

*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. 30732-24-25**

**Child's Name:**

A.P.

**Date of Birth:**

[redacted]

**Parents:**

[redacted]

**Counsel for the Parents:**

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**Hearing Officer:**

Brian Jason Ford, JD, CHO

**Date of Decision:**

July 25, 2025

## **Introduction and Procedural History**

This special education due process hearing concerns the educational rights of a child (the Student). In 2020, the Student's public school district (the District) evaluated the Student to determine if the Student was a child with a disability, as defined by the Individuals with Disabilities Education Act (IDEA).<sup>1</sup> The District concluded that the Student did not require special education, but required and was entitled to accommodations through a Section 504 Service Agreement.<sup>2</sup> The Student then attended a Pennsylvania public charter school for some time and returned to the District for the 2023-24 school year. The Student has attended the District since then.

In October 2024, the Student's parents (the Parents) asked the District to evaluate the Student for special education eligibility again. The Student was attending a mental health partial hospitalization at that time. The District completed the evaluation after the Student returned to school and finalized an evaluation report on December 17, 2024 (the 2024 ER). Like before, the District determined that the Student did not require special education but was entitled to a 504 Service Agreement.

The Parents disagreed with the 2024 ER and asked the District to fund an Independent Educational Evaluation (IEE). The District declined this request and, as required by the IDEA, initiated this due process hearing to defend the 2024 ER. The District filed its due process complaint on January 17, 2025. The District seeks an order holding that the 2024 ER was appropriate and that it is not required to fund an IEE.

As discussed below, I find an error in the 2024 ER that the District must correct, but otherwise find that the 2024 ER was appropriate.

## **Issue Presented**

One issue was presented for adjudication: Was the 2024 ER appropriate?

## **Findings of Fact**

I reviewed the record in its entirety and find as follows:

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<sup>1</sup> 20 U.S.C. § 1400 *et seq.*

<sup>2</sup> "Section 504" is Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 701 *et seq.* Pennsylvania implements Section 504 for children with disabilities in school via 22 Pa. Code § 15 (Chapter 15). A "Section 504 service agreement" is a document that details the accommodations that the school will provide for the child. Those accommodations are regular education accommodations, not special education. No issues arising under Section 504 are presented in this case.

1. There is no dispute that the Student has Ehlers-Danlos Syndrome (EDS), an inherited disorder that affects connective tissues. *Passim*. See, e.g. P-1.
2. On November 14, 2019, the Student received diagnosis of Autism Spectrum Disorder and Anxiety Disorder from a mental health provider. P-1.
3. There is no dispute that the District evaluated the Student in 2020 to determine eligibility for special education (the 2020 ER) and determined that the Student did not require special education at that time. There is no dispute that the District provided a Section 504 Service Agreement shortly thereafter. *Passim*. See, e.g. S-7.
4. There is no dispute that the Student left the District and enrolled in a charter school sometime after the 2020 ER. *Passim*.
5. There is no dispute that the Student re-enrolled in the District for the 2023-24 school year. *Passim*.
6. On January 12, 2024, the District offered a Section 504 Service Agreement that was a continuation of a prior Service Agreement. S-5.
7. Shortly before October 2, 2024, the Student was admitted to a mental health partial hospitalization program. See S-2.<sup>3</sup>
8. On October 2, 2024, the Parents sent an email to the District requesting a special education evaluation. S-2.
9. In the same email, the Parents told the District that the Student was attending the partial hospitalization program because of "extreme anxiety stemming from issues on the bus and bullying in the classroom." S-2.
10. In the same email, the Parents specified that they wanted the evaluation to "include testing in the following areas: ability, achievement, social, emotional, behavioral, executive functioning, and attention." S-2.

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<sup>3</sup> The record does not include the exact date of the Student's admission to the partial hospitalization program.

11. In the same email, the Parents reported that the Student “struggles with completing work independently at home and requires a great deal of assistance. [Student] is also unable to be organized as evidenced in school by the state of [Student’s] desk.” S-2.
12. In the same email, the Parents informed (or, from their perspective, reminded) the District that the Student had medical diagnoses of Autism, ADHD combined type, anxiety, and EDS.<sup>4</sup> S-2.
13. On October 9, 2024, the District sent a form to the Parents, seeking their consent to evaluate the Student. The Parents signed the form, providing consent on October 16, 2024. The District received the signed form back from the Parents on October 21, 2024. S-3.
14. On October 23, 2024, with the evaluation pending, the District modified the Student’s Section 504 Service Agreement. The Parents approved the modification on October 31, 2024. S-5.
15. On December 17, 2024, the District completed the evaluation and finished the 2024 ER. S-7.
16. While many people contributed to the 2024 ER, the District’s Certified School Psychologist (CSP) was the primary author of that document. *Passim*, see S-7.
17. The 2024 ER included a summary of input that the Parents gave by phone to the CSP. The phone interview took place in November 2024. The summary includes concerns that the Parent shared with the CSP. The Parents’ primary concern was the Student’s social wellbeing at school. The Parents were also concerned that the Student’s disorganization made it difficult for the Student to complete assignments. The Parents also shared that the Student did not want to go to school in the mornings and, when the Student returned home in the afternoons, the Student “explodes emotionally” after “holding it together” all day in school. S-7 at 1-2.
18. The 2024 ER included a summary of input that the Parents gave by way of a parent input form. On that form, the Parents noted diagnoses of Generalized Anxiety Disorder, Autism Spectrum Disorder, ADHD Combined Type, EDS, and Sensory Integration Disorder. The Parents

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<sup>4</sup> Nothing in evidence establishes the medical ADHD diagnosis, when that diagnosis was first given to the Student, or when the Parents first informed the District of that diagnosis.

expressed concerns about the Student's executive functioning needs on the form. S-7 at 2.

19. The 2024 ER included narrative input from the Student's [redacted] Grade Teacher, School Counselor, Art Teacher, Library Specialist, STEM Teacher, and Music Teacher. The [redacted] Grade Teacher wrote that the Student was academically successful, but that the Student was reluctant to use breaks or a behavior chart. The School Counselor reported work with the Student on self-advocacy and shared insight about why the Student did not always use available accommodations. The School Counselor also reported that the Student did not exhibit the same signs of frustration or anxiety that the Parents observe at home. The other teachers expressed positive comments. S-7 at 2-4.
20. The 2024 ER included an observation by the CSP. The CSP saw that the Student was engaged and attentive in class and interacted appropriately and socially with peers. During the observation, the Student showed no external signs of anxiety. S-7 at 4.
21. The 2024 ER included a summary of the CSP's interview with the Student, and the CSP's observations of the Student during testing. S-7 at 4.
22. The 2024 ER included recommendations of helpful accommodations from the Student's teachers. These included use of a sensory object, frequent check-ins for understanding and progress on assignments, self-initiated check-ins with the school counselor, self-initiated breaks to regulate emotions, and a recommendation for a check-in/check-out system once the Student started middle school. S-7 at 4.
23. The self-initiated nature of the breaks and check-ins with the School Counselor are consistent with the School Counselor's comments on the 2024 ER. While self-initiated breaks and check-ins were helpful, requiring the Student to take a break or check in when the Student perceived that is unnecessary and different from peers was stress-inducing. See S-7.
24. The 2024 ER noted the Student's medications. S-7 at 5.
25. The 2024 ER included the Student's performance on local assessments. The District uses FastBridge as a screening and progress monitoring tool in reading and math. In the fall 2024-25 school year, the Student scored in the average range in both reading and math. The Student also scored in the average range in reading and math on

FastBridge assessments in the fall, winter, and spring of the 2023-24 school year. S-7 at 5-6.

26. Another local assessment reported in the 2024 ER was teacher ratings on the Social, Academic, and Emotional Behavior Risk Screener (SABERS). Teachers rate all students using the SABERS at least twice per school year. The teacher's ratings in the fall of 2024 indicated that the Student did not require intervention in the domains assessed by the SABERS, with the exception of adaptability.<sup>5</sup> S-7 at 6.
27. The 2024 ER included an administration of the Wechsler Individual Achievement Test, Fourth Edition (WIAT 4). The WIAT 4 is a standardized, normative assessment of a child's academic achievement. As measured by WIAT 4 composite scores, the Student's Reading was in the High Average range while Written Expression, Mathematics, and Total Achievement were all in the Average range. All reported sub-tests were in the Average range except for Word Reading (High Average) and Math Problem Solving (Low Average). S-7 at 6-7.
28. The 2024 ER included an administration of the Reynolds Intellectual Assessment Scales, Second Edition (RIAS 2). The RIAS 2 is a standardized, normative assessment of cognitive ability. The Student's scores on the RIAS 2 placed the Student in the Average range for the Composite Intelligence Index with Average scores for Verbal Intelligence and Speeded Processing. The Student's scores resulted in Above Average ratings for Nonverbal Intelligence and Composite Memory. S-7 at 17.
29. The 2024 ER included an administration of the Behavior Assessment System for Children, Third Edition (BASC-3). The BASC-3 is a broad ranging, standardized behavior rating scale. The Teacher and a Parent completed the BASC-3 by rating the Student. The Teacher and the Parent's ratings followed a strikingly similar pattern, but the Parent's ratings were more elevated than the Teacher's ratings – sometimes significantly so. See S-7 at 9.
30. As rated on the BASC-3, both the Parent and the Teacher's ratings placed the Student in the Average range for Externalizing Problems. For Internalizing Problems, the Teacher's ratings placed the Student in the At Risk range while the Parent's ratings placed the Student in the

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<sup>5</sup> As presented in the 2024 ER, the SABERS is confusing. Results are presented on an inverted graph without analysis. The graph includes two y-axis keys, which are the opposite of each other. Without analysis, or the context of the 2024 ER as a whole, it is impossible to know which key represents the Student's assessment.

Clinically Significant range. The difference was attributable to the Parent's high ratings for Anxiety and Depression. For School Problems, a domain rated only on the BASC-3 teacher form, the Teacher's ratings placed the Student in the Average range. S-7 at 9.

31. For the Adaptive Skills Composite, the Teacher's ratings placed the Student in the Average range while the Parent's ratings placed the Student in the Clinically Significant range. This was the largest discrepancy between the Teacher's ratings and the Parent's ratings. Within the Adaptive Skills Composite, the Parent's ratings placed the Student in the Clinically Significant range for Adaptability, Leadership, Functional Communications, and Activities of Daily Living. The Parent rated the Student in the Average ranges for Social Skills. In contrast, the Teacher rated the Student in the Average range across all domains within the Adaptive Skills Composite. S-7 at 9.
32. The 2024 ER included an administration of the Conners-4, which is a rating scale designed to assess a child's attention-related problems. Both a Parent and a Teacher rated the Student using the Conners-4. The Teacher's ratings placed the Student in the Average range in every sub-test and index score. The Parent's ratings resulted in an Elevated score for Total ADHD Symptoms (with a Very Elevated score for ADHD Predominately Inattentive Symptoms). S-7 at 11.
33. The 2024 ER included an administration of the Social Responsiveness Scale, Second Edition (SRS-2). The SRS-2 is a rating scale that assesses social communication and interaction skills. Both a Parent and the Teacher rated the Student using the SRS-2. The Teacher's ratings placed the Student "Within Normal Limits" for the SRS-2 Total Score. All of the Teacher's sub-ratings were in the same range except for Social Awareness and Social Communication, which were both in the "Mild Range." In contrast, the Parent's ratings placed the Student in the "Severe Range" for the SRS-2 Total Score and all sub-ratings (Social Awareness, Social Cognition, Social Communication, Social Motivation, Restricted Interests and Repetitive Behaviors, and Social Communications and Interactions). S-7 at 13.
34. The 2024 ER included a partial administration of the Behavior Rating Inventory of Executive Functioning, Second Edition (BRIEF-2). For children of the Student's age, the BRIEF-2 is an assessment of a child's executive functioning skills as measured by parent ratings, teacher ratings, and the child's self-report. For the 2024 ER, only the self-report was administered. The Student's self-ratings resulted in an Average score for Task Completion, Mildly Elevated scores for Inhibit (a

measure of impulse control), Self-Monitor, and Plan/Organize, and Clinically Significant scores in Shift (a measure of flexibility in moving from activity to activity or changing focus), Emotional Control, and Working Memory. S-7 at 15.

