

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. 32465-25-26

Child's Name:

J.T.

Date of Birth:

[redacted]

Parent(s):

[redacted]

Counsel for Parent:

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Hearing Officer:

Savannah L. Murphy, Esq.

Date of Decision:

06/17/2026

Procedural Background

The present matter concerns J.T. (hereinafter referred to as “Student¹”), a [redacted] grade Student currently enrolled within the Derry Township School District (hereinafter referred to as “District”). Parents brought forth claims under the Individuals with Disabilities Education Act² (IDEA), and Section 504 of the Rehabilitation Act of 1973 (Section 504)³. Student currently receives special education services under the disability category of Speech and Language Impairment. Student’s current IEP is implemented as the pendant placement⁴.

On January 18, 2026, Parents filed a Due Process Complaint after Student was no longer found to be eligible for special education in a Reevaluation Report dated November 25, 2025. Parents’ Complaint requested an order finding that the District denied Student a free and appropriate public education (FAPE); award of compensatory education; an Independent Educational Evaluation (IEE) at public expense; requirement that the District facilitates PDE-led training regarding anti-retaliation requirements of the IDEA and PDE-led review of District’s Response to Intervention structure for identifying students with specific learning disabilities (SLD); reimbursement for literacy consultant fees; a finding that the District discriminated against Student; reimbursement of costs and expert testimony associated with this due process hearing; and any other relief deemed appropriate.

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

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

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

⁴ When a Parent disagrees with an educational change in placement, then the student must remain in the “then-current educational placement”. 20 U.S.C. §1415(j).

District filed an Answer to Due Process Complaint on January 28, requesting that all Parents' requested relief be denied, and asserted several affirmative defenses including failure to state a claim under Section 504 or IDEA. District later challenged this Hearing Officer's subject matter jurisdiction over Parent's claim of retaliation, arguing that the claim is functionally raised under associational discrimination. Parents argued that the retaliation claim was appropriately raised under the IDEA and Section 504. Parties were provided an opportunity to further brief whether Parents' retaliation claim should be dismissed.

In a Memorandum and Order issued on March 13, 2026, District's Motion to Dismiss Parents' retaliation claim was denied, because the parties presented a dispute of material fact regarding the events that occurred at a June 2025 literacy presentation conducted by Parent, and the September 2025 IEP meeting where Parents attended with their literacy consultant. It was determined that Parents' retaliation claim was appropriately raised under the IDEA and Section 504, which this hearing officer had jurisdiction. Further barring Parents' claim would deny them an opportunity to exhaust their retaliation claim would be unduly prejudicial. Therefore, Parents had the right to pursue all claims raised in their Complaint.

Following six hearing sessions, a complete review of the record, and for all reasons set forth below, I find in favor of the District.

Issues Presented

1. Whether District provided Student a Free and Appropriate Public Education (FAPE) from January 18, 2024 through the 2025-2026 school year.
 - a. If so, whether Student is entitled to compensatory education from January 18, 2024 through the 2025-2026 school year.
2. Whether District's November 2025 Reevaluation Report for Student was appropriate and satisfied District's child find obligation to Student.

3. Whether District retaliated against Parents after Parents sought support through a literacy consultant.

Findings of Fact

Stipulated Findings of Fact

The parties submitted joint stipulations of fact. The parties were advised that the joint stipulations of fact would be directly copied in the decision. Therefore, joint stipulations of fact appear exactly as received, notwithstanding font, formatting, and were only edited to remove identifying information of Student.

General Stipulations

1. [Student]... is a [redacted]-grade student.
2. [Parents] are Parents of [Student]., as defined by 34 C.F.R. § 300.30.
3. At all times relevant to the claims and defenses in this matter, [Student] was a resident of the Derry Township School District (District).
4. The District is the Local Education Agency (LEA) and receives federal funding within the meaning of the IDEA.
5. To benchmark students in Reading, the District uses the Acadience Learning System (Acadience) three times a year.
6. The District is PDE-approved to use the Response to Intervention Model (RTII or RTI), to identify a Specific Learning Disability (SLD) in reading and math for K-5, including math computation, math problem-solving, basic reading, oral reading fluency, and reading comprehension.
7. **[redacted]** [Student] attended the Hershey Early Childhood Center for [redacted] and was a student in [Teacher's] classroom for the entire year.
8. The District provided [Student] with Tier 1 academic support for the entire school year.
9. The District utilized Acadience to benchmark [Student] in reading at the Beginning of the Year (BOY). Acadience does not have a formal

benchmark for Letter Naming Fluency (LNF), rather, it can be a strong predictor of future reading success and an indicator of risk. The District measures this at the Beginning, Middle and End of the Year for [redacted] and beginning of [earlier] grade for all students. The District measured [Student's] Beginning of the Year First Sound Fluency (FSF) scores at Benchmark at 14 (54th percentile) and LNF of 24 (66th percentile).

10. The District utilized Acadience to benchmark [Student] in reading at the Middle of the Year (MOY). Acadience does not have a formal benchmark for LNF or Whole Words Read at the end of [redacted], but the District does record the score. Benchmarking showed the following areas with the respective results:
 - a. First Sound Fluency: 40 (49th percentile)/At Benchmark
 - b. Letter Naming Fluency: 27 (25th percentile)
 - c. Phoneme Segmentation Fluency: 30 (35th percentile)/At Benchmark
 - d. Nonsense Word Fluency – 16 Correct Letter Sounds (27th percentile)/0 Whole Words Read: Below Benchmark
11. [Student] was referred for a Speech and Language Screener via the District's RCIS form, Joint Exhibit-3.
12. The District evaluated [Student] and, on January 10, 2024, provided an Evaluation Report identifying [Student] with a Speech and Language Impairment (S&L).
13. [Student's] first IEP is dated January 29, 2024.
14. The January 29, 2024, IEP recommended that [Student] receive monthly S&L group therapy, at the itinerant level of support, and remain in the general education classroom for 99% of the school day.
15. End of the year (EOY) Acadience tested the following areas with respective results:

- a. Letter Naming Fluency – 43 (31st percentile) No Benchmark for [redacted]
 - b. Phoneme Segmentation Fluency – 43 (24th percentile) At Benchmark
 - c. Nonsense Word Fluency – 23 Correct Letter Sounds (20th percentile) /0 WWR- Below Benchmark
16. The District progress monitored [Student] on NWF in the second half of the school year and reported CLS and WWR for 8 data points.
 17. As reported by Acadience, [Student's] end of the year Reading Composite Score (RCS) fell Below Benchmark, while [student's] End of the Year Pathway was Well Below Typical Progress.
 18. [Student's] progress on [redacted] standards were reported in [Student's] report card, J-44. [Student's] [redacted] report card demonstrates Proficient performance, in all areas of reporting, as evaluated by [student's] classroom teacher, except Reads Grade-Level High-Frequency Words with Automaticity, which [student] was Working Toward Proficiency with Steady Progress.

[redacted] Grade

19. [Student] attended [redacted] grade at Hershey Early Childhood Center in [Teacher's] classroom.
20. The District provided [Student] with Tier I academic support, which included at least 60 minutes of reading/early literacy instruction, including via the Open Court Reading program in the general education classroom.
21. The District provided [Student] with the University of Florida Literacy Institute (UFLI) reading program for 60 minutes a day during "What I Need" (WIN) time, in a reading group differentiated for [student's] needs. That differentiated UFLI WIN group changed from [Teacher] to [Teacher] in the middle of [redacted] grade.

22. The District's annual IEP for [Student] is dated January 23, 2025.
23. The January 23, 2025, IEP recommended that [Student] continue to receive 120 minutes monthly of S&L group therapy, for itinerant support, and remain in the general education classroom for 99% of the school day.

[redacted] Grade

24. [Student] attended [redacted] grade at Hershey Primary Elementary School in [Teacher's] general education classroom.
25. The District provided [Student] with Tier 2 support in reading, with the UFLI reading program, implemented for 40 minutes a day by a reading specialist in a small group during WIN time.
26. The District reevaluated [Student] and completed its Reevaluation Report on November 25, 2025, finding that [Student] no longer qualified for special education services.

Additional Findings of Fact

I have reviewed the record in its entirety. The following Findings of Fact and subsequent Discussion and Application of Law and Fact will only address that which is relevant to the instant matter.

