

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. 32605-25-26

Child's Name:

E.S.

Date of Birth:

[redacted]

Parent(s):

[redacted]

Local Education Agency:

Pittsburgh Public Schools
341 South Bellefield Avenue
Pittsburgh, PA 15213

Counsel for the LEA:

Lynne Sherry, Esquire
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Pittsburgh, PA 15219

Hearing Officer:

Cathy A. Skidmore, Esquire

Date of Decision:

06/30/2026

INTRODUCTION AND PROCEDURAL HISTORY

The student, E.S. (Student),¹ is a pre-teenaged student residing with the Parents and enrolled in Pittsburgh Public School District (District or local education agency (LEA)). Student has been identified as eligible for special education pursuant to the Individuals with Disabilities Education Act (IDEA)² under the disability categories of Autism and Speech/Language Impairment.

In February 2026, the Parents filed a Due Process Complaint under the IDEA challenging specific portions of the District's proposed Individualized Education Program (IEP) in January 2026, specifically wording regarding the related services. As a remedy for this narrow issue, they sought particular language in that section of the IEP. The District disagreed with their request and denied that any relief was warranted. The parties attempted unsuccessfully to resolve the matter, and a hearing convened for presentation of evidence.³ Following review of the record and for all of the reasons set forth below, the claims of the Parents cannot be sustained and

¹ 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).

² 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).

³ References to the record throughout the findings and discussion in this decision will be to the Notes of Testimony (N.T.), Parent Exhibits (P-) followed by the exhibit number, Joint Exhibits (J-) followed by the exhibit number, School District Exhibits (S-) followed by the exhibit number, and Hearing Officer Exhibits (HO-). Citations to duplicative exhibits and testimony generally are not exhaustive. The term Parents is used in the plural where it appears that one was acting on behalf of both. A companion case related to an extended school year issue was also decided by the undersigned hearing officer.

must therefore be denied, but the IEP team will be required to comply with a specific directive.

ISSUES

1. Whether Student's extended school year programming over the summer of 2025 was appropriate;⁴
2. Whether the District's proposed program of related services in the January 2026 IEP is appropriate; and
3. If the related services proposed in the January 2026 is inappropriate in any respect, whether specific alternative language should be directed to be included in that IEP?

FINDINGS OF FACT

1. Student is a late elementary school-aged child residing with the Parents within the boundaries of the District and enrolled there but attending a private school (Private School) by agreement of the parties. Student is eligible for special education based on Autism and a Speech/Language Impairment. (N.T. 21-22.)
2. Student is intelligent, capable of completing work in the school environment, works to please teachers and other staff at Private School. Student is independent with daily living skills at school. (N.T.

⁴ This issue was raised in the companion case, but this hearing officer deferred this non-expedited claim for the current hearing and decision.

267, 269-70.)

3. Student uses an Alternative and Augmentative Communication (AAC) device in addition to communicating through a few single words, facial expressions, hand signs/signals, and head movements. (N.T. 227=28, 270-71, 283-86.)
4. Student's school day begins with free time, then morning meeting. Next the students participate in intensive teaching sessions with a short break between before independent work and a recess. Independent work and additional intensive teaching sessions followed by practice of skills before dismissal. (N.T. 267-68.)
5. Student's related service needs, provided outside of the classroom, are also addressed in the classroom so that Student can generalize those skills. (N.T. 137-38. 179-81, 186-88, 212, 233-35, 236-37, 271-78, 294-95, 298-300.)
6. Progress monitoring reports provided to the Parents include the number of related service sessions offered and the number provided for that quarter. (J-13; J-17.)
7. A communication log from Private School goes home daily, reflecting (among other things) Student's related services. (N.T. 24, 29-30, 149-50.)
8. Student has demonstrated a better response to changes to routine over time. (N.T. 303-04.
9. Private School staff hold monthly team meetings to discuss its students including their progress monitoring. (N.T. 499-500, 566-67.)

Spring 2025

10. Student's occupational therapy services were disrupted in the spring of 2025 due to a family emergency for the therapist. Those sessions were made up by different therapists after the Parents asked about them. (N.T. 24-25, 56-57, 61-62, 76-77, 114, 125, 189, 556-57; J-18.)
11. The District conducted a new evaluation of Student in the spring of 2025, with a Reevaluation Report (RR) issued in April. (J-1.)
12. The April 2025 RR provided a summary of Student's current levels of performance and information from previous evaluation. Parent input reflected their view of Student's strengths including problem-solving ability, willingness to help, and better developed academic skills. Among their concerns were social skills, increased academic skills particularly in the area mathematics, and activities of daily living. Classroom observations by the school psychologist were also incorporated. (J-1 at 2-17.)
13. The April 2025 RR included Student's current functioning on academic screenings and assessments administered regularly. Student scored better on instruments for reading and mathematics skills at that time compared to prior administrations. (J-1.)
14. Current information on the related service areas of occupational and speech/language therapy in the April 2025 RR reflected continued need for those services. Student had met one of the occupational therapy goals, and standardized assessment results were relatively consistent with prior administrations. Strengths and needs in these areas were identified: fine motor (cutting and handwriting) skills; and

speech/language (making requests independently, answering wh-questions, use of technology). Continuation of both of these related services was recommended. (J-1.)

May 2025 IEP

15. Student's May 2025 IEP followed the April 2025 RR. Annual goals targeted verbal behavior, early mathematics, speech/language (answering wh-questions, receptive/expressive language), occupational therapy (handwriting, cutting), and behavioral skills. (J-2.)
16. Among other things, the related services section of the May 2025 IEP included occupational therapy ("72, 30 minute sessions") and speech/language therapy ("60, 30 minute sessions") over the duration of the IEP. (J-2 at 69.)
17. Student was determined to be eligible for ESY services in the May 2025 IEP for that summer. Student's goals for those services were for mathematics, behavior, and occupational therapy. (J-2 at 71-74.)
18. Progress monitoring for ESY 2025 reflected maintenance of mathematics and occupational therapy skills, and progress in the area of behavior. Even without a speech/language goal for ESY, Student did not regress in those skills. (N.T. 237; J-2 at 73.)

2025-26 School Year

19. In August 2025, the District requested the Parents' consent for another reevaluation to determine Student's then-current needs for occupational and speech/language therapy, and the Parents provided

consent. (J-5; J-10.)

20. Student's handwriting goal was changed at the start of the school year to copying because Student exhibited difficulty with legibility of certain letters. (N.T. 206-07.)
21. In October 2025, the parties participated in mediation session to resolve a prior dispute on provision of related services. The parties reached an agreement for provision of additional occupational and speech/language therapy, which have been provided. (N.T. 36-37, 80-82, 130, 563, 585; J-8; P-9; P-10.)
22. Student's classroom teacher at Private School was on leave for a portion of the 2025-26 school year when the reevaluation was conducted. The long-term substitute assigned to the classroom was an employee of Private School and familiar with Student. The substitute was in the classroom for several weeks before the leave began. (N.T. 502-04, 556-57; P-2; P-2; P-3; P-4; P-5; P-6; P-20; P-35.)

Fall 2025 Reevaluation

23. The District conducted another reevaluation of Student in the fall of 2025 to determine the appropriate level of occupational and speech/language therapy support. The parties agreed to have therapists who did not know Student conduct those portions of the reevaluation. (N.T. 79, 85, 386, 388, 411-12; J-10.)
24. The resulting December 2025 RR again summarized previous evaluations, input from the Parents, current functioning, and a new

- classroom observation by the school psychologist. (J-12 at 1-16.)
25. Occupational therapy assessments for the December 2025 RR included a teacher interview, classroom and clinical observations, the Beery-Buktenica Developmental Test of Visual-Motor Integration (Beery VMI), and a Sensory Processing Measure (classroom form). The Beery VMI results reflected a delay of greater than 25% in visual-motor integration skills. The sensory processing instrument identified social participation and hearing as definite needs. (J-11; J-12 at 22.)
 26. Speech/language evaluation for the December 2025 RR included classroom observation, a parent interview, and the Receptive One Word Vocabulary Test – Second Edition. Parent concerns identified more consistent use of the AAC device for broader applications not limited to requests. Student did not identify a sufficient number of targets for the test results to be scored. An assistive technology consultation report was also provided. (J-12 at 22-24.)
 27. Among other recommendations, the December 2025 RR suggested continuation of occupational and speech/language therapy for Student. (J-12 at 25.)
 28. The District occupational therapist recommended 32 individual occupational therapy sessions for Student for the IEP duration. Student's Private School occupational therapist had recommended in the fall of 2025 and does recommend 60, 30-minute sessions of therapy for Student reflected as 15 sessions per quarter. Private School agreed to provide its therapist's recommendation. (N.T. 86-88, 191-92, 202-03, 208-10, 214-16, 392, 396, 426-29; J-12 at 25.)
 29. Student's Private School occupational therapist is confident that

Student has been making overall consistent progress on the current IEP goals despite some variability among probes. (N.T. 179, 181-85, 194-95, 197, 207-08, 220-23; J-13; J-17.)

30. Student's Private School speech/language therapist had recommended in the fall of 2025 and does recommend 60 30-minute sessions of therapy for Student reflected as 15 sessions per quarter for the IEP duration. The District speech/language therapist who conducted the fall 2025 RR agrees with that recommendation. (N.T. 237-38, 243-44, 254-55, 392, 396, 402.)
31. Student's Private School speech/language therapist is confident that Student has been making overall consistent progress on the current IEP goals despite some variability among probes. (N.T. 231-33; J-13; J-17.)

January 2026 IEP

32. A meeting to develop a new IEP for Student convened in January 2026. (J-14.)
33. Annual goals in the January 2026 targeted verbal behavior, early mathematics, speech/language (answering wh-questions, receptive/expressive language), occupational therapy (handwriting, cutting), and behavioral skills. (J-15.)
34. Among other things, the related services section of the May 2025 IEP included occupational therapy ("60, 30 minute sessions") and speech/language therapy ("60, 30 minute sessions") over the duration of the IEP, both "typically provided 2 times per week as scheduling and attendance permit". Private School sent possible wording variations to the Parents via email for their consideration after the meeting. (J-15)

at 58; P-23.)

35. The January 2026 IEP was completed and sent to the Parents with an accompanying Notice of Recommended Educational Placement (NOREP)⁵ after the Parents did not respond to suggested language for the related services section of the IEP. The Parents did not approve the NOREP. (N.T. 89, 512-14, 612-13; J-16; P-24.)⁶
36. The language in the January 2026 IEP for the related services does not contemplate a total of 72 sessions or more of each. (Record as a whole.)

DISCUSSION AND APPLICATION OF LAW

General Legal Principles

In legal proceedings such as this one, the burden of proof is commonly described as consisting of two elements: the burden of production and the burden of persuasion. The burden of persuasion in this type of administrative hearing lies with the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006). The burden of persuasion in this case thus must rest with the Parents who filed the Complaint leading to this administrative proceeding. Nevertheless, application of this principle determines which party prevails only in those rare cases where the evidence is evenly balanced or in “equipoise.” *Schaffer, supra*, 546 U.S. at 58.

⁵ The Educational Supervisor at Private School provided a logical explanation for the date insertion on Student’s January 2026 IEP (N.T. 512-14, 517-18) and that testimony is accepted.

Special education hearing officers, who assume the role of fact-finders, are responsible for making “express, qualitative determinations regarding the relative credibility and persuasiveness of the witnesses,” particularly when discounting certain testimony. *Blount ex rel. Blount v. Lancaster-Lebanon Intermediate Unit*, 2003 WL 22988892 *10, 2003 LEXIS 21639 *28 (E.D. Pa. 2003). See also, e.g., *J. P. v. County School Board*, 516 F.3d 254, 261 (4th Cir. Va. 2008); *T.E. v. Cumberland Valley School District*, 2014 WL 47340 *4, 2014 U.S. Dist. LEXIS 1471 *11-12 (M.D. Pa. 2014). In this case, the undersigned hearing officer found each of the witnesses who testified to be generally credible as to the facts without any intention to mislead, and any minor contradictions among witness accounts may be attributed to lapses in memory, or differences in perspective. The weight accorded the evidence, however, was not equally placed. The persuasive value of the testimony and documentary evidence must be assessed in light of the record as a whole. See *J.P.*, *supra*, 516 F.3d at 261; *T.E.*, *supra*. In other words, simply because all witnesses appeared to believe that to which they swore under oath does not make all of the testimony reliable or convincing with respect to the issues presented. The documentary evidence was considered to be extremely reliable.

