of functional performance, the January 2025 IEP, through the April 2025 revisions, included a positive behavior support plan, including the structure and content of a FBA, to address avoidance of non-preferred tasks and diminish negative peer interaction. (S-24).
46. The January 2025 IEP, including revisions, continued to identify needs in emotional regulation, with symptoms of anxiety and depression, and social skills/peer relationships. (S-24).
47. The January 2025 IEP, through the April 2025 revisions, contained a positive behavior support plan and a behavior goal based on the antecedents, behaviors, and desired consequences in the positive behavior support plan. The goal in the January 2025 IEP had been mastered and, in April 2025, was revised to reflect the student's new baseline. (S-24).
48. Through the specially-designed instruction in the January 2024 IEP, including revisions, the student continued to receive direct

instruction for social/emotional/behavioral needs, twice per 6-day instructional cycle. The IEP continued to include 30 minutes of group social work support per 6-day instructional cycle. (S-24).

49. The January 2025 IEP, particularly through the April 2025 revisions, indicated that this direct instructions to address social/emotional/behavioral needs in the upcoming 2025-2026 school year at the District high school, would continue but would be slightly modified to fit into the high school's class scheduling. (S-24).

January 2025 IEP/May 2025 Revisions

50. Following a disciplinary matter in May 2025 (see Findings of Fact below), the student's IEP team met to revise the student's IEP. (P-23; NT at 334-447, 833-999, 1654-1823).
51. The May 2025 revisions to the January 2025 IEP documented the discipline implemented as a result of the May 2025 incident and included a daily check-in for a bag-check and daily consultation with the student's special education teacher to gauge the student's feeling and needs that day. (P-23).
52. The student's positive behavior support plan in the January 2025 IEP, through the April revisions, was not updated or revised. The District did not undertake a specific FBA as a result of the May 2025 incident. (P-23).

53. The District did not consult with the student's private therapist, who since the October 2024 incident increased the number of sessions (now weekly) with the student. (NT at 1391-1546).

January 2025/September 2025 Revisions

54. The January 2025 IEP, through the May 2025 revisions, was in place when the student began the [redacted] grade year at the District's high school. (S-46).
55. The September 2025 revisions to the January 2025 IEP included check-in with a trusted educator in the morning, at lunch, and at the end of the day. Additionally, the student consult with the student daily to make sure the student understood the expectations for the day and to see if the student required/requested additional support. The revisions also included the introduction of an online task-management program. (S-46).
56. Through the specially-designed instruction in the January 2025 IEP, including revisions, the student continued to receive direct instruction for social/emotional/behavioral needs, three times per 6-day instructional cycle. The IEP discontinued the group social work once the student began to attend high school. (S-46).

Appropriateness of IEPs: Mathematics

[redacted] Grade / 2023-2024 School Year

57. As the student began [redacted] grade in the 2023-2024 school year, the student had two mathematics goals (math concepts, computation). Both goals were for student achievement at the 5th grade level. (S-10).
58. On grade-level curriculum-based testing in [redacted] grade, the student's fall-winter-spring math percentile scores were as follows:
- number sense fluency: 6th - 11th - 10th
 - number comparison fluency triads: 18th - 6th - 24th
 - mental computation fluency: 4th - 26th - 4th
 - concepts & applications: 17th - not reported - 3rd
 - overall math composite: 10th - not reported - 2nd
- (P-41).
59. PSSA testing from [redacted] grade showed that the student scored below-basic in mathematics. (P-43).
60. The student's mathematics teacher testified to the student's progress, but the documentary evidence, the IEPs and formal assessments, paint a very different picture. (NT at 1829-1878).

[redacted] Grade / 2024-2025 School Year

61. Halfway through the [redacted] grade in the 2024-2025 school year, the student maintained the same two mathematics goals (math

concepts, computation). Both goals were written for student achievement at the 6th grade level, although the student achieved goal-mastery in neither goal. The math computation goal was removed. (P-21; S-24).