Background Facts

27. Student is described as outgoing, hardworking, eager to learn, motivated, thoughtful, and a strong participant in class. (J-12 at 2; N.T. at 86, 262, 603-04).
28. District utilizes a Multi-Tiered Systems of Support (MTSS), which supports District's Response to Instruction and Intervention Model (RTII), which is PDE approved. (J-49). District revises its MTSS system approximately every 2 years with the assistance from PaTTAN. (N.T. at 1297).
29. The RTII model requires District to review student data every 8 to 10 weeks to consider revision to interventions. (N.T. at 907, 909).

30. District assembles Intervention Planning Meetings (IPMs) every 6-8 weeks, which consists of the school counselor, administration, school psychologist, and classroom teachers to review all student's reading, math, and SEL progress. IMPs provide insight into whether a student requires additional support. (N.T. at 118, 416, 464).
31. Students who are below benchmark are monitored weekly. (J-23; J-47 at 7; N.T. at 415, 762).
32. Student's reading academic achievement is monitored through LETRS, PAST, Core phonics, Equipped for Reading Success, UFLI, and Open Court assessments. (N.T. at 468-69, 500-01, 503, 530-31, 755).
33. Acadience is a literacy assessment that provides diagnostic and benchmark testing, typically provided in the Beginning, Middle and End of the year. (J-17; J-33; J-34; N.T. at 91, 219).
34. CORE Phonics survey is another phonics assessment that is utilized by District when Students test below benchmark in Acadience. (N.T. at 493).
35. The Phonological Awareness Screening Test (PAST) measures phonemic and phonological awareness, and a Student's ability to hear sounds and words. (J-21; N.T. at 770)
36. The LETRS Basic Spelling Inventory Screener is a spelling inventory provided to students that breaks down spelling skills. (N.T. at 495).
37. UFLI is a research-based reading program developed by the University of Florida that specifically targets phonemic awareness. Lessons typically encompass an auditory drill and learning a new skill of the day. (N.T. at 96).

2023-2024 School Year

38. On November 1, 2023, District issued a Prior Written Notice for Initial Evaluation and Request for Consent Form. Proposed assessments for the evaluation included Parent/Teacher input, Speech and Language

Screening, Fluency Probing, and [redacted] Language Screening Test-2 (J-4 at 1). Parents consented to the evaluation on November 12, 2023. (J-2 at 3).

39. On January 10, 2024, District issued the Evaluation Report (2024 ER). (See J-5). The 2024 ER contained the following information:

- a. Student was referred for a speech and language screening due to [dysfluency] episodes and phoneme substitution. (J-3; J-5 at 1). Student's dysfluencies had a significant impact on Student's communication skills. (*Id*).
- b. The 2024 ER contained a direct observation of Student. Student was observed to be social and followed directions. However, Student struggled with packing up at the end of the day. (J-5 at 2).
- c. According to a Core Phonics Survey, Student accurately named 26 of 26 uppercase and lowercase letters; 19/23 consonant sounds; 5/5 long vowel sounds; 3/5 short vowel sounds; and 0/15 short vowels in CVC words. (J-5 at 3; J-18).
- d. Student's Acadience scores were at benchmark in First Sound Fluency and Letter Naming Fluency. (J-5 at 4; J-17 at 1).
- e. The Goldman Fristoe Test of Articulation (GFTA-3) was utilized to assess Student's articulation skills. (J-5 at 6). Phoneme substitution was occasionally noted during the GFTA-3, but overall, Student received average scores. (*Id*).
- f. The Language Processing Test 3-Revised was used to assess Student's ability to attach meaning to auditory stimuli. Student scored in the average range in Associations, Similarities, Differences, and Attributes. Student received a below average score in Categorization. (J-5 at 6).
- g. The Clinical Evaluation of Language Fundamentals Preschool – 3rd edition was used to assess Student's overall language performance.

- (J-5 at 7-9). Overall, Student exhibited deficits in recalling sentences, and word classes (*Id*).
- h. During Informal Language Activities and the School Age Language Assessment and Measures (SLAM); Student displayed deficits in auditory memory, identifying the main idea, story sequencing and retell, and speech fluency. (J-5 at 11).
 - i. Student displayed deficits in auditory processing, expressive language, and thought organization and formulation. The 2024 ER concluded that Student had a disability and was eligible for special education under the disability category of Speech or Language Impairment. (J-5 at 11-12).
40. Student's initial IEP, dated January 29, 2024, contained a summary of the 2024 ER. (J-6 at 5-12). Identified educational needs including increasing Student's skills in language processing, expressive language and thought organization and formulation. (J-6 at 12).
41. Student received three annual IEP goals:
- a. Student would name three category members with 90% accuracy in 3 of 4 consecutive sessions when given category labels. Baseline was 45% accuracy (J-6 at 15).
 - b. Student would select items that are associated and describe their relationship using semantically correct sentence structures with 90% accuracy in 3 of 4 consecutive sessions when given a set of 4 pictures. Baseline was 60% accuracy. (J-6 at 15).
 - c. Student would answer why, what, and where questions with 85% accuracy in 3 of 4 consecutive sessions when given 2-3 short sentences of verbally presented information. Baseline was 70% accuracy. (J-6 at 15.)
42. Student received 120 minutes of group Speech and Language therapy monthly. (S-6 at 16).

43. Parents signed a NOREP, dated January 29, 2024, approving District's recommendation of Itinerant Speech and Language Support on January 31, 2024. (J-7).
44. Acadience EOY data demonstrated that Student's Reading Composite Score (RCS) was below benchmark at 109. (J-17 at 1).
45. According to Student's 2023-2024 report card, Student demonstrated grade-level appropriate skills in all areas except for demonstrating knowledge in letter-sound correspondence and grade-level high frequency words. (J-44).

2024-2025 School Year

46. Student's BOY Acadience Benchmark indicated that Student was below average in Phoneme Segmentation Fluency (33rd Percentile) and Nonsense Word Fluency (27th percentile). (J-19 at 1).
47. In response to Student's below benchmark BOY scores in Acadience, District began weekly progress monitoring. (J-19 at 2-5; J-23; N.T. at 762).
48. In addition to the general education curriculum for reading, Student began receiving instruction in the UFLI program. (P-3 at 1). Student received UFLI instruction during the "What I Need" (WIN) period of the day for 60-minutes. (N.T. at 96; *see also* J-21).
49. Student's first grade UFLI curriculum encompassed Lesson 11 through Lesson 34. (J-20 at 1).
50. Student's annual IEP was issued on January 23, 2025. (J-8). All of Student's IEP goals were achieved. (J-8 at 5; J-15 at 2-3). Student required higher level Speech and Language goals (N.T. at 311).
51. According to Reading data, Student demonstrated deficits in segmenting and counting syllables, and vocabulary. However, Student otherwise demonstrated proficiency in blending syllables, blending

phonemes, segmenting and counting phonemes, and comprehension. (J-8 at 4-5).

52. Acadience data indicated that Student was performing below benchmark in LNF, phoneme segmentation fluency, whole words read for nonsense word fluency, and oral reading fluency. (J-8 at 7). Student demonstrated grade level performance in the Core Phonics Survey. (*Id.*).
53. According to the PAST, Student demonstrated deficits in spelling including digraphs/trigraphs, blends, long vowels, vowel teams, and r-controlled vowels. (J-8 at 8).
54. Student performed below average in Math benchmark testing and was provided intervention services. (J-8 at 9).
55. In the area of Speech and Language, Student continued to display listening comprehension, expressive language, and thought organization and formulation deficits. (J-8 at 9-14).
56. Student's IEP goals were revised in the January 2025 IEP to assess Student's ability to organize a personal event or story using clear beginning, middle and end structure using relevant details, descriptive language, and sufficient context in 3 of 4 opportunities. Student's baseline was 0 of 4 opportunities. (J-8 at 18).
57. Student's second IEP goal which assessed Student's listening comprehension skills by answering comprehension and inferencing questions related to auditory information with 85% accuracy in 3 of 4 consecutive sessions. Student's baseline was 50-60% accuracy. (J-8 at 18).
58. Student continued to receive 120 minutes of Speech and Language Group Therapy a month. (J-8 at 19).
59. Parents approved a NOREP, dated January 23, 2025, recommending Itinerant Speech and Language Support on January 27, 2025. (J-9).