The testimony of each of the Parents, which was understandably provided from a loving parent/advocate perspective, unambiguously conveyed their concerns with Student receiving adequate related services over time. The testimony of the District and Private School professionals on their recommendations was persuasive and accorded great weight in light of their experience in the field along with their familiarity with Student.

The findings of fact were made as necessary to resolve the issues; thus, not all of the testimony and exhibits were explicitly cited.

Nonetheless, in reviewing the record, the testimony of all witnesses and the content of each admitted exhibit were thoroughly considered, as were the parties' closing statements.

General IDEA Principles: Substantive FAPE

The IDEA broadly mandates that each of the states provide a "free appropriate public education" (FAPE) to children who are eligible for special education services. 20 U.S.C. § 1412. Special education is comprised of both special education and related services. 20 U.S.C. § 1401(9); 34 C.F.R. § 300.17. Decades ago, in *Board of Education v. Rowley*, 458 U.S. 176 (1982), the U.S. Supreme Court addressed these statutory requirements, holding that the FAPE mandates are met by providing personalized instruction and support services that are designed to permit the child to benefit educationally from the program and also comply with the procedural obligations in the Act.

Through LEAs, states meet the obligation of providing FAPE to an eligible student through development and implementation of an IEP which is "'reasonably calculated' to enable the child to receive 'meaningful educational benefits' in light of the student's 'intellectual potential.'" *P.P. v. West Chester Area School District*, 585 F.3d 727, 729-30 (3d Cir. 2009)(citations omitted). As the U.S. Supreme Court has confirmed, "an educational program must be appropriately ambitious in light of [the child's] circumstances... [and] every child should have the chance to meet challenging objectives." *Endrew F. v. Douglas County School District RE-1*, 580 U.S. 386, 402 (2017). This standard is "markedly different" than *de minimis* growth. *Id.* However, not every child should be aiming for grade-level achievement if that is not a reasonable expectation for him or her. *Id.*

Rather, an IEP “is constructed only after careful consideration of the child’s present levels of achievement, disability, and potential for growth.” *Id.*

An LEA is not obligated, however, to “provide ‘the optimal level of services,’ or incorporate every program requested by the child's parents.” *Ridley School District v. M.R.*, 680 F.3d 260, 269 (3d Cir. 2012); *see also El Paso Independent School District v. Robert W.*, 898 F. Supp. 442, 449 (W.D. Tex. 1995) (quoting *Rowley*, *supra*, 458 U.S. at 186) (holding that an LEA “is not required to maximize a handicapped child's potential ‘commensurate with the opportunity provided to other children.’”). Additionally, a proper assessment of whether a proposed IEP meets the above standard must be based on information “as of the time it was made.” *D.S. v. Bayonne Board of Education*, 602 F.3d 553, 564-65 (3d Cir. 2010); *see also Fuhrmann v. East Hanover Board of Education*, 993 F.2d 1031, 1040 (3d Cir. 1993) (same). “The IEP *must aim* to enable the child to make progress.” *Dunn v. Downingtown Area School District*, 904 F.3d 248, 255 (3d Cir. 2018) (emphasis in original).

General IDEA Principles: Least Restrictive Environment

The IDEA contains a central mandate that eligible students are to be educated in the “least restrictive environment” (LRE) that also satisfies meaningful educational benefit standards.