62. On grade-level curriculum-based testing in [redacted] grade, the student scored at the 10th percentile (3rd grade level) in the fall administration, at the 10th percentile (3rd grade level) in the winter administration, and at the 5th percentile (2nd grade level). (P-42).
63. On an indicator of progress administered in November 2024, the student scored 'needing support', in the middle of the lowest third of scoring, on all sub-tests and on the mathematics composite, indicating that the student needs support to gain required skills. (P-65).
64. On a separate grade-level curriculum-based testing measure, the student scored at the medium-risk level at the 20th percentile in composite mathematics on the fall administration. The student was not administered the winter or spring probes. (P-3, S-46).
65. The student's mathematics teachers testified to the student's progress, but the documentary evidence, the IEPs and formal assessments, paint a very different picture. (NT at 1178-1231, 1880-1924).

Appropriateness of IEPs: Reading

[redacted] Grade / 2023-2024 School Year

66. As the student began [redacted] grade in the 2023-2024 school year, the student had a reading comprehension goal for student achievement at the 4th grade level. (S-10).
67. On grade-level curriculum-based testing in [redacted] grade, the student's fall-winter-spring reading percentile scores were as follows:
- silent reading fluency: 27th – not reported - 94th
 - oral reading fluency: 6th - 11th - 13th
 - vocabulary: not reported - 5th - 20th
 - reading comprehension: not reported - 10th – 19th
 - overall reading composite: not reported – 2nd – 51st
- (P-41).
68. PSSA testing from [redacted] grade showed that the student scored below-basic in reading. (P-43).
69. The student's English and language arts teachers testified to the student's progress. The lack of progress is not as stark as it is with mathematics, but the documentary evidence, the IEPs and formal assessments, paint a picture of an overall lack of adequate progress. (NT at 1008-1080, 1927-1974).

[redacted] Grade / 2024-2025 School Year

70. Halfway through the [redacted] grade in the 2024-2025 school year, in the January 2025 IEP, the student's reading comprehension goal was maintained for goal mastery at the 4th grade level. (S-24).

71. On an indicator of progress administered in November 2024, the student scored 'needing support', in the middle of the lowest third of scoring, on both reading measures and on the English language composite, indicating that the student needs support to gain required skills. (P-65).

72. On a separate grade-level curriculum-based testing measure, the student scored at the medium-risk level at the 23rd percentile in composite reading on the fall administration (including the 6th percentile on the reading comprehension subtest). The student was not administered the winter or spring probes. (P-3, S-46).

73. The student's English and language arts teachers testified to the student's progress. The lack of progress is not as stark as it is with mathematics, but the documentary evidence, the IEPs and formal assessments, paint a picture of an overall lack of adequate progress. (NT at 1008-1080, 1233-1280).

[redacted] Grade / Fall of 2025

74. As of September 2025, at the outset of the student's [redacted] grade year, the student's reading comprehension goal was maintained for goal achievement at the 4th grade level. (S-46).¹⁰

October 2024 Behavior Incident

75. In October 2024, in the early part of the student's [redacted] grade year, the student created a list of names of classmates. The list of names was simply that, a list of names. The list contained no threats. (P-27; NT at 334-447, 689-810, 833-999).
76. Classmates who saw the list of names began to circulate a rumor [redacted]. This was not the case, but the rumor spread in the community. (P-27; NT at 334-447, 689-810, 833-999).
77. District educators became aware of the situation through community-based networks. When the educators asked the student about the situation, the student shared that it was a list of people who

¹⁰ In December 2025, District special education administration unilaterally directed that the student's goal-achievement level in the reading comprehension goal should be accelerated from the 4th grade level, where it had been for the IEPs in [redacted] grade and [redacted] grade and the beginning of [redacted] grade, to the 8th grade level. (P-70). This change is noted for completeness, and because it reflects a significant change in the student's IEP. But it is merely noted—whether or not it has any specific impact on parents' claims is at issue before another hearing officer in another process.

the student found to be annoying. (P-27, P-28, P-29; NT at 334-447, 689-810, 833-999).

78. The District determined that the student did not present a threat of harm to self or others. (S-57; NT at 334-447, 689-810, 833-999).

79. The incident, however, had a significant impact on the student, as classmates and others in the community insinuated matters against the student. The student experienced serious social/emotional/behavioral impacts. (See Findings of Fact above).

80. The District did not discipline the student in any way for the October 2024 incident. (NT at 689-810).

May 2025 Behavior Incident

81. On May 1, 2025, the student inadvertently brought a [weapon] to school in the student's backpack. Once there, the student concealed the [weapon] in the student's locker and, ultimately, retrieved the [weapon] and brought it to the cafeteria during lunch, where other students saw the [weapon]. (P-24, P-50, P-51, P-55; S-32a, S-32b, S-33, S-37, S-38, S-39, S-78; NT at 334-447, 833-999, 1307-1379, 1654-1823).

82. In the days thereafter, the family and the District were communicating about the situation, with more information coming to light from the District's investigation and the family sharing concerns

for the student's emotional and physical health and well-being, since the student was deeply dysregulated as a result of the incident. (NT at 334-447, 689-810, 833-999, 1391-1546).

83. The District performed a suicide screener, which indicated that the student did not present with an indication of harm to self. (S-76).

84. The student and the family were deeply engaged with the private counselor. (NT at 334-447, 1391-1546).

85. The District wished to undertake a threat assessment. In consultation with the student's private counselor, she advised against completing the mental health portion of the assessment because of the student's dysregulation. The District was therefore unable to fully complete the threat assessment, although the private counselor completed the assessment at a later time. The instruments never indicated that the student was a threat. (P-66; NT at 334-447, 689-810, 2069-2140, 833-999, 1391-1546).

86. The District implemented discipline as a result of the May 2025 incident (see Findings of Fact below).

87. On May 6th, the student was in school, as out-of-school discipline had not yet been decided. A teacher saw drawings of the student which she deemed to be offensive. The student was referred to District administration and was removed from the school building for the remainder of that day. There was no further discipline or action

taken against the student. (P-7; S-40, S-68; NT at 334-447, 833-999, 1880-1924).

Discipline Procedures

88. As a result of the May 1st incident, the District engaged in a muddled disciplinary response excluding the student from the District. (P-7, P-25; S-40, S-79; NT at 334-447, 833-999).
89. The student was excluded from the student's regular schedule on May 2nd, serving an in-school suspension that day. (P-7, P-25; S-68, S-79; NT at 334-447, 833-999).
90. Although there was no formal discipline, the student was sent home, and thereby excluded from the educational environment, on May 6th as a result of the drawings which the teacher deemed to be offensive. (P-7; S-40, S-68; NT at 334-447, 833-999, 1880-1924).
91. The student was given two out-of-school suspensions related to the May 1st incident: a 3-day suspension (May 8th, 9th, and 12th) and a 4-day suspension (May 13th, 14th, 15th, and 16th). Ultimately, then, the student was suspended from school for seven consecutive school days. (P-7, P-25; S-40, S-68, S-79; NT at 334-447, 833-999).
92. The total cumulative days of in-school suspension, being removed from school by directive, and out-of-school suspension

amounted to nine school days. (P-7, P-25; S-40, S-68, S-79; NT at 334-447, 833-999).

Private Evaluations

93. In characterizing the school psychology private evaluation on this record, it did not add to the educational understandings of the student from a programming perspective. Additionally, there were significant procedural flaws related to academic achievement testing and an ad hoc intrusion by the student's father during one aspect of testing. (P-15; NT at 1994-2066).
94. In characterizing the S&L private evaluation on this record, it did not add to the educational understandings of the student from a programming perspective, as the evidence, both in the report and via testimony, is not persuasive that the student requires S&L services. (P-16; 1563-1649).¹¹
95. The February 2026 S&L evaluation was also produced at such a point, and in such a way, that it is viewed more as a document prepared for litigation purposes rather than for consideration by the student's IEP team. (P-16; NT at 1563-1649).

¹¹ It is also noted here that the S&L report was not produced until February 2026, long after the parents had undertaken their unilateral enrollment.

96. In characterizing the participation of the special education expert witness, that person's involvement is viewed at such a point, and in such a way, as being secured for rather than litigation purposes for participation as part of the student's IEP team. (NT at 2570-2666).

Credibility of Witnesses

All witnesses testified credibly. The testimony of the student's private counselor (NT at 1391-1546) was found to be highly credible and was accorded heavy weight.

Legal Framework

To assure that a child eligible under IDEA receives a 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. , 137 S. Ct. 988, 197 L. Ed. 2d 335, (2017); Dunn v. Downingtown Area School District, 904 F.3d 208 (3d Cir. 2018)).

A special education evaluation of a student must include a review of existing data, including parents' input, classroom-based assessments and observations, and observations by the student's educators. (34 C.F.R. 300.305(a); 22 PA Code §14.102(a)(2)(xxv)). The evaluation must "use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining" an understanding of the student's disability and the content of the student's individualized education program. (34 C.F.R. 300.304(b)(1); 22 PA Code §14.102(a)(2)(xxv)).

Finally, where a school district seeks to remove a student identified as a student with a disability under IDEA for more than 10 consecutive school days, or more than 15 cumulative school days in a school year, due to disciplinary matters, such a removal is considered a disciplinary change in the student's educational placement. (34 C.F.R. §300.536(a)(1); 22 PA Code §14.102(a)(2)(xxxii)). If this is the case, the student's IEP team must undertake a manifestation determination ("MD") process to see if the disciplinary matter is a manifestation of the student's disability. (34 C.F.R. §300.530(e); 22 PA Code §14.102(a)(2)(xxxii)).

Discussion & Conclusions

Here, the legal analysis will mirror the fact-finding sections above.

December 2004 RR

The December 2024 RR is inappropriate because it entirely neglected the October 2024 incident which clearly had debilitating effects on the student in the educational environment. The student's self-rating on behavior scales were in the extremely-elevated-risk range in November 2024, approximately a month after the October 2024 incident. But the District evaluator did not note this or seek to understand why those scores were dramatically different from the behavior ratings completed by the student a year prior. Now, it must be noted that parents, in their input for the December 2024 RR, did not provide any information about October 2024 incident either. In that way, everyone overlooked its importance. But clearly it had an impact on the student, to the point that the IEP team undertook specific considerations about peer interaction and anti-bullying strategies.

Additionally, the results of curriculum-based and diagnostic testing in the December 2024 RR showed that the student continued to struggle with reading and mathematics. The evaluator, however, did not update academic achievement testing for the student, instead repeating the results of

academic achievement testing from nearly three years prior (the February 2022 RR, obtained in the middle of the student's [redacted] grade year).

These deficiencies in fully understanding the student's social/emotional/behavioral needs and academic needs render the December 2024 RR inappropriate.

Autism

Taking the record as a whole, the District has not erred in declining an educational identification of autism. The private evaluator's report outlines that the student should receive a psychological diagnosis of mild autism. But that is different than an educational identification of autism. While elements of a mild presentation of autism can be seen in the educational setting, there is not magic in the words "identified with autism". To provide FAPE, a school district must identify needs in the educational environment and provide appropriate programming and services to meet those needs; lack of a specific identification—excepting an explicit identification of intellectual disability, which creates manifold, additional obligations under IDEA and Chapter 14—does not necessarily amount to a denial-of-FAPE.

That is the case here. Notwithstanding aspects of denial-of-FAPE on this record, merely declining to explicitly identify the student as a student with autism under IDEA is not one of those denials of FAPE. The District recognized needs related to the mild autism—socialization and self-

regulation chief among them—and provided programming to address those needs. Where the District may have fallen short in those efforts, discussed below, there is remedy. But the District did not deny the student FAPE because it did not explicitly identify the student with the educational identification of autism.

Appropriateness of IEPs: Social/Emotional/Behavioral Needs

The January 2023 IEP, including revisions, and January 2024 IEP, including revisions, were appropriate to meet the student’s social/emotional/behavioral needs. But after the October 2024 behavioral incident and the May 2025 disciplinary incident, the District failed to program appropriately for those needs, given those events.

The prejudicial flaw in the student’s social/emotional/behavioral programming following the October 2024 and May 2025 incidents is the total lack of coordinated communication and planning among educators and the District’s failure to undertake FBAs in response to incidents which were clearly out of character for the student and which had outsized impacts on the student’s sense of self and affect in school. To read the student’s IEPs, it is as if the events did not happen, although documentary evidence and the convincing testimony of the student’s private therapist (who no one included in communications or consultations outside of one meeting about anti-bullying in November 2024, shortly after the October 2024 incident) strongly

support the finding that educators should have, at least, undertaken deeper investigations of social/emotional/behavioral functioning after the incidents. (See *also* Findings of Fact above regarding the December 2024 RR).