60. Student's MOY Acadience data indicated below benchmark in correct letter sounds for nonsense word fluency, at benchmark in whole words read. Student tested well below benchmark in oral reading fluency, reading 10wcpm at 56% accuracy. (J-19 at 1).
61. Due to Student's MOY Acadience Benchmark scores, in January of 2025, Student was transferred from a Teir 1 Reading WIN UFLI classroom with 16-18 students to another classroom with a smaller group setting that also moved at a slower pace. (N.T. at 119-20, 124, 164).
62. Student's received benchmark scores in nonsense word fluency and well below benchmark scores in oral reading fluency according to EOY Acadience benchmark scores. Student received an RCS score of 83, well below benchmark. (J-19 at 1). Student's oral reading fluency was 18wcpm with 72% accuracy. (*Id*).
63. At the end of the 2024-2025 school year, Student mastered LETRS Basic Spelling Screener with a score of 37. (J-21 at 1). In the Core Phonics Screener, Student's highest level achieved was Level I. (J-22).
64. According to Student's 2024-2025 Report Card, Student demonstrated proficiency in most areas. However, Student continued to display phonological awareness and word analysis deficits. (J-45 at 1-2).

2025-2026 School Year

65. Student's BOY Accidence data indicated that Student achieved benchmark nonsense word fluency scores in the 44th and 45th percentiles respectively. Student continued to perform well below benchmark in oral reading fluency, reading 33wcpm at 77% accuracy. (J-23 at 1).
66. Parent requested an IEP meeting on September 1, 2025, and indicated that their advocate, a literacy consultant, would be in attendance. (J-47 at 19).

67. An IEP meeting was held on September 12, 2026 to discuss Parent's concerns regarding Student's academic progress. Student was transferred from Teir 1 Support to Teir 2 Support. (N.T. at 751-5; 910-11, 1093).
68. Teir 2 supports for Student included UFLI instruction, Equipped for Reading Success, Be Good People for K-5 SEL, and EUREKA Math Catalyst Lessons. (J-50 at 28; *see also* J-35). Student received 40 minutes of UFLI with a reading specialist a day in a small group setting during WIN period. (N.T. at 469, 711, 723).
69. Student began UFLI Instruction at about lesson 15 or 16. (J-39 at 1).
70. On September 16, 2026, Parent's literacy consultant sent the IEP team an email summarizing Parent's concerns raised at the IEP meeting, which included Student's reading skill deficits. Parents requested that a comprehensive Reevaluation be conducted including diagnostic language and literacy assessments, language assessments including the CELF-5 or CASL, behavior rating scales, social-emotional assessments, autism assessments. (J-47 at 20-21).
71. District issued a Prior Written Notice for Reevaluation and Request for Consent Form on September 18, 2025. Proposed assessments included cognitive assessments, academic achievement assessments, record review, direct observation, behavior rating scales, Parent and Teacher input, Speech and Language Screening or Assessments, Curriculum based measures and other assessments deemed appropriate. (J-10 at 1-2).
72. Parent approved the recommendations with concerns noted on October 1, 2025. (J-10 at 3).
73. On November 11, 2025, District issued a NOREP in response to Parent's request that an Autism Diagnostic Observation Schedule, Second Edition (ADOS-2) be completed. District did not honor this request because the data collected in the reevaluation did not suggest the need to further test for Autism. (J-11 at 1-2). This NOREP was in response to

Parent's request that an ADOS be completed on September 22, 2025. (J-47 at 25-26). Parent did not approve of this recommendation. (J-11 at 3).

74. District issued the Reevaluation Report on November 25, 2025 (2025 RR). (See J-12). The 2025 RR contained the following:

- a. Parent input indicated that Student was able to communicate a message, but often repeated words, used general language, and took more time to process speech. (J-12 at 2).
- b. In the general education setting, Student demonstrated proficiency in reading in action verbs, common nouns, proper nouns, and collective nouns. Student demonstrated deficiencies in grammar, identification of helping verbs, linking verbs, phonics, vocabulary and comprehension. (J-12 at 2).
- c. According to Accidence benchmark data, Student performed at benchmark in nonsense word reading fluency. Student scored well below average in oral reading fluency, reading 33 wcpm with 77% accuracy. (J-12 at 3). Student's oral reading fluency rate of growth was -.25% (J-12 at 5).
- d. Student participated in WIN intervention classes for Reading and Math. (J-12 at 4).
- e. According to Speech and Language present levels, Student met both annual goals. (J-12 at 8; J-16).
- f. During an observation conducted by the school psychologist, Student was observed to be on task 87.5% of observed intervals in the general education classroom and 81% of observed intervals in the WIN intervention setting. (J-12 at 9). Student was observed to be on task more than same-aged peers. (*Id.*).
- g. The Wechsler's Individual Achievement Test, Fourth Edition (WIAT-4) was used to assess Student's academic achievement. Overall,

- Student displayed average abilities in all reading subtests except for Word Reading (85) and Oral Reading Fluency (87). (J-12 at 11-12). Student received a very low score in Spelling (79), and average scores in Math. (*Id.*).
- h. Overall, on the WIAT-4, Student received low average composite scores in Reading (86), Written Expression (87), Reading Fluency (86), Orthographic Processing (83), and Total Achievement (89). (J-12 at 12). Conversely, Student received average scores in Mathematics, Basic Reading, Phonological Processing, Decoding, and Dyslexia Index. (*Id.*).
 - i. The Woodcock Johnson Test of Achievement and Cognitive Abilities, (WJ5) was used to further assess Student's phonemic retrieval fluency, spelling skills, and phoneme grapheme knowledge. (J-12 at 16-17). Student received high average to average scores in all subtests. (*Id.*).
 - j. Curriculum Based Measures (CBM) were used to assess Student's reading and written expression skills. Student was able to read a second grade passage with 33wcpm with 80% accuracy, which is below average. (J-12 at 17). In the area of written expression Student performed between the 25th and 50th percentile for total words written and correctly spelled words. Student's performance was variable amongst three probes. (J-12 at 17-18).
 - k. The Behavior Assessment System for Children- Third Edition (BASC-3) was used to assess Student's behavioral functioning. Two teachers and Parent completed the rating scales. Rating scales indicated at-risk scores in anxiety amongst more than one rater. Parent further rated Student at-risk in externalizing problems, aggression, and adaptability. (J-12 at 19-21).

- l. The Revised Children's Manifest Anxiety Scale, Second Edition (RCMAS-2) was completed by Student. Overall, Student reported feeling no more symptoms of anxiety than the typical same-aged peer. (J-12 at 21).
- m. The Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2) was used to assess Student's executive functioning. Scores were variable between three raters. Parent rated Student in the elevated or higher range in shift, emotional control, emotional regulation, working memory and global executive composite. One teacher rated Student mildly elevated in inhibit and emotional regulation index. (J-12 at 22).
- n. The Social Responsiveness Scale, Second Edition (SRS-2) was used to assess Student's behavior and communication consistent with Autism Spectrum Disorder. Student's scores amongst raters were normal in all tested areas. (J-12 at 23-24).
- o. Student's cognitive ability was assessed using the Reynolds Intellectual Assessment Scales (RIAS-2) and the Wechsler Intelligence Scale for Children- Fifth Edition (WIAT-V). In the RIAS-2 Student received a Composite Intelligence Index of 86, which is below average, and a Nonverbal Intelligence Index of 70, which is moderately below average. Conversely, Student received a Full-Scale IQ of 103 in the WIAT-V, demonstrating average scores in all composites and subtests. (J-12 at 24-28).
- p. The District considered eligibility of Student under the disability categories of Autism and Other Health Impairment (OHI). Based on the BASC-3, BRIEF-2, and SRS, Student did not qualify for special education under the disability category of Autism or OHI. (J-12 at 28-29).

- q. In the area of Speech and Language, Student's articulation was informally assessed. Student demonstrated 100% intelligibility. (J-12 at 30).
- r. The Test of Integrated Language and Literacy Skills (TILLS) was used to assess Student's oral and written language. Student received average scores in all composites of Memory, Listening, Speaking, Social Communication, Reading, and Spelling. Student only received a below average score in the reading comprehension subtest. (J-12 at 31-37 N.T. at 846-47).
- s. The Clinical Evaluation of Language Fundamentals 5th Edition (CELF-5) was used to evaluate Student's expressive and receptive language skills. Student received average scores in core language, receptive language, expressive language, language content, and language structure. (J-12 at 37-40; N.T. at 847).
- t. Student demonstrated perfectly natural to near-perfectly natural language in speech fluency. (J-12 at 42-46).
- u. The Overall Assessment of the Speaker's Experience of Stuttering (OASES) was used to evaluate the Student's observable stuttering difficulties. Student performed primarily in the moderate range. (J-12 at 47).
- v. The 2025 RR concluded that Student no longer requires Speech and Language support. (J-12 at 49-50).
- w. The 2025 RR concluded that Student does not have a disability and does not qualify for special education services. It was recommended Student be exited from special education and continue to receive Tier 2 reading support to develop foundational reading skills. (J-12 at 50-51).

