

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. 32035-25-26

Child's Name:

L.L.

Date of Birth:

[redacted]

Parent(s):

[redacted]

Local Education Agency:

Keystone Central School District
86 Administration Drive
Mill Hall, PA 17747

Counsel for the LEA:

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Bethlehem, PA 18108

Hearing Officer:

Cathy A. Skidmore, Esquire

Date of Decision:

06/27/2026

INTRODUCTION AND PROCEDURAL HISTORY

The student, L.L. (Student),¹ is an early elementary school-aged student residing with the Parents in Keystone Central School District (District or local education agency (LEA)), but attends a private school at the Parents' election. Student has been identified as eligible for special education pursuant to the Individuals with Disabilities Education Act (IDEA)² based on an Other Health Impairment, Specific Learning Disability, and a Speech/Language Impairment.

In October 2025, the Parents filed a Due Process Complaint under the IDEA, challenging the educational programming provided to the Student by the District over the 2024-25 school year including the summer of 2025; they also asserted inappropriate programming proposed for the 2025-26 school year. As remedies, the Parents sought compensatory education and tuition reimbursement. The District denied all claims and sought a decision in its favor with no relief awarded. The matter proceeded to an efficient hearing.³

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, and School District Exhibits (S-) followed by the exhibit number. Hearing Officer Exhibits (HO-) 1, 2, and 3, which are, respectively, (1) the December 2025 ruling on the District's Objection to proffered witnesses; (2) the December 2025 ruling on the District's Motion to Dismiss; and (3) the January 2026 ruling on the District's Motion to Dismiss a prospective placement claim, are hereby admitted. 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.

Following review of the record and for all of the reasons set forth below, the claims of the Parent cannot be sustained and must be denied.

ISSUES

1. Whether the District's 2026 evaluation of Student was in accordance with IDEA criteria;
2. Whether the District's special education programming for Student over the 2024-25 school year and summer of 2025 was appropriate under relevant legal authority;
3. If the District's special education programming for Student over the 2024-25 school year and summer of 2025 was inappropriate in any respect under relevant legal authority, should Student be awarded compensatory education;
4. Whether the District's proposed special education programming for Student for the 2025-26 school year was appropriate under relevant legal authority; and
5. If the District's proposed special education programming for Student over the 2025-26 school year was inappropriate under relevant legal authority, whether the Parents should be reimbursed for private

school tuition based on the prongs
established by case law?

FINDINGS OF FACT

1. Student is an early elementary-school aged child residing in the District and eligible for special education under the IDEA based on an Other Health Impairment, a Specific Learning Disability, and a Speech/Language Impairment. (S-15.)
2. Student is curious, determined, highly engaged, and very hard-working. Student also has a chronic medical condition requiring medical supervision. (N.T. 41-42, 58-59, 65, 324-25, 391; P-18; S-1 at 4; S-2.)

Prior Educational History

3. Student received early intervention services (occupational, physical, and speech/language therapy) during Student's first few years as needed. (N.T. 41-42, 57-58, 61-63, 360-61; S-1 at 2.)
4. In preparation for school-aged programming, Student was reevaluated by another school district with a Reevaluation Report (RR) issued in January 2024. (S-1.)
5. Information from previous evaluations was incorporated into the 2024 RR. Those included a neurodevelopmental pediatrician evaluation in the fall of 2022 with assessment of autism, and results indicating little risk of that disorder. (S-1.)
6. Parent input into the 2024 RR reflected Student's imagination as a strength, and concerns with academic skills, problem behavior, and immaturity. (S-1 at 4-5.)
7. A classroom observation of Student for the 2024 RR by the other district school psychologist noted that Student was on task for

approximately the same percentage of time as a chosen peer. Student participated with the class activities and completed tasks along with peers during the observations. (S-1 at 11-12.)

8. Assessment of cognitive functioning for the 2024 RR reflected overall average ability with areas of relative weakness (verbal analogies and sentence repetition, low average range). On an academic achievement measure, Student's scores were delayed across domains, with overall moderate delay in early academic skills. (S-1 at 14-15.)
9. Adaptive behavior was assessed for the 2024 RR through the Vineland Adaptive Behavior Scales completed by one of the Parents and Student's general education teacher. On that measure, the teacher's scores were in the moderately low range on all domains as well as for the composite score. The Parents' scores were similar, but communication was rated in the low range. (S-1 at 16-20.)
10. In the area of social/emotional/behavioral functioning for the 2024 RR, the Behavior Assessment System for Children – Third Edition (BASC-3) rating scales were also completed by one of the Parents and the teacher. The Parent scores were generally average with the exception of two at-risk scores in the areas of hyperactivity and atypicality. By contrast, the teacher's scores were in the clinically significant range with respect to atypicality; and in the at-risk range in the areas of school problems, attention problems, learning problems, leadership, and functional communication. (S-1 at 21-26.)
11. A speech/language evaluation was part of the 2024 RR. Areas assessed were articulation in addition to receptive and expressive language skills. A number of relative strengths and weaknesses were identified, more in the latter category. The results led to a recommendation for speech/language therapy for both articulation and

expressive/receptive language. (S-1 at 26-31.)

12. The 2024 RR identified areas of educational strengths and needs. Strengths included following directions, early academic skills acquired, and independence with some daily living skills. As for weaknesses, those were in the areas of letter-sound identification, early mathematics and writing skills, self-advocacy, and emotional regulation. (S-1.)
13. Student was identified in the 2024 RR as eligible for special education based on the categories of Specific Learning Disability in basic reading skills and a Speech/Language Impairment. Programming recommendations were also provided, including explicit instruction with simplified language, reteaching of mathematics concepts, extra practice, checks for understanding, tests and assignment accommodations, and preferential seating. (S-1.)
14. Student did not receive special education support through an Individualized Education Program (IEP) after the 2024 RR. (N.T. 272-74.)

2024-25 School Year

15. Student first enrolled in the District at the start of the 2024-25 school year in an early primary grade. At the time of enrollment, the Parents asked the District to conduct a reevaluation. The District declined to reevaluate Student because there was a current evaluation that the school psychologist found to be both recent and comprehensive. (N.T. 43-45, 57, 272-74, 420-21.)
16. A District occupational therapist was consulted following Student's enrollment to provide supports for Student's difficulty with attention and focus. (N.T. 361-62.)
17. Student entered the 2024-25 school year performing below grade level

expectations in the area of reading. The teacher worked with Student in a small group often and sometimes individually, and provided accommodations. Student made progress in reading and related skills over the course of the school year. (N.T. 123-28.)

18. Student also struggled with mathematics at the start of the 2024-25 school year. The teacher worked with Student in small group and occasionally individually. Student made gains over the school year with those skills. (N.T. 129-32, 140-43, 156.)
19. Student was provided with learning support for reading and mathematics during the 2024-25 school year in small groups outside of the regular education classroom. (N.T. 163-67, 174-78.)
20. The District has a "what I need" (WIN) daily period for all students to focus on skill deficits identified through a universal screening instrument. The support is provided in small groups. (N.T. 322-24, 330-31.)
21. A reading interventionist met with Student each day for language arts-based skills before small group special education instruction during the WIN period. (N.T. 325-26, 344.)

Fall 2024 IEP

22. A meeting of Student's IEP team convened in mid-September 2024. (N.T. 66, 134, 190, 271-72, 395; S-4.)
23. The IEP incorporated Student's educational strengths and needs. Annual goals addressed early reading (sounds and decoding with a baseline); early mathