

*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.*

*By Order dated December 10, 2025, by the Honorable Paul Diamond, ODR File Number 30064-25-26 was remanded. This is the remanded hearing officer decision.*

**Pennsylvania Special Education Due Process Hearing Officer  
Final Decision and Order**

**CLOSED HEARING**

**ODR No. 32302-25-26**

**Child's Name:**

E.L.

**Date of Birth:**

[redacted]

**Parents:**

[redacted]

**Counsel for Parents:**

Kathleen M. Metcalfe, Esquire  
933 Montgomery Avenue  
Narberth, PA 19072

**Local Education Agency:**

Garnet Valley School District  
80 Station Road  
Glen Mills, PA 19342

**Counsel for the LEA:**

Gabrielle C. Sereni, Esquire  
Samantha L. Newell, Esquire  
32 Regency Plaza  
Glen Mills, PA 19060

**Hearing Officer:**

Cathy A. Skidmore, Esquire

**Date of Decision:**

02/25/2026

## **INTRODUCTION AND PROCEDURAL HISTORY**

This matter is presently again before the undersigned hearing officer on remand of a single issue by the U.S. District Court for the Eastern District of Pennsylvania. The original hearing officer decision issued on December 30, 2024, addressed issues related to child find and eligibility, as well as the right of E.L. (Student) to a free, appropriate public education (FAPE) by the Garnet Valley School District (District).<sup>1</sup>

The Parents filed the original administrative complaint pursuant to the Individuals with Disabilities Education Act (IDEA)<sup>2</sup> based on an Emotional Disturbance and has a disability entitling Student to protections under Section 504 of the Rehabilitation Act of 1973. Both parties appealed the resulting decision to federal court.

At the administrative hearing, the Parents asserted that the District did not provide appropriate programming for Student over the 2022-23 and 2023-24 school years including the summers of 2022 and 2023, seeking compensatory education, reimbursement for certain expenses, and declaratory relief. The District denied the Parents' contentions and challenged all of the relief demanded. The final decision by the undersigned awarded the remedy of compensatory education to Student for a part of the 2022-23 school year and ESY in 2023. On remand, the Court sought

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<sup>1</sup> In the interest of confidentiality and privacy, Student's name, gender, and other potentially identifiable information are not used in the body of this decision. All personally identifiable information, including details appearing on the cover page of this decision, will be redacted prior to its posting on the website of the Office for Dispute Resolution in compliance with its obligation to make special education hearing officer decisions available to the public pursuant to 20 U.S.C. § 1415(h)(4)(A) and 34 C.F.R. § 300.513(d)(2). The original decision is ODR File No. 30064-2425AF.

<sup>2</sup> 20 U.S.C. §§ 1400-1482. The federal regulations implementing the IDEA are codified in 34 C.F.R. §§ 300.1 – 300.818. The applicable Pennsylvania regulations are set forth in 22 Pa. Code §§ 14.101 – 14.163 (Chapter 14).

clarification of what, following review, is an unfortunate but glaring error in that final administrative decision. More specifically, the Court stated:

I direct the Officer to explain whether the District: (1) was in fact required to revisit E.L.'s ESY eligibility at the end of the 2022-23 School Year; and (2) appropriately determined E.L.'s ESY eligibility when drafting and revising [the] IEP in March and May 2023.

*E.L. v. Garnet Valley School District*, Case 2:25-cv-01632-PD (December 10, 2025). The Court otherwise affirmed.

Both parties submitted additional closing statements following the remand as directed.<sup>3</sup> On this remand, the Parents seek confirmation of the ESY remedy, whereas the District suggests that reversal is more appropriate and in alignment with the administrative record.

## **DISCUSSION**

The relevant factual findings in the original decision summarized Student's inpatient hospitalization at a behavioral health hospital in late fall 2022 followed by a return to school; District-provided supports for the transition back to school; and parental approval of the reentry plan. A number of risk assessments related to suicidal ideation were followed by a partial hospitalization program while Student attended online District classes.

The District's Evaluation Report (ER) for Student in February 2023 identified an Emotional Disturbance that qualified Student for special education. An Individualized Education Program (IEP) developed and approved in March 2023 was revised in May of that same year, providing emotional support at an itinerant level; Student was not determined to be eligible for ESY services. In the original administrative decision, this hearing

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<sup>3</sup> The District sought an evidentiary hearing for evidence related to the 2023 eligibility determination. This hearing officer disagreed that such was necessary, as did the Parents.

officer concluded that the District denied Student FAPE in failing to find Student eligible for ESY services in 2023, and awarded a remedy:

The FAPE requirement extends to provision of ESY services as necessary for the child. 34 C.F.R. § 300.106(a)(1). Pennsylvania sets forth a number of criteria that IEP teams must consider to ascertain whether a student is eligible for ESY; in essence, a determination must be made on whether ESY services are “required as part of a Student’s program.” 22 Pa. Code § 14.132(a). Eligibility is established if the seven factors in Section 14.132(a)(2) “make it unlikely that the student will maintain skills and behaviors relevant to IEP goals and objectives.” Pennsylvania Department of Education, Basic Education Circular, Extended School Year Eligibility (April 15, 2013). Although no one factor may be determinative, the seven categories may be summarized as follows: a decrease in skills or behaviors after an interruption in services; the ability to recover skills after interruption; the impact of both regression and recoupment on maintaining IEP goal skills; the extent of mastery at the point of interruption; the impact of successive interruptions of services; and the severity of the disability (such as “serious emotional disturbance”). 22 Pa. Code § 14.132(a)(2). If the student is eligible, the team must also determine the services to be provided. 22 Pa. Code § 14.132(a)(1).

In determining whether a proposed ESY program is appropriate, the general principles applicable to special education must be applied, since ESY services must be provided in accordance with the child’s IEP. 34 C.F.R. § 106(b). The fundamental premise for ESY services has generally been described as preserving skills that the child has gained over the school year, rather than as a means for maximizing growth. “An ESY program continues the goals and objectives of the IEP during the summer months, after the school year has concluded, so the student does not regress from one school year to the next.” *L.G. v. Wissahickon School District*, 2011 U.S. Dist. LEXIS 476 \*16 n.3, 2011 WL 13572 (E.D. Pa. 2011). As noted, FAPE does not require a maximization of programs or services, and ESY services are not an exception to that general principle.

*E.L. v. Garnet Valley School District*, ODR File No. 30064-2425AF (Skidmore, December 30, 2004), at 20-21.

Following a determination that the District's February 2023 evaluation was timely, the undersigned concluded that, "The District reasonably could await Student's discharge before assessing then-current needs for support. Nonetheless, upon Student's return to school, Student's program did not resemble one of itinerant emotional support with Student spending a majority of time at school in that setting." *Id.* at 25. She also determined that,

[T]he District did not revise the IEP in any significant way to reflect what Student's program actually was, and to examine Student's needs in May 2023 after another period of intensive services during a hospitalization. Further, there is no suggestion that the team revisited Student's ESY eligibility, particularly with Student regressing with coping skills, failing to master the single goal in the IEP, and having been identified as having a severe disability.

*Id.* at 26.

The law is plain and unambiguous in that, in terms of substantive content, the IEP must be responsive to the child's individual academic, functional, and developmental needs. 20 U.S.C. § 1414(d); 34 C.F.R. § 300.324. IEP development, of course, must follow and be based on an evaluation, and then be continuously monitored and updated by changes through revisions in the interim. 20 U.S.C. § 1414(d); 34 C.F.R. §§ 300.320-300.324.

As directed by the Court, the undersigned clarifies herein that the District was obligated to reconsider Student's ESY eligibility at the time of the May 2023 return to school and IEP revision because of the increased level of supports Student required at that time. Student's return to the District after the hospitalization signaled a crucial need to respond to Student's then-current needs, and the failure to do so was a denial of FAPE for which Student is owed a remedy.

This hearing officer did nonetheless err in the calculation of the compensatory education awarded for that portion of the denial of FAPE. As the Court and District have discerned, the portion of relief for ESY in 2023 was based on those services for the summer of 2024, a total of four hours of tutoring. *Id.* at Finding of Fact No. 58; S-40. Although the Parents now posit that the erroneous remedy is more equitable, there is simply no basis in this administrative record to support that amount of compensatory education. On the contrary, and as the District aptly notes, Student quickly regained skills related to the areas of the tutoring services in the fall of 2023 (S-35 at 7-10), and was benefitting from its overall program for an support of Student. The following order provides the final element for clarification on the scope of the relief.

## **ORDER**

AND NOW, this 25<sup>th</sup> day of February, 2026, in accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** as follows.

1. The District denied Student an appropriate education with respect to ESY services in 2023.
2. Student is awarded a total of four hours of compensatory education to remedy the absence of ESY services in the summer

of 2023. The terms and conditions in the original decision apply as though set forth herein at length.

3. Nothing in this decision and order should be read to preclude the parties from mutually agreeing to alter any of its terms.

It is **FURTHER ORDERED** that any claims not specifically addressed by this decision and order are DENIED and DISMISSED. Jurisdiction is RELINQUISHED.

*/s/ Cathy A. Skidmore*

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Cathy A. Skidmore, Esquire  
HEARING OFFICER  
ODR File No. 32302-25-26

Sent to counsel for both parties this date as required by 34 C.F.R. § 300.515 by electronic mail message as previously requested by counsel consistent with 22 Pa. Code § 14.162(n).