35. The 2024 ER included an administration of the Revised Children's Manifest Anxiety Scale (RCMAS). The RCMAS is a self-reporting scale for assessing a child's anxiety. The Student's self-report placed the Student in the "Moderately Problematic" range for Total Anxiety. The Student's self-report placed "Worry/Oversensitivity" in the same range, with other sub-tests in the average range. S-7 at 16.
36. The 2024 ER included a summary and analysis of all the information and testing. S-7 at 18-30.
37. Through the 2024 ER, the District determined that despite a medical diagnosis of Autism, the Student did not meet IDEA criteria for Autism because the Student did not exhibit significant difficulties with communication, social interaction, repetitive behaviors, or resistance to change that adversely affected the Student's educational performance. S-7 at 31.
38. Through the 2024 ER, the District determined that despite all the Student's medical diagnoses, the Student did not meet IDEA criteria for Other Health Impairment (OHI) because, while in school, the Student's executive functioning, attention, hyperactivity, and social skills were all found either to be average or to not be adversely affecting the Student's educational performance. S-7 at 31-32.
39. In reaching its conclusion about OHI, the 2024 ER explicitly acknowledged that the Student's reported behavior and problems were different in the home and school settings. The conclusion that the Student was not a child with OHI was derived from the Student's presentation in school. See S-7 at 31-32.
40. By way of a checkbox on Pennsylvania's standardized evaluation report form, the District concluded that the "student does not have a disability and therefore is NOT ELIGIBLE for special education." S-7 at 33 (capitalization original). The other choices were to find that the Student had a disability but is not eligible for special education, or that the Student had a disability and is eligible for special education. *Id.*
41. The 2024 ER included a recommendation that the District continue the Student's Section 504 Service Agreement, but that the District and



Parents should meet to review the 2024 ER and determine if the Student's accommodations should change based on the information therein. The 2024 ER also included recommendations for the Student's 504 team to consider. See S-7 at 34.

42. On December 20, 2024, the District issued a Notice of Recommended Educational Placement (NOREP), formally notifying the Parents of its decision that the Student did not qualify for special education. The NOREP recommended continuation of the Student's Section 504 Service Agreement. S-8.
43. On January 2, 2025, the Parents signed and returned the NOREP to the District. The Parents checked a box to disagree with the recommendation but wrote that they agreed that the 504 Service Agreement should remain in place "for now." The Parents also noted that they "disagree with the results of the ER had have requested an IEE." S-8 at 4.<sup>6</sup>

### **Witness Credibility**

During a due process hearing, the hearing officer is charged with the responsibility of judging the credibility of witnesses, and must make "express, qualitative determinations regarding the relative credibility and persuasiveness of the witnesses."<sup>7</sup> One purpose of an explicit credibility determination is to give courts the information that they need in the event of judicial review.<sup>8</sup>

In this case, there are sharp contrasts between how the Parents and District personnel view the Student's behaviors and abilities. These contrasting views are not a function of any witnesses' credibility. Rather, consistent with the evidence and acknowledged by both parties, the Student's presentation at home and in school are different. The District did not discount the Parent's reports and ratings, and the Parents recognize that the Student could "hold[]

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<sup>6</sup> The record does not reveal the exact date that the Parents requested an IEE at public expense. However, S-7 and S-8 establish that the Parents requested an IEE sometime between December 17, 2024, and January 2, 2025.

<sup>7</sup> *Blount v. Lancaster-Lebanon Intermediate Unit*, 2003 LEXIS 21639 at \*28 (2003).

<sup>8</sup> See, *D.K. v. Abington School District*, 696 F.3d 233, 243 (3d Cir. 2014) ("[Courts] must accept the state agency's credibility determinations unless the non-testimonial extrinsic evidence in the record would justify a contrary conclusion."). See also, generally *David G. v. Council Rock School District*, 2009 WL 3064732 (E.D. Pa. 2009); *T.E. v. Cumberland Valley School District*, 2014 U.S. Dist. LEXIS 1471 \*11-12 (M.D. Pa. 2014); *A.S. v. Office for Dispute Resolution (Quakertown Community School District)*, 88 A.3d 256, 266 (Pa. Commw. 2014); *Rylan M. v Dover Area Sch. Dist.*, No. 1:16-CV-1260, 2017 U.S. Dist. LEXIS 70265 (M.D. Pa. May 9, 2017).

it together” in school. See S-7. I do not find that the District is downplaying the Student’s needs, and I do not find that the Parents are exaggerating the Student’s challenges. Rather, I find that the parties reported what they are seeing in different environments.

## **Applicable Laws**

### ***The Burden of Proof***

The burden of proof, generally, consists of two elements: the burden of production and the burden of persuasion. In special education due process hearings, the burden of persuasion lies with the party seeking relief.<sup>9</sup> The party seeking relief must prove entitlement to its demand by preponderant evidence and cannot prevail if the evidence is equal on both sides (if the evidence rests in equipoise).<sup>10</sup>

In this case, the District is the party seeking relief and must bear the burden of persuasion.

### ***Evaluation Criteria***

The IDEA establishes requirements for evaluations.<sup>11</sup> Evaluations must “use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining” whether the child is a child with a disability and, if so, what must be provided through the child’s IEP for the child to receive a free appropriate public education (FAPE).<sup>12</sup>

Further, the evaluation must “not use any single measure 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 must “use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors”.<sup>13</sup>

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<sup>9</sup> *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006).

<sup>10</sup> See *N.M., ex rel. M.M. v. The School Dist. of Philadelphia*, 394 Fed.Appx. 920, 922 (3rd Cir. 2010), citing *Shore Reg'l High Sch. Bd. of Educ. v. P.S.*, 381 F.3d 194, 199 (3d Cir. 2004).

<sup>11</sup> 20 U.S.C. § 1414.

<sup>12</sup> 20 U.S.C. § 1414(b)(2)(A).

<sup>13</sup> 20 U.S.C. § 1414(b)(2)(B)-(C).

In addition, the District is obligated to ensure that assessments and other evaluation materials are (i) are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer; (iii) are used for purposes for which the assessments or measures are valid and reliable; (iv) are administered by trained and knowledgeable personnel; and (v) are administered in accordance with any instructions provided by the producer of such assessments.<sup>14</sup>

Finally, evaluations must assess “all areas of suspected disability.”<sup>15</sup>

### ***Independent Educational Evaluation at Public Expense***

Parental rights to an IEE at public expense are established by the IDEA and its implementing regulations: “A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency...”<sup>16</sup>

“If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either – (i) File a due process complaint to request a hearing to show that it's evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided public expense.”<sup>17</sup>

“If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.”<sup>18</sup>

## **Discussion and Legal Conclusions**

### ***The 2024 ER was Appropriate***

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<sup>14</sup> 20 U.S.C. § 1414(b)(3)(A).

<sup>15</sup> 20 U.S.C. § 1414(b)(3)(B).

<sup>16</sup> 34 C.F.R. § 300.502(b)(1).

<sup>17</sup> 34 C.F.R. § 300.502(b)(2)(i)-(ii).

<sup>18</sup> 34 C.F.R. § 300.502(b)(4).

The 2024 ER used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the Student. These included an interview with the Parents, a Parent Input Form, narrative input from multiple teachers, a classroom observation by the CSP, an interview of the Student, a review of the Student's performance on FastBridge and SABERS assessments, and administration of the WIAT 4, RIAS 2, BASC-3, Conners-4, SRS-2, RCMAS, and the BRIEF-2 self-report.

For the same reason, the 2024 ER included information provided by the Parents. The interview with the Parents, the Parent Input Form, BASC-3, Conners-4, and SRS-2 all included input from the Parents.

All the instruments used in the 2024 ER were technically sound (there is no evidence or argument to the contrary). Similarly, the 2024 ER complied with the "additional requirements" designed to mitigate bias and error.<sup>19</sup> In reaching this conclusion, I recognize that the District did not administer the Parent or Teacher ratings as part of the BRIEF-2, which assesses executive functioning. Nothing in the record suggests that the BRIEF-2 self-report is not reliable in the absence of Parent and Teacher BRIEF-2 ratings. Further, the BASC-3 and Conners-4 called for a Parent and the Teacher to rate the Student in domains related to executive functioning. In addition to those ratings, the Parents and District personnel also provided input about the Student's executive functioning through input forms, interviews, and comments, all of which were captured and reported in the 2024 ER.

The District did not rely on any single measure or assessment alone. The 2024 ER includes a summary and synthesis of how all the collected information was used to reach conclusions about the Student's needs and eligibility for special education.

Perhaps most importantly, I find that the District evaluated all suspected areas of disability. The Parents were clear and forthright when they requested an evaluation. At the time of the evaluation, the Student had recently been discharged from a partial hospitalization program to address mental health needs.<sup>20</sup> Naturally, the Parents were concerned about the Student's emotional and social wellbeing in school. The Parents were also concerned about the Student's executive functioning. The Parents unquestionably notified the District of those concerns when they requested

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<sup>19</sup> See 20 U.S.C. § 1414(b)(3)(A).