75. District utilized the RTII model to identify whether Student had a SLD in reading. District's RTII model is PDE approved. (J-12 at 53; J-49; P-16 at 4-5; N.T. at 884-85).
76. The RTII model requires the Student receive tiered supports with fidelity, continue to perform at or below the 10th percentile across multiple measure of achievement, and Student's rate of growth is less than 80%. (J-12 at 53; J-49 at 2-3).
77. The 2025 RR concluded, in the area of reading, Student received Tier 2, small group reading support, which have been implemented with fidelity. (J-12 at 53; N.T. at 906, 911). Student did not qualify for Teir 3 and did not demonstrate a need for special education. (*Id.*). Student did not meet criteria 2 because Student scored well above the 10th percentile in multiple composite and subtest scores in Reading. (J-12 at 53; N.T. at 911-912). Student only met the third criteria, showing a rate of improvement -.25%. (J-12 at 53). Student did not meet criteria for SLD in reading, reading fluency, or reading comprehension. (*Id.*).
78. District's RtII analysis for SLD identification is not approved for identifying a student with an SLD in written expression, which requires a discrepancy analysis. (N.T. at 902-03).
79. District held a meeting without Parent prior to the issuance of the RR to review the data and discuss the proposed conclusion. (P-14 at 1; N.T. at 926).
80. District issued a NOREP on November 25, 2025, proposing Student be exited from special education. (J-13 at 1-2). Parent rejected the NOREP on December 2, 2026, requesting mediation, because Parent maintained concerns for Students programming, and opined the conclusion was predetermined. (J-13 at 4).
81. The IEP team met on December 5, 2025 and December 16, 2025 to review the 2025 RR. District retained their recommendation to exit

Student from special education in a NOREP dated December 18, 2025. (J-14; J-47). Parents rejected the NOREP of December 22, 2026, requesting mediation, expressing concerns regarding Student's reading comprehension and rate of improvement at -.25%. (J-14; P-19 at 1).

82. Student continued to demonstrate mastery of Speech and Language goals from Student's January 2025 IEP. (J-16). Student continued to advance in Student's IEP goals, and the length of stories have been increased to continue to meet [student's] needs. (N.T. at 865-66).

83. Student's MOY Acadience benchmark scores assessed oral reading fluency. Student read 50wcpm, which is considered well-below average. However, Student demonstrated 91% accuracy, which is considered below average. (J-23 at 1; J-33 at 1). Student's retell score was 20, which is below average. (*Id.*).

84. Student's most recent oral reading fluency Acadience data, taken at the end of February 2026, indicated Student read 73wcpm with 91% accuracy and obtained a Retell score of 28. (J-23 at 2). By the end of [redacted] grade, students are considered at benchmark if they read 87wcpm with 91% accuracy. A second-grade level benchmark retell score is 27. (J-24 at 1; P-22 at 5).

85. As of April 2026, Student's UFLI class was on Lesson 53. (N.T. at 757-58).

June 2025 Literacy Presentation and Related

86. Parent is employed by a local [redacted] as a consultant for MTSS and literacy training. (P-24 at 1).

87. The [employer] is a service provider for District. (N.T. at 1030).

88. In June of 2025, Parent presented at the [redacted] conference (June 2025 conference). (N.T. at 1012; 1082). District employees attended Parent's presentation. (N.T. at 866). Attendees wore a badge with their name and LEA employer listed on them. (N.T. at 868).

89. During the presentation, Parent shared a personal story regarding the importance of a student's active involvement their learning. (N.T. at 1084-85). The personal story involved Student's sibling, also a student within District, who consistently attempted to participate, but was not called on once. (N.T. at 1085-86).
90. District employees were uncomfortable during Parent's presentation when the anecdotal story was given. (N.T. at 869). Attendees in the audience expressed sympathy for Parent regarding the student's experience and clearly expressed disagreement with District's actions per the allegations in the anecdotal story. (N.T. at 870).
91. Parent had used this anecdotal story in their presentation multiple times prior to the June 2025 conference. (N.T. at 1086-87).
92. When teachers returned in August 2025, they reported to the building's Principal concerns regarding Parent's presentation at the June 2025 conference. (N.T. at 871-72, 1016-17). The Principal reported the concerns to District's Assistant Superintendent, who reported the concerns to District's Superintendent of Schools. (N.T. at 838).
93. Parent notified District that they would be bringing a literacy consultant to the September 2025 IEP meeting. (P-9; N.T. at 1090)
94. On September 12, 2025, the same day as Student's IEP meeting with the IEP team and Parent's literacy consultant, District notified Parent's employer regarding Parent's conduct during the June 2025 conference. (N.T. at 1012; 1095, 1098).
95. District reported to the [employer] that the District observed disparaging remarks during Parent's presentation. (N.T. at 1011-12, 1015, 1098).
96. District reported Parent's remarks to the [employer] out of professional curtesy, and in response to their employees expressed discomfort. (N.T. at 1026, 1029, 1031).

97. Parent felt panicked by the report and feared for Parent's employment. (N.T. at 1099).

98. Parent did not suffer any adverse action from District's disclosure of the disparaging remarks. Parent did not receive any disciplinary action for the remarks. (N.T. at 1101-02, 1153). District did not request that Parent be barred from providing trainings within District. (N.T. at 1030).

Discussion and Application of Law

Burden of Proof and Witness Credibility

In an administrative due process hearing, the burden of proof encompasses the burden of production and the burden of persuasion. The party seeking relief bears the burden of persuasion. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Bd. of Educ*, 435 F.3d, 384, 392 (3rd Cir. 2006). Accordingly, the burden of persuasion rests with the filing party, in this case the Parents. For reasons set forth below, I find that Parents have not met their burden of persuasion. Parents have failed to prove that District denied Student FAPE at any time, that District's 2025 RR was inappropriate, that District failed in their child find obligation to student, and that District retaliated against Parents.

Special education hearing officers must also make credibility determinations of witnesses called to testify before them. I find that all witnesses called to testify did so credibly. However weight was not evenly afforded to all witness in all issues presented. Student's teachers and speech and language pathologists testified accurately and specifically regarding Student's curriculum and progress. Student's teachers and speech and language pathologists demonstrated understanding of procedures, and implemented a consistent system for communication and action responding to Student's needs. Further, I find that Parent primarily testified truthfully. Parent was afforded due weight as testimony from a parent, regardless of Parent's literacy background.

Diminished weight was afforded to Parent's literacy consultant because the literacy consultant attempted to present herself both as an advocate and an independent evaluator. The literacy consultant provided detailed input to District regarding her interpretation of their 2025 RR and expressly advocated for Parents. (J-47 at 20-21; P-17 at 1; P-18). Simultaneously, the literacy consultant issued an evaluation assessing Student's reading and writing needs, which so happened to be the day mandatory disclosures were due, March 9, 2026, even though District's RR was issued in November of 2025. (See P-28). This evaluation was clearly used for legal purposes only. The literacy consultant did not observe Student in the classroom, did not obtain further teacher input, narrowly reviewed Student's records, and briefly completed administered additional testing. (P-28; N.T. at 1263-64). Half of the educational report reads as a supplemental closing argument to Parent's case in chief, and not an independent, neutral review of Student's needs or District's programming and assessments.

Additionally, for the reasons fully outlined below in the analysis regarding Parent's retaliation claim, lesser weight was afforded to the witnesses who testified regarding the events of the June 2025 conference. There were significant discrepancies in the sequence of events during the June 2025 conference. Whereas I determined that all witnesses testified to the best of their ability, blatant inconsistencies remain unsupported. Regardless, the discrepancy in the facts led to the conclusion that Parent could not meet their burden of proof that District retaliated against them.

Whether District denied Student FAPE from January 2024 to through the 2025-2026 school year.