Parents share this same lack of concern, at least following the October 2024 incident. Where there is a paucity of anything in the documentary record after the October 2024 incident, that void of information includes the parents, whose input in the December 2024 RR and January 2025 IEP do not include any notion of the October 2024 incident.

Still, the parents have no FAPE obligation, but the District does. Accordingly, the District denied the student FAPE by not appropriately responding to the student's problematic behavior and responses exhibited during and after the October 2024 and May 2025 incidents.

Appropriateness of IEPs: Mathematics

The District denied the student FAPE in its handling of the student's mathematics programming. The student had long-identified needs in both math concepts and computation. As of [redacted] grade, these were being addressed, but over that year and the following year, the [redacted] grade year, the student's progress entirely stagnated across both goal areas. The IEP team did not revise the mathematics goals until the end of [redacted] grade, when the computation goal simply disappeared from the student's IEP. Remedy will be awarded.

This hearing officer has declined to make findings of fact about the student's mathematics programming in the [redacted] grade year because this record presents an incomplete picture of that year. There was an IEP revision in December 2025, and the student received instruction at the private placement in the second half of the [redacted] grade year (from January 2026 through the end of the school 2025-2026 school year). That lack of that context makes it unfair, in the mind of the hearing officer, to make findings of fact about the student's progress or lack of progress, or achievement or lack of achievement, at the District over the period September – December 2025. Thus, there will be no remedy for that period.

Appropriateness of IEPs: Reading

The District denied the student FAPE in its handling of the student's programming for reading. The student had long-identified needs in reading comprehension. As of [redacted] grade, this were being addressed, but over that year and the following year, the [redacted] grade year, the student's progress entirely stagnated. The IEP team did not revise the reading comprehension goal, and the goal achievement level remained the same (the 4th grade level across learning in [redacted] grades). Remedy will be awarded.

This hearing officer has declined to make findings of fact about the student's programming in reading in the [redacted] grade year because the

changes that would be implemented through the December 2025 IEP were the basis for the parents' unilateral decision to pursue a private placement. Clearly, the achievement-level in the reading goal did not change, and that persisted into early December 2025. That fact alone will be the basis for remedy.

But was the 4th grade achievement level in the reading comprehension goal too low? Should it have been at a higher goal-achievement level over the [redacted] grade years? Or is the 8 grade achievement level in the reading comprehension goal in the December 2025 IEP too high? These are the types of questions where, again, a lack of context does not provide a sound footing for findings of fact or conclusions regarding FAPE, especially as the student received instruction at the private placement in the second half of the [redacted] grade year (from January 2026 through the end of the school 2025-2026 school year). Another hearing officer must take up that question on the record for the parents' tuition reimbursement claim.

October 2024 Incident

The District met its obligations to the student in its immediate handling of the October 2024 behavior incident. It responded deliberately and appropriately—one might even describe it as delicately—as it gathered information about the situation (which germinated outside of schools and

seeped into educational matters for the student as District educators became aware of it). In that regard, there is no denial of FAPE or breach of its duties under Section 504.

As set forth above, however, its response, or more accurately lack of response, from a special education programming perspective was problematic and amounted to a denial of FAPE. As educators, was the October 2024 incident handled appropriately? On this record, the answer is 'yes'. As special education professionals, was the October 2024 incident handled appropriately? Here, the answer is 'no', for the reasons set forth above.

May 2025 Incident

In reading the complaint and the amended complaint, one has a sense that the May 2025 disciplinary incident undergirds the dispute between the parties and looms largely over the dispute. Certainly, it is a significant event. But with the second amended complaint, one sees that the contours of the student's programming is much more variegated in light of parents' claims. Ultimately, the May 2025 discipline incident, as marked as it was, was as much of a precipitating event for bringing to light all of parents' claims as it was a substantive denial-of-FAPE event.

As with the October 2024 incident, the District met its obligations to the student in its immediate handling of the May 2025 disciplinary incident.

It was a very fluid situation for all involved, the family as well as the District. But the District's handling of the matter from a regular education perspective indicates that there was no denial of FAPE or breach of its duties under Section 504.

Mirroring the flaws in its response to the October 2024 incident from a special education programming perspective, however, the District's omissions in following up on how this outsized event fit into an understanding of the student's potential needs amounted to a denial of FAPE, as already set forth. Exactly replicating the same questions: As educators, was the May 2025 incident handled appropriately? On this record, the answer is 'yes'. As special education professionals, was the May 2025 incident handled appropriately? Here, the answer is 'no', for the reasons set forth above.

Discipline Procedures

As a result of the May 2026 incident, including the drawings which a teacher perceived to be offensive, the student was excluded from schooling at the District for nine school days. This does not meet the threshold to qualify as a disciplinary change-in-placement and to engage in a MD process. Therefore, there is no denial of FAPE related to the District's handling of discipline as a result of the May 2026 incidents.

Private Evaluations

Both the lack of impact of, and the flaws in, the school psychology report lead to a conclusion that reimbursement for that report will not be ordered. Likewise, reimbursement for the participation of the evaluator will not be ordered. The lack of material weight regarding S&L needs of the student, and the involvement of the S&L evaluator being in the nature of a litigation witness, lead to a conclusion that reimbursement for that report and the participation of the evaluator will not be ordered. The involvement of the special education witness being in the nature of a litigation witness leads to a conclusion that reimbursement for the participation of that witness will not be ordered.

Compensatory Education

Where a school district has denied FAPE to a student under the terms of IDEA, compensatory education is an equitable remedy that is available to a student. (Lester H. v. Gilhool, 916 F.2d 865 (3d Cir. 1990); Big Beaver Falls Area Sch. Dist. v. Jackson, 615 A.2d 910 (Pa. Commonw. 1992)).

The evidentiary scope of claims, which is not a point of contention in this matter, and the nature of compensatory education awards were addressed in G.L. v. Ligonier Valley School Authority, 801 F.3d 602 (3d Cir. 2015) The G.L. court recognized two methods by which a compensatory education remedy may be calculated.

One method, the more prevalent method to devise compensatory education, is the quantitative/hour-for-hour calculation, where, having proven a denial of FAPE, the compensatory education remedy is calculated based on a quantitative calculation given the period of deprivation. In most cases, it is equitable in nature, and the award is a numeric award of hours as remedy.

The second method, a rarer method to devise compensatory education, is the qualitative/make-whole calculation, where, having proven a denial of FAPE, the compensatory education remedy is calculated based on a qualitative determination where the compensatory education remedy is gauged to place the student in the place where he/she would have been absent the denial of FAPE. It, too, is equitable in nature, but the award is based on services or interventions for the student, or some future accomplishment or goal-mastery by the student, rather than being numeric in nature.

Both calculations are a matter of proof. The quantitative/hour-for-hour approach is retrospective, looking back to understand the cumulative denial of FAPE, and is normally a matter of evidence based on IEPs or other documentary evidence that provides insight into the quantitative nature of the proven deprivation. The qualitative/make-whole approach is prospective, looking forward to some point in the future where the proven deprivation

has been remedied, and normally requires testimony from someone with expertise to provide evidence as to where the student might have been, or should have been, educationally but for the proven deprivation, often with a sense of what the make-whole services, or future student accomplishment/goal-mastery, might look like from a remedial perspective.

In this case, parents did not specify which type of compensatory education they were requesting. (NT at 36). Thus, parents' request for remedy is viewed as a request for a quantitative compensatory education remedy, awarded as a matter of equity in the hands of the hearing officer.

Here, compensatory education is owed for the denials-of-FAPE reflected in the inappropriateness of the District's December 2024 re-evaluation report, the District's lack of response to the student's social/emotional/behavioral needs after the October 2024 and May 2025 incidents, inappropriate mathematics progress over [redacted] grades, and inappropriate goal stagnation in reading comprehension over the [redacted] grades.

On the inappropriateness of the December 2024 RR, it is a flaw that undermines a deep understanding of the student's needs and educational profile. It also reflects a sense of disinterestedness in questing for that understanding, especially in light of the October 2024 incident. 50 hours will be awarded.