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is

such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

20 U.S.C.S. § 1412(a)(5)(A); *see also* *T.R. v. Kingwood Township Board of Education*, 205 F.3d 572, 578 (3d Cir. 2000); *Oberti v. Board of Education of Clementon School District*, 995 F.2d 1204, 1215 (3d Cir. 1993).

General IDEA Principles: Procedural FAPE

From an IDEA procedural standpoint, the child's family including his or her parents must have "a significant role in the IEP process." *Schaffer, supra*, 546 U.S. at 53. This fundamental concept extends to placement decisions for the child. 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.116(b), 300.501(b). Consistent with these principles, a denial of FAPE may be found to exist if there has been a significant impediment to meaningful decision-making by parents. 20 U.S.C. § 1415(f)(3)(E); 34 C.F.R. § 300.513(a)(2); *D.S. v. Bayonne, supra*, 602 F.3d at 565. The procedural requirements must, however, be viewed within the context of the above substantive standards.

The Parents' Claims

The primary issue is whether the proposed language in the January 2026 IEP with respect to related services is appropriate for Student. The Parents, not unexpectedly, prefer language that provides consistent services that yield the maximum number of sessions for direct therapy. They both were quite concerned with the language in that proposed IEP because they believe that the Private School and District have too much flexibility leading to gaps in service (*see, e.g.,* N.T. 48-50) and that "more" benefit to Student is preferred (*see, e.g.,* N.T. 407, 655). The Parents are also concerned with

Student's variable performance, which both related service providers at Private School explained are natural and do not align with overall trends in growth (Findings of Fact Nos. 29, 31). The District, by contrast, recognizes and intends to comply with its LRE mandates as well as follow the recommendations of the experienced related service providers who referenced data to support their recommendation for the IEP duration.

The major difficulties with accepting the Parents' interpretation are that, first, no professional recommends the amount of related service hours that they wish to be made part of Student's current IEP; and, second, that Student is practicing the necessary related service skills in the classroom to promote generalization in the least restrictive environment, such that these skills are not limited to the 60, 30-minute direct therapy sessions. It is certainly understandable to hold a belief that more direct special education services are better than less in light of Student's profile, but the aim for Student to foster more independence and be educated in the LRE cannot be overlooked. Moreover, the period of time during which occupational therapy services were not provided were made up, and there is no reason to believe that the same would not occur in a future emergency circumstance.⁷ On balance, the record establishes that the related service hours proposed, with the additional provision for 15 sessions of both therapy services per quarter, is appropriate under the applicable standards. The IEP team will nonetheless be directed to incorporate this quarterly language into the IEP, as the District has already agreed to do, to memorialize the language that averts concerns with any end of services once the 60 annual IEP sessions of

⁷ Similarly, the Parents' disagreement with the change in services that were addressed in the fall 2025 mediation session, including their right to meaningful parental participation, reflect that they retain their procedural safeguards should such a circumstance recur.

each therapy are reached that may be compared to the quarterly progress reports.

With respect to the ESY services in 2025, to the extent that issue remains undetermined, the evidence is more than preponderant that the services were reasonably calculated to enable Student to maintain skills and that Student did, in reality, maintain or even attain growth in skills. This claim must similarly fail.

Finally, by way of dicta, this hearing officer sincerely suggests that the parties do their best to set this dispute aside and primarily focus once again on their generally successful collaborative educational program decision-making for Student.

CONCLUSIONS OF LAW

1. Student's ESY services in 2025 were appropriate.
2. The District's proposed January 2026 IEP is appropriate for Student although its suggested language regarding quarterly distribution must be added to the document moving forward.

ORDER

AND NOW, this 30th 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's ESY services for 2025 were appropriate for Student.

2. The District's January 2026 IEP is appropriate for Student and may be implemented following revision to the terms of the related services to add a 15 sessions per quarter provision. Said revision shall be made to the January 2026 IEP within ten calendar days of the date of this order.
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

Cathy A. Skidmore, Esquire
HEARING OFFICER
ODR File No. 32605-25-26

Sent to both parties this date as required by 34 C.F.R. § 300.515 by electronic mail message as requested⁸ consistent with 22 Pa. Code § 14.162(n).

⁸ N.T. 660.