Children with disabilities are entitled a free and appropriate public education which provides them with special education and related services

“designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 USC § 1400(d)(1)(A). Generally, FAPE must be afforded to all children with disabilities “between the ages of 3 and 21 inclusive.” 20 U.S.C. §1412(a)(1)(A).

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

FAPE requires specially designed instruction (SDI) that will assist the child. *Id.* at 201. The student’s Individualized Education Program (IEP) must be designed to “enable the child to be involved in and make progress in the general education curriculum and meet each of the child’s other educational needs...” 20 U.S.C § 1414(d)(1)(A)(i)(II). *Endrew* emphasized that the IEP “must be ‘specially designed’ to meet a child’s ‘unique needs’ through an individualized education program.” 137 S.Ct. at 999. *Endrew* rejected the “more than de minimis” test and instead requires the student to “have the chance to meet challenging objectives.” *Id.* at 1000. Applying a “more than de minimis” standard to students with disabilities does not provide “education for all.” *Id.* at 1001..

The IEP process is the “central vehicle” for collaboration regarding Student’s needs and programming. *Schaffer*, 546 U.S. at 53. The IDEA’s procedural safeguards protect and empower the parent in the IEP process. *Id.* The IDEA strongly supports and encourages parent participation in the

IEP process. 22 U.S.C § 1400(c)(5)B,(d)(3); 22 U.S.C §1414(d); 34 C.F.R. § 300.322; *Endrew* 137 S.Ct. at 994, 999; *Rowley*, 458 U.S. a 208. Particular to this matter, when a Parent disagrees with an educational change in placement, then the student must remain in the “then-current educational placement”. § 1415(j).

IEP Programming for Speech or Language Impairment

For all times relevant herein, District has provided Student a FAPE that was designed to meet the unique needs of Student. District immediately initiated the evaluation process once it was suspected that Student had a Speech and Language Impairment (see J-3). Student was found eligible for special education under the disability category of Speech or Language Impairment in January of 2024. (J-5 at 11-15). Student’s initial IEP, dated January 29, 2024, offered itinerant speech and language support, and Student received 120 minutes of group speech and language therapy. (J-6 at 16; J-7).

Student’s January 2024 IEP identified three speech and language goals that assessed Student’s auditory processing, expressive language, and thought organization and formulation. (J-6 at 15). The record does not support that District’s programming for Student was inappropriate. To the contrary, all of Student’s IEP goals were achieved prior to January of 2025. (J-8 at 5; J-15 at 2-3). Student made steady progress in the annual IEP goals, because the IEP was designed to meet the unique needs of Student.

In January of 2025, Student’s IEP was revised to increase the difficulty in Student’s goals to further enable Student to advance in auditory processing, expressive language and thought and organization skills. (J-8 at 18). Student continued to make steady progress and mastered both goals by November of 2025. (J-12; J-16).

Parents argue that Student’s progress monitoring was not as specific in the 2025-2026 school year as it was in the 2024-2025 school year.

Whereas the progress monitoring sheets do not provide as much anecdotal information as the 2024-2025 school year, Student's progress monitoring data was clear. Each data probe categorized Student's progress by subject matter in each area assessed. (J-15; J-16). Since the November 2025 RR, which concluded that Student no longer is eligible for special education services, Student continued to achieve mastery in Student's annual goals. As of February 2026, Student was able to organize a personal event or story in 3 or 4 of 4 opportunities in all 11 probes recorded. Further, Student consistently performed between 87% to 100% accuracy in higher level inferencing WH questions. (J-16 at 4).

This data over overwhelmingly suggests that Student has made meaningful educational progress in speech and language. Student not only met all IEP goals for the January 2024 and January 2025 IEP years, but now does not need special education services.(J-12). Student achieved average abilities in all areas of speech and language, demonstrating marked improvement from January of 2024. This is the ultimate goal. Regarding Student's IEP programming, District has provided FAPE to Student for all times relevant.

MTSS Programming and Reading and Writing Deficits

Parents also argue that District denied Student FAPE for failure to appropriately program and identify Student's reading and writing needs. For reasons fully detailed below, District did not err in their child find obligation to Student. Therefore, District did not deny Student FAPE during all times relevant herein.

District implemented a systematic and responsive RTII and MTSS model for Students with academic deficits. District staff meet in multiple forums for multiple purposes, including IPMs every 6-8 weeks to discuss the students needs. (N.T. at 118, 416, 464). District further used a wealth of resources to assess and address Student's current needs including LETRS,

PAST, Core phonics, Equipped for Reading Success, UFLI, and Open Court. (J-23; J-47 at 7; N.T. at 414-15, 762). These assessments, taken in whole, assess Student's core phonics skills, phonological processing, spelling, and basic reading skills.

Student did not begin to display reading deficits until the 2024-2025 school year, when Student's BOY Acadience scores indicated below average performance. (J-19 at 1). District did not ignore these scores. The MTSS system began to work, and Student received UFLI for 60 minutes a day. (N.T. at 96; see *also* J-21). District responded to Student's MOY Acadience scores and changed Student's Tier 1 classroom to a more intensive, smaller group setting. (N.T. at 119, 120, 124, 164). Student made progress in spelling, evidenced by LETRS basic screener (J-21 at 1; J-22). Student also made progress in nonsense word fluency. (J-19 at 1).

Student's 2024-2025 Report Card evidenced that Student's reading deficits did not impact Student's education, but Student continued to display phonological awareness and word analysis deficits. (J-45 at 1-2). Overall, Parents have failed to demonstrate that Student's deficits impacted Student's education, which would have required a higher level of support or special education.

During the 2025-2026 school year, Student was transferred to Tier 2 support due to Student's low oral reading fluency Acadience scores. (J-23 at 1). District utilized UFLI, Equipped for Reading Success, and other programs for Tier 2 supports (J-35; J-50 at 28). District also continued to review Student's Acadience scores weekly, and collected PAST, LETRS, Core phonics, Equipped for Reading Success, UFLI, and Open Court data. (J-23).

Student has continued to make progress in reading and writing. Specifically, Student has made progress in oral reading fluency, by more than doubling Student's words read correct per minute. In August of 2025, Student read 33wcpm with 78% accuracy. (J-23 at 1). By January 2026,

Student read 50wcpm with 91% accuracy. (*Id.*). Finally, by February of 2026, Student read 73wcpm with 91% accuracy. (J-23 at 2) Further, Student progressed sufficiently through UFLI lessons, LETRS and PAST levels. When reviewing Student's data in a whole for the 2025-2026 school year, District's Teir 2 support is working, and Student is making progress.

Student is not eligible to receive to specially designed instruction in the area of reading and writing and is not protected under the IDEA in these areas. Regardless, District has designed a Teir 2 program that has enabled Student to significantly progress in the 2025-2026 school year. The MTSS process has identified Student's needs in reading and writing, supported Student, enabled progress, and continuously assesses and addresses Student's current needs. Further, Student's IEP was reasonably calculated at all times to enable Student meaningful educational progress in speech and language. Student has mastered all annual IEP goals and no longer requires special education for Speech and Language Impairment. Therefore, District has not denied Student a FAPE from January 2024 through the 2025-2026 school year.

Whether District's November 2025 was legally sufficient and satisfied
District's child find obligation to Student.

Child Find and Eligibility

The LEA's Child Find obligation requires that all children in need of special education and related services must be "identified, located, and evaluated". 20 U.S.C. §1412(a)(3). The IDEA's child find provision delineates the responsibility of the LEA to evaluate and identify students who are "reasonably suspected of having a disability". See. §1412(a)(3); *D.K. v. Abington Sch. Dist.* 696 F.3d 233, 249 (3rd Cir. 2012). A child find violation can occur when the student is not evaluated or identified within a reasonable time after the LEA is on notice of deficits that indicate a disability or when "a poorly designed and ineffective round of testing" prohibits appropriate

identification of the student. *D.K.*, 696 F.3d at 249 (see also *W.B v. Matula*, 67 F.3d 484, 501 (3rd Cir. 1995)). However, child find does not require the LEA to evaluate “every struggling student” or “at the earliest possible moment”. *D.K.*, 696 F.3d at 249.

A “child with a disability” is defined as a child “with intellectual disabilities, hearing impairments... speech or language impairments, visual impairments... serious emotional disturbance... orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities and who by reason thereof needs special education related services.” 20 U.S.C. § 1401(3)(A); 34 C.F.R 300.8(a).