On the District's lack of response to the student's social/emotional/behavioral needs after the October 2024 and May 2025 incidents, this too might be characterized as disinterest, or languid. Here, though, the denial of FAPE is more striking because the student's social/emotional/behavioral affect, functioning, and engagement in educational environments was impacted, without any tangible or concrete reaction by the District. The October 2024 incident is somewhat different in that it originated outside of District schools and found its way into the student's mosaic of needs. But once that had happened, the District needed to, at the very least, undertake an inquiry about the incident; that happened, but the actions of the private therapist were the centerpiece, not any actions by the District. 75 hours of compensatory education will be awarded.

The same overall dynamic holds for the May 2025 incident—the District not seeming to be interested at all in marshaling a deeper understanding of the student's social/emotional/behavioral needs. Here, of course, that ennui (although that is not quite the sense of events because the District quite rightly acted in certain vigorous ways, just not to deepen its understanding of the student) is much more problematic, given the nature of the behavior, the wider impact in the school environment, and the concrete impact on the student's education and peer relationships. 150 hours of compensatory education will be awarded.

On the denial of FAPE for inappropriate mathematics progress over [redacted] grades, one begins to sound like a broken record. For nearly two school years, the student's math concepts goal was unchanged in terms of its goal-achievement level, as a [redacted] grader, the student was working on an IEP goal on 5th grade material. Obviously, this is not prejudicial in itself; but for that level to remain unchanged, or even un-interrogated, by District educators is a denial of FAPE. 125 hours of compensatory education will be awarded.

On the denial of FAPE for inappropriate reading comprehension progress over [redacted] grades, the theme continues. For over two school years, the student's reading comprehension goal was unchanged in terms of its goal-achievement level, with the student was working on an IEP goal on 4th grade material. This record supports a finding that the student's distance from grade-level benchmarks was not as severe in reading as in mathematics. Yet the goal achievement level was one grade lower—for most of middle school and into high school, the reading comprehension goal was at a mid-elementary level, and no one at the District over those school years asked himself or herself 'why are we not seeing progress on the grade-level in the goal?'. 150 hours of compensatory education will be awarded.

Accordingly, the student will be awarded 550 hours of compensatory education.

Expungement/Redaction of Records

In their trio of complaints, parents request that the student's disciplinary records be expunged relating to the May 2025 incident, and certain content related to that incident be redacted from IEPs and notices of recommended educational placement. (HO-1, HO-3, HO-5).

With the District having handled the May 2025 incident appropriately, there is no basis for expungement or redaction. As to the first point, this hearing officer believes it is not within his authority to order a board of school directors, the entity ultimately responsible under the Pennsylvania School Code for developing and maintaining educational records, to expunge a document or record that it has, by delegating its authority to administrators and teachers, created and maintained. That would seem to be a course of action that lies within the authority of other tribunals.

As to the second point, where a family requests that a special education record be redacted, there may be more sure footing for special education due process to act. However, special education records document the evaluative understanding, strengths, needs, programming, and progress of students at a particular point in time. If one begins to tamper with that dynamic, there is a risk that aspects of understanding a student will be voided, where families and educators used that information contemporaneously to inform themselves of special education programming and decision-making. This is a long-winded way of saying that this hearing

officer views redaction of special education records to be a substantive risk to the balance created by the collaborative process of designing special education programming. Here, though, it is a moot point because nothing in the educational documents brought to light through this process should be redacted in any regard.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Downingtown Area School District has denied the student a free appropriate public education in the following particulars: the school district's December 2024 re-evaluation report was inappropriate, the District's lack of response to the student's social/emotional/behavioral needs after the October 2024 and May 2025 incidents, inappropriate mathematics progress over [redacted] grades, and inappropriate goal stagnation in reading comprehension over the [redacted] grades.

As remedy for these instances of denial of a free appropriate public education and asset forth above, the student is awarded 550 hours of compensatory education.

The Downingtown Area School District has provided, or at least has not failed to provide, a free appropriate public education to the student in

the following particulars: in not providing an educational identification as a student with autism, in not engaging a manifestation determination process as a result of implementing discipline in May 2026, in its social/emotional/behavioral programming from October 2023 through October 2024, and in its handling—as a regular education matter—of the October 2024 incident.

There will be no order for the expungement and/or redaction of the student's records.

There will be no order for reimbursement for the private evaluators.

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

06/23/2026