<sup>20</sup> The Parents argue that District personnel who completed rating scales like the BASC-3 did not know the Student well enough to fill out those forms. There is no preponderant evidence in the record to establish the length of time that a teacher must know a student before completing the BASC-3. Further, the District gave this task to the people who had the most current, direct knowledge of the Student's behaviors in school.

the evaluation and specifically requested that the evaluation “include testing in the following areas: ability, achievement, social, emotional, behavioral, executive functioning, and attention.” S-2. The Parents reiterated their concerns during the evaluation through their input. The 2024 ER includes multiple assessments of the Student’s social skills, emotional functioning, and executive functioning.

In terms of “suspected areas of disability,” the IDEA does not limit the District’s obligations to the Parents’ expressed concerns. If the District itself suspected (or should have suspected) additional areas of disability, the District was obligated to evaluate those domains. Nothing in the record suggests that the District had reason to suspect other areas of disability. The District administered the WIAT 4 and RIAS 2, considered FastBridge and SABERS results, and determined that the Student was academically successful. Similarly, the District knew that the Student has EDS, but there is nothing in the record establishing a connection between EDS and the Student’s potential need for special education, or that the District should have suspected such a connection.

I find that the 2024 ER satisfied IDEA requirements, but I must also recognize many of the Parents’ arguments. The Parents challenge the 2024 ER not for what it contains, but for what it lacks.<sup>21</sup>

The Parents argue that the District had, but failed to consider, information from the partial hospitalization program. I agree that the 2024 ER would have been more complete if the District considered this information. At the same time, the District understood that the Student’s social and emotional needs were a primary concern and evaluated those domains as they presented in the school environment.

There are cases in which a child’s social and emotional needs outside of school directly impact upon the child’s educational needs. *See, e.g. In re: J.M., Marple Newtown School District*, ODR 30945-2425. Placement in a partial hospitalization program may be sufficient to place a school on notice that something outside of school is inhibiting a child’s ability to attend school and learn. On the record of this case, at the time of the 2024 ER, there is no evidence that the Student’s social and emotional problems at home carried into the school day or, more broadly, inhibited the Student’s education (academic or otherwise). More importantly, even if the District did not share the Parents’ concerns about the Student’s social and emotional wellbeing in

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<sup>21</sup> The burden of proof is on the District. The Parents need not prove anything. However, understanding the Parents’ objections to the 2024 ER and their arguments is necessary for a complete discussion.

school, the District evaluated those domains. Consequently, the District's omission of information from the partial hepaticization program weakens the 2024 ER but is not a fatal flaw.

Similarly, it is strange that the 2024 ER does not include a review of the Student's grades or 504 Accommodation Plans. The 2024 ER compensates for that by reviewing the Student's accommodations and academic performance through multiple inputs, and providing the Student's scores on standardized local academic assessments (FastBridge and SABERS).

The Parents argue that the 2024 ER is incomplete for lack of Physical Therapy, Occupational Therapy, or Speech and Language assessments. The Parents argue that such evaluations were necessary because of the EDS and Autism diagnoses. I find that the 2024 ER included evaluations to determine whether or how the Student's Autism diagnosis and sensory needs interfered with the Student's education. The 2024 ER includes recommendations about sensory tools. But an Autism diagnosis does not automatically yield special education eligibility. Rather, if "by reason thereof" a student with Autism requires special education, the student is a "child with a disability" as defined by the IDEA. The 2024 ER examined this possibility directly.

The Parents have a stronger argument that the 2024 ER does nothing to *directly* assess the educational impact, if any, of EDS. For IDEA purposes, that matters only if the District had any reason to believe that EDS was impacting upon the Student's education such that special education may be required. There is no preponderance of such evidence in the record of this case. Further, the District explicitly acknowledge the Student's EDS diagnosis when considering an OHI classification.