As it specifically pertains to the instant matter, “speech or language impairment” is a communication disorder meaning “stuttering, impaired articulation, a language impairment, or a voice impairment that adversely affects a child’s educational performance.” §300.8(c)(11). Autism is defined as a developmental disability significantly impacts “verbal and nonverbal communication and social interaction”, “engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.” §300.8(c)(1)(i).

Further, OHI is defined as “limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in a limited alertness with respect to the educational environment that is due to chronic or acute health problems... and adversely affects a child’s performance.” §300.8(c)(9). Finally Specific Learning Disability is defined as “one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest in itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematic calculations.” §300.8(c)(10). This includes conditions like

perceptual disabilities, brain injuries, minimal brain dysfunction, dyslexia, and developmental aphasia. *Id.*

Evaluation Reports

To be appropriate, the evaluation must assess the student in “all areas of suspected disability.” §1414(b)(1)(3)(C). In assessing the student’s areas of suspected need, the evaluation report must contain

- (A) a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent that may assist in determining (i) whether the child is a child with a disability, and (ii) the content of the child’s [IEP], including information related to enabling the child to be involved and progress in the general education curriculum...
- (B) not a single procedure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and
- (C) use of technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.” § 1414(b)(2).

The assessments and evaluation materials must be administered by trained and knowledgeable personnel who administer the materials in accordance with instructions provided, must address all areas of suspected disability in a student, and must provide relevant information that directly contributes to the determination of the student’s educational need. § 1414(b)(3).

A reevaluation report must also include existing data of the student, present levels of academic performance, identify additional data, if needed, and must assess whether the student continues to qualify for special education services, and whether the student’s special education services require additions or modifications. §1414(c)(1). In cases where additional

data is not required, the reevaluation must identify the reason and the right of the parent to request an assessment. §1414(c)(4).

District's November 2025 RR

Parent contends that District's 2025 RR is inappropriate because the decision to remove Speech and Language support was based on improper data, the District' failed to consider all pertinent data in their analysis that Student was not eligible for special education under the disability category of SLD in reading or writing, and Parent's literacy consultant's comprehensive review of the November 2025 RR highlight's District's gap in data analysis. Overall, Parent's argument fails, because Parents assert that District's 2025 RR failed to comprehensively assess Student's educational needs while also narrowly highlighting a few data points in a record rife with average results.

District's evaluation included Parent and teacher input; a review of current benchmark data, which includes Acadience data; direct observations of Student in the classroom assessing Student's attention to task; a review of progress monitoring for IEP goals, academic achievement using the WIAT-4, WJ5, and CBM measures; social emotional and behavioral rating scales using the BASC-3, RCNAS-2, BREIF-2, and SRS-2; cognitive measures using RIAS-2, WIAT-4; and speech and language assessments including the TILLS, CELF-5, OASES, and informal speech and language scales and observations. (J-12).

District engaged in an analysis to determine whether Student qualified for special education in the disability categories of Autism, OHI, Speech and Language Impairment, and SLD. District is legally obligated to assess Student in "all areas of suspected disability." §1414(b)(1)(3)(C). However, per Parents' request, District further engaged in an analysis determining whether Student was eligible for special education under the disability categories of Autism and OHI, even though the record is otherwise silent on these issues. There is no evidence to support that Student has attention

deficits or characteristics similar to those with Autism that would indicate to any reasonable educator that Student qualifies for Autism or OHI.

According to direct observation of Student, Student was on task 81% to 87.5% of observed intervals and demonstrated a higher attention span than same aged peers. (J-12 at 9). Further, the BASC-3 yielded no clinically significant scores by any rater, including parent. (J-12 at 19-21). Student reported no more symptoms of anxiety than typical for a same aged peer (J-12 at 21). According to the BRIEF-2, the scores were variable, but Student overall did not exhibit executive functioning deficits. (J-12 at 22). Finally, Student did not demonstrate behavior or communication deficits consistent with Autism. (J-12 at 23-24). District took the time to extensively assess Student in these areas, which demonstrates that the 2025 RR was comprehensive.

Regarding Speech and Language Impairment, Student had already demonstrated significant progress in speech and language goals in the January 2024 IEP and January 2025 IEP. (J-8 at 5 18; J-12 at 8; J-15 at 2-3; J-16 N.T. at 311). Parents argue that Student's second grade Speech and Language Pathologist collected data with far less specification than Student's kindergarten and first grade Speech and Language Pathologist. Therefore, the data improperly informed District's conclusion that Student no longer qualifies for special education. Conversely, the data collected from January 2024 to the present suggest that Student made steady and satisfactory progress, meeting annual IEP goals within the IEP years. Since the November 2025 RR, Student demonstrated consistency in meeting these goals, and the Speech and Language Pathologist has increased the difficulty of the probes. (J-16; N.T. at 865-66).

The District completed a comprehensive Speech and Language evaluation. According to an informal assessment, Student achieved 100% intelligibility. (J-12 at 30). According to the TILLS, Student scored in the

average range in all areas tested, memory, listening, speaking, social communication, reading, and spelling. (J-12 at 31-37; N.T. at 847-48). Student received a below average score in reading comprehension, which Parents and their literacy consultant attempt to emphasize, but this was *one* subtest score compared to Student's otherwise average abilities.

Further, Student received average scores on the CELF-5 assessing Student's expressive, receptive language skills. (J-12 at 37-40). Student continued to display no observable stuttering and spoke with near perfectly natural language in speech fluency. (J-12 at 42-47). Overall, Student performed in the average range in all areas of speech and language. In reviewing the data, in its entirety, District determined that Student was no longer eligible for a Speech and Language Impairment under the IDEA. This conclusion was appropriate and sufficiently considered all data collected.

Finally, Parent argues that the 2025 RR was inappropriate for failing to identify Student with SLD in reading or writing. At the time of the 2025 RR, Student's Acadience data indicated that Student was at benchmark for nonsense word reading fluency, but well below average in oral reading fluency. (J-12 at 3;5). Student read 33 wcpm with 77% accuracy. (*Id*).

To assess Student's reading and writing needs further, District conducted several assessments targeted at Student's reading, math, and writing skills. According to the WIAT-4, Student displayed average scores in reading comprehension, pseudoword decoding, phonemic proficiency, and orthographic fluency. (J-12 at 11). Student did receive low average scores in word reading and oral reading fluency, which is consistent with Acadience data. (*Id*). In the area of Writing, Student displayed average sentence composition, but very low spelling skills. (*Id*). Student's WIAT-4 Composite scores indicated low average reading, written expression, reading fluency, and orthographic processing scores. However, Student displayed average

mathematics, basic reading, phonological processing, decoding skills, and received an average score in the dyslexia index. (J-12 at 12).

District went on to further assess Student's academic achievement using the WJ5. (J-12 at 16). In this assessment, Student received average to high average scores. (*Id*). Student received high average scores in phonemic retrieval fluency, phonemic word retrieval, and spelling of sounds. (*Id*). The WJ5 further assessed Student's reading and spelling needs, beyond the WIAT-4. Curriculum Based Measures were also used to assess Student's reading and writing skills. (J-12 at 17). Student continued to demonstrate below benchmark oral reading fluency, reading 33wcpm with 80% accuracy, which was between the 20th and 25th percentile amongst peers. (*Id*). Similarly, Student's written expression was assessed. Student performed primarily in the 25th to 50th percentile. (J-12 at 17).

Parents contend that District's RTII model for assessing Student with an SLD in reading did not appropriately assess Student in all areas of suspected need. It is not a question for this Hearing Officer to determine whether the discrepancy analysis is better than the RTII model, but only whether the use of the RTII model in this matter was appropriate. District presented sound evidence that this RTII model, is not only PDE approved, but is consistently under review and revised for fidelity. (J-12 at 53; J-49; P-16 at 4-5; N.T. at 884, 905-06, 911). District's RTII model goes beyond the discrepancy analysis and determines whether Student's deficits impact their access to a meaningful education. (J-12 at 53; J-49).

Student did not meet prong 3 of criteria showing a -.25% rate of improvement. (J-12 at 53). Student met prong 1 and 2, demonstrating satisfactory skills in the general education environment. Further, the academic achievement data demonstrated that whereas Student has deficits in oral reading fluency, Student otherwise has average reading skills.