Finally, the Parents argue that the District failed to consider whether the Student had a specific learning disability in Math Problem Solving. The Parents highlight a discrepancy between the Student's cognitive abilities as measured for the 2024 ER, and the Student's achievement in Math Problem Solving (a sub-test of the WIAT 4). I find, however, that the District directly evaluated the Student's abilities in mathematics through the 2024 ER. The Parents described the Student's math abilities as a strength and the Teacher reported that the Student was performing at grade level in math. At the time of the 2024 ER, the Student's math score on the FastBridge assessment had fallen in comparison to the prior year but remained in the average range. The Student's math scores were but was assessed in the average range in the fall of 2023 and the fall of 2024 (the most current result when the 2024 ER was drafted). Further, the Math Problem Solving sub-test score was the only discrepant math score. On the WIAT 4, the Student's Mathematics Composite Score was found to be in the average range as was the Student's

Numerical Operations sub-test. Even the Math Problem Solving score, while discrepant from other testing, was found to be in the Low Average range.

It is true that the 2024 ER did not include an explicit analysis to determine if the Student had a Specific Learning Disability in Math Problem Solving. On the record before me, I find that no such analysis was needed. In fact, to find a specific learning disability in Math Problem Solving would require what the IDEA prohibits: reliance on a single measure or assessment, in isolation and without regard to the evaluation as a whole.

### ***The District Must Correct an Error in the 2024 ER***

I find that the 2024 ER includes an error, and I order the District to correct that error. The District determined that the Student has disabilities, and the 2024 ER should clearly reflect that fact. My authority to order the correction is found at 20 U.S.C. § 1415(f)(3)(E)(iii).

The District explicitly found that the Student does not meet the IDEA's definitions of any disability or category of disability. Here, it is important to understand that the IDEA's definitions are statutory and do not perfectly square with medical/psychological diagnostic criteria. For example, and pertinent in this case, it is possible for a child to carry medical diagnoses of Autism and ADHD without meeting the IDEA's definitions of Autism and OHI. This is exactly what the District found in this case. The District considered all the Student's medical diagnosis as part of the overarching evaluation, and affirmatively concluded that the Student did not satisfy the IDEA's disability definitions. Both parties agree, however, that the Student has disabilities and requires (and is entitled to) disability accommodations in school under Section 504 and Chapter 15.

The standardized "conclusions" section of the 2024 ER does not perfectly match the circumstances of this case. See S-7 at 33. The District had to choose between a statement that the Student "does not have a disability" or "has a disability but does not need special education." Nothing on the form indicates whether "disability" only refers to the IDEA's definitions of disabilities, or whether "disability" is broader, akin to Section 504. In the absence of clear precedent or guidance, I find that the "has a disability but does not require special education" is a more accurate reflection of the District's findings.

The District found that the Student does not have a disability as defined by the IDEA but recognized the Student has several disabilities and carries several diagnoses. The District also found that, regardless of disability, the Student does not require special education (distinct from disability

accommodations) to derive a meaningful educational benefit from its programs. Checking a box saying that the Student does not have a disability adds confusion and could have unintended consequences on the Student's rights under Section 504. The District must uncheck box A in Section 6 (Conclusions) and check box B in that section. S-7 at 33.

### **Conclusions**

I find that the 2024 ER complied with the IDEA's procedural and substantive requirements. I also find that the 2024 ER contains an error and order the District to correct that error. I find that the Parents are not entitled to an IEE at the District's expense.

In reaching these conclusions, I note that the Student is at an important educational transition point. The parties should anticipate that the Student's needs will change over time – perhaps quickly – and should proceed with caution. Nothing in this decision diminishes the Parents' right to request evaluations in response to the Student's changing needs. See 20 U.S.C. § 1414. Nothing in this decision terminates the District's ongoing obligation under the IDEA's "Child Find" requirements. See 20 U.S.C. § 1412(a)(3), 34 C.F.R. § 300.111.

### **ORDER**

Now, July 25, 2025, it is hereby **ORDERED** as follows:

1. Within 15 calendar days of this Order, the District shall correct the checkboxes in the Conclusions section of the 2024 ER (S-7 page 33) to reflect its conclusion that the Student has a disability but does not need specially designed instruction.
2. The District shall issue a revised Evaluation Report to the Parents upon making the correction.
3. The 2024 ER was otherwise procedurally and substantively appropriate when it was issued, and so the Parent's demand for an IEE at public expense is **DENIED**.

It is **FURTHER ORDERED** that any claim not specifically addressed in this order is **DENIED** and **DISMISSED**.

/s/ Brian Jason Ford  
HEARING OFFICER