Further, Parent contends that District did not properly implement a discrepancy analysis to determine whether Student requires specially designed instruction for written expression. Student's full-scale IQ is 103, and Student received a 78 in the spelling subtest in the WIAT-4 (J-12 at 11, 26). However, Student's benchmark data, the WJ5, and the CBM demonstrate that Student's written expression skills do not impact access to a meaningful education. (J-12 at 12, 16-17). District's analysis took Student's data in its entirety and determined that Student is not eligible for specially designed instruction.

Parents and their literacy consultant attempt to discredit District's conclusion that Student does not qualify for special education under the disability category of reading and writing by emphasizing Student's Accidence oral reading fluency and RCS scores, Student's below average TILLS reading comprehension score, and Student's low score in one probe of the CBM in written expression. (See P-28). Parents and their literacy consultant's analysis fail to comprehensively assess Student's needs.

The District acknowledges Student's reading and writing deficits and proposed that Teir 2 support would meet the needs of Student at this time. The data supports this conclusion. Parents concern is not wholly unfounded. Student's Acadience scores indicate that Student may have deficits in isolation. However, Parents have failed to prove that these deficits require specially designed instruction. For the foregoing reasons, District's 2025 RR is appropriate and legally sufficient. Student is not eligible for special education services.

District's Child Find Obligation

For the reasons extensively outlined above, District did not err in their child find obligation to Student. District's 2025 RR was comprehensive and

thoroughly assessed Student in all areas of suspected disability. However, Parents also contend that District failed to meet their child find obligation to Student by failure to respond to Student's reading deficits in the 2024-2025 school year. Student's Acadience data in the beginning of the 2024-2025 school year indicated that Student was below average in Phoneme Segmentation Fluency and Nonsense Word Fluency (J-19 at 1). At this time, District began progress monitoring Student weekly. (J-19 at 2-5; N.T. at 590, 762). Student began to receive UFLI instruction for 60 minutes a day. (N.T. at 96; *see also* J-21).

Student's MOY Acadience benchmark scores yielded below benchmark scores in correct letter sounds and benchmark scores in whole words read in nonsense word fluency, and well below benchmark scores in oral reading fluency. (J-19 at 1). This was the first time Student's oral reading fluency was assessed. Student read 10wcpm with 56% accuracy. (J-19 at 1). Benchmark scores were considered to be 23wcpm with 78% accuracy at that grade level. (P-22 at 5). District responded by moving Student's UFLI Teir 1 classroom to a classroom with a smaller group setting and which moved at a slower pace. (N.T. at 119, 120, 124, and 164). Student's EOY Acadence scores demonstrated that Student was at benchmark in nonsense word fluency, and well below benchmark for oral reading fluency. (J-19 at 1). Student read 18wcpm with 72% accuracy. (*Id.*).

For the 2025-2026 school year, Student was transferred from Teir 1 to Teir 2 support due to continued oral reading fluency deficits. (N.T. at 469, 711, 714, 752, 723). District then engaged in the Reevaluation process, which satisfied their child find obligation to Student. District's consistent response to Student's needs, ongoing data collection satisfy their child find obligation to Student. Therefore, District did not and has not erred in their child find obligation to Student.

Whether Student is entitled to an Independent Educational Evaluation at Public Expense.

Under the IDEA, a parent has a right to an independent educational evaluation (IEE) if they disagree with an evaluation conducted by the local education agency (LEA). 34 C.F.R. §300.502(b)(1). The School District must either file for due process to defend their evaluation as appropriate or fund the IEE. §300.502(b)(2). In the instant matter, Parent requested an IEE at public expense as part of the requested remedies raised in their Due Process Complaint.

As noted above, District's 2025 RR is appropriate and is legally sufficient. Therefore, Parents are not entitled to an IEE at public expense. Parents cite *D.S. v. Haverford Township School District*, ODR 3249-19-20 (May 31, 2020) in support that they are entitled to an IEE at public expense even if the 2025 RR is deemed appropriate. In *D.S.*, an IEE at public expense was awarded even though the reevaluation was appropriate because student demonstrated deficits throughout the record, there were questions of an administrative error in reading materials during the curriculum-based assessment, variability in student's cognitive profile, and disagreement between the parties on the interpretation of the data. (*Id.* at 10-11).

Very few of these reasons apply to the instant matter. Student had demonstrated well below average oral reading fluency skills in first and most of second grade. However, District has used a variety of assessments in addition to Accidence including LETRS, PAST, Core phonics, Equipped for Reading Success, UFLI, Open Court, WIAT-4, WJ5, and CBM to closely assess all areas of Student's reading and writing needs. (*passim*). Narrowly targeting the few lower scores in a wealth of average performance, particularly after the District issued an appropriate report does not warrant an IEE in this matter.

Further, in the instant matter, there has been no evidence, outside of an isolated email from Parent's literacy consultant regarding the TILLS (P-17), that any administrative error in any of the data collected. Regarding, Student's cognitive profile, there is no contention that Student's cognitive ability is average. (J-12 at 24-28). The data suggests variability in Student's oral reading fluency and spelling in some subtests. However, the data overall demonstrates adequate progress or average abilities.

Finally, the disagreement amongst the parties alone is not sufficient to warrant an IEE. District issued an incredibly thorough Reevaluation Report that highlighted Student's educational weaknesses, but taken as a whole, evidenced Student's ability and educational strengths. District's Teir 2 programming is working, and there is no evidence an IEE is appropriate in this matter. Therefore, Parents are not entitled to an IEE at public expense.

Whether District retaliated against Parents and Student after Parents brought a literacy consultant to the September 2025 IEP meeting.

Retaliatory behavior on behalf of a school district can amount to denial of FAPE, actionable under the IDEA and Section 504. To prove that a district retaliated against a parent for enforcing their student's right to FAPE, the parent must prove "(1) that they engaged in a protected activity, (2) that the defendants' retaliatory action was sufficient to deter a person of ordinary firmness from exercising his or her rights, and (3) that there was a causal connection between the protected activity and the retaliatory action." *Lauren W. v. Deflaminis*, 480 F.3d. 259, 267 (3rd. Cir. 2007). The district can defend a retaliation claim by proving that they "would have taken the same action even if the plaintiff had not engaged in the protected activity." *Id.*

Parent's protected activity

In the instant matter, the parties disagreed as to whether the Parent engaged in protected activity. Parents assert that Parents engaged in the protected activity of advocating on behalf of Student. Parents attended an

IEP meeting on September 12, 2025, with literacy consultant. (P-9). The same day, Parent was notified that the District issued a complaint against Parent the [employer] due to concerning comments made during Parent's presentation at the June 2025 conference. (N.T. at 1012; 1095; 1098). Therefore, the protected activity Parent engaged in was advocating for Student's educational rights.

District argues that Parent was not engaged in a protected activity because Parent's speech was public employee speech, which is not protected by the First Amendment. *See Garcetti v. Ceballos*, 547 U.S. 410 (2006). Under *Garacetti*, a public employee does not "surrender all their First Amendment rights" but a public employee typically has "no right to object to conditions placed upon the terms of employment – including those which restricted exercise of constitutional rights." *Id.* at. 417 (internal citations omitted). A public employee enjoys first amendment protection when engaged speech as a citizen in "matters of public concern." *Id.* Finally, the Supreme Court in *Garcetti* balances the employer's interest and the employee's interest in free speech. *Id.* at 418.

For the purposes of this hearing, determining whether Parent was engaged in a protected activity is not dispositive, as the Parents fail the other elements of retaliation. However, if taken alone, Parent's participation as a presenter at the June 2025 Conference was not a protected activity, because Parent was providing a presentation as an employee of the [employer], who is also service provider to the District. However, Parent's act of attending an IEP meeting on behalf of Student, bringing an advocate (or literacy consultant), and generally advocating for Student's educational interests is a protected activity. The IDEA strongly supports the inclusion and participation of parents in the IEP process. 22 U.S.C § 1400(c)(5)B,(d)(3); 22 U.S.C §1414(d); 34 C.F.R. § 300.322; *Endrew*. Dist, 137 S.Ct at 994, 999; *Rowley*, 458 U.S. at 208. Parental participation and protection of rights

via procedural safeguards makes up a critical centerpiece in how the IDEA functions.

The temporal proximity between September 12, 2025, complaint regarding Parent's presentation that occurred in June 2025, and the September 12, 2025, IEP meeting is too close to outright conclude that Parent's fierce advocacy of Student had nothing to do with the complaint. However, even if Parent was engaged in protected activity by advocating for Student, further analysis of the events does not amount to a retaliation.

Retaliatory action was sufficient to deter a person of ordinary firmness from exercising his or her rights.

Parents fail to prove that District's actions in reporting Parent to the [parent employer] was sufficient to deter Parent, or any person of ordinary firmness from exercising their right to advocate for Student. Parent did not suffer any adverse action from District's disclosure of the disparaging remarks, nor did Parent receive any disciplinary action. (N.T. at 1101-02; 1153). District did not ask that Parent be removed from providing any further trainings on behalf of the [employer] to District. (N.T. at 1030). Further, Parent has continued to fiercely advocate for Student and continued to utilize the support of the literacy consultant.

Parent testified that they felt panicked by the complaint from District and feared for further employment. (N.T. at 1099). Parent knew that their supervisor was aware of the anecdotal story and was never questioned before. (N.T. at 1086-87). That panic was natural but short-lived. Parent quickly met with their supervisor, and no further action was taken by Parent's employer (N.T. at 1101). Parent was comfortable in telling an anecdotal story in a professional setting but failed to assess the attendees and note the appropriateness of that story in that venue. For that professional oversight, Parent faced a complaint, as many professionals do, and everyone seemingly moved on.

Therefore, Parents fail to meet their burden of proof to show that District retaliated against them, denying Student FAPE because District's actions did not and would not deter a reasonable person from engaging in the protected activity.

Causal connection between the protected activity and the retaliatory action.

Even though it was determined above that the retaliatory action was not sufficient to deter a person of ordinary firmness from exercising their rights, Parent's claim retaliation claim also fails for failure to demonstrate a causal connection between the June 2025 presentation and the September 12, 2026 IEP meeting and complaint. To prove whether a causal relationship occurred with the protective activity and the alleged retaliatory action, Parents must show either "an unusually suggestive temporal proximity between the protected activity and the allegedly retaliatory action" or "a pattern of antagonism coupled with the timing to establish a causal link". *Lauren W.* 480 F.3d. at 267.

The Parents have failed to provide any pattern of antagonism demonstrated by the District. On the contrary, the record indicated that Parent and District had a long history of cordial collaboration both professionally, in Parent's professional capacity, and personally, on behalf of Student and Student's sibling. The question is whether Parent established an unusually suggestive temporal proximity between the June 2025 presentation and the September 2025 IEP meeting and subsequent complaint.

First, it cannot be ignored that the timing of District's complaint to Parent's employer relative to the June 2025 presentation appears to be more than a mere coincidence. District employees expressed concern regarding Parent's anecdotal story and disparaging comments about the District made in June 2025 in August or September of 2025. (N.T. at 871-72; 1016-17). District cites the summer break as the reason. However, if the District

employees were so uncomfortable and discouraged, they would have notified their supervisor at or directly after the presentation. The District employees were acting within their professional roles at the June 2025 conference. In a modern era where communication is quickly transferred electronically, they had no reasonable excuse to wait so long to notify their employer, if they were as uncomfortable as they suggested.

The causal chain snaps because District can defend a retaliation claim by proving that they “would have taken the same action even if the plaintiff had not engaged in the protected activity.” *Lauren W.* 480 F.3d. at 267. Here, it is clear that District’s Superintendent, who had base knowledge that an IEP meeting was scheduled for Student, but did not know who specifically was in attendance, wrote to Parent’s employer out of concern for District employees and out of professional curtesy to Parent’s employer. (N.T. at 1011-12, 1015, 1098).

Parent fiercely advocated for Student since Student’s enrollment, and notified the District on September 1, 2025, that the literacy consultant would be in attendance at the IEP meeting. (J-47 at 19; P-9). This act alone did not set off the causal chain that initiated District to report Parent’s conduct to Parent’s employer. Perhaps, Parent’s fierce advocacy reminded District staff of the disparaging remarks, which prompted District staff to notify their supervisors of the issue. However, thereafter, the administrators proceeded, independently, to investigate and respond to their staff’s concerns. (N.T. at 838; 871-72; 1016-17). The building Principal informed their supervisor of the concern, who informed District’s Superintendent of Schools. (*Id.*). District’s Superintendent, unilaterally and independently, contacted Parent’s employer.

Further, testimony of Superintendent made it clear that the Superintendent would have contacted Parent’s employer regardless. (N.T. at 1026, 1029, 1031). Parent told a negative story about District practices in

their professional capacity, at a seminar meant to enlighten educators, in front of individuals who represent the District. This was unprofessional. District demonstrated that regardless as to whether Parent advocated for Student or brought a literacy consultant to an IEP meeting, District's Superintendent of Schools had an active responsibility to review, investigate, and respond to staff concerns

For the foregoing reasons, Parents failed to demonstrate that District's actions were retaliatory.

Whether Student is entitled to compensatory education.

When a district "knows or should know" that their student has an insufficient IEP or is not receiving FAPE, that student is entitled to compensatory education. *M.C. v. Central Regional Sch. Dist.*, 81 F.3d 389, 391-92 (1996). When there is a finding that a student has been denied FAPE, compensatory education is owed "for a period equal to the period of deprivation, excluding only the time reasonably required for the school district to rectify the problem." *Id.* at 392. Compensatory education stands for the principal that districts must "belatedly pay expenses that [they] should have paid all along.'" *Id.* at 395 (*quoting Sch. Comm. Of Town of Burlington, Mass. v. Dep't of Educ. Of Mass.*, 471 U.S. 359, 370-71 (1985)). A parent is not responsible for supporting the cost of FAPE. *M.C.*, 81 F.3d at 395.

As noted above, at no time did District deny FAPE to Student. District provided appropriate Speech and Language Support from January 2024 to the present time, enabling Student to make meaningful educational progress. Student's progress was enough to justify an exit from special education, because the Student met all IEP goals, and Student demonstrated no speech and language delay that impacted Student's access to their education. (S-12). Further, District did not err in their obligation to Student in the area of SLD, OHI, or Autism. Student does display areas of weakness

in reading and writing, particularly in oral reading fluency and spelling. However, the data overwhelmingly concluded that these deficits did not impact Student's access to their education, and Student's deficits did not warrant specially designed instruction.

For all times relevant herein, District carefully reviewed, responded, assessed and addressed Student's current educational needs. District implements, with extreme fidelity, their MTSS program that consistently reviews and revises Student's general education programming. Student has access to a variety of programs and assessments that comprehensively review Student's needs. Student is making significant progress in Teir 2 programming, particularly in oral reading fluency and spelling. District, in response to Parents' concerns, and well-below benchmark Acadience data, issued a more than comprehensive reevaluation report. The data concluded Student is not eligible for special education.

Finally, Parents failed to prove that District engaged in retaliatory conduct after Parents initiated the services of a literacy consultant. Therefore, Student has been provided FAPE for all times relevant to this matter. Student is not entitled to compensatory education.

Conclusion

For the reasons set forth in the above Discussion and Application of Law and Fact, Parents have failed to prove by preponderance of the evidence that District denied Student FAPE from January 2024 through the 2025-2026 school year; that District erred in their child find obligation to Student; that District's 2025 RR was inappropriate and that District retaliated against Parents. For all times relevant, Student has made meaningful educational progress, and Students needs were adequately assessed and addressed.

This Decision, its conclusion, and Order, should not be interpreted prevent the parties from continuing to collaborate regarding Student's MTSS

programming or general education needs. The District has a continuing child find obligation and continuing responsibility to assess Student in all areas of suspected disability. §1414(b)(1)(3)(C). Further, nothing in this decision terminates District's ongoing obligation under the IDEA's FAPE requirements, nor the Parents right to request evaluations in response to Student's changing needs. See 20 U.S.C. § 1414.

An appropriate Order follows.

Order

AND NOW, this 17th day of June, 2026 in accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** as follows:

1. The District did not deny Student FAPE from January 2024 through the 2025-2026 school year;
2. District did not err in its child find obligation to Student;
3. District's November 2025 RR is appropriate and comprehensively evaluated Student in all areas of suspected need;
4. Parents are not entitled to an IEE at public expense;
5. District did not retaliate against Parents when Parents attended an IEP meeting with a literacy consultant and;
6. Student is not entitled to compensatory education.

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



Savannah L. Murphy, Esquire.
Special Education Hearing Officer
ODR File Number 32465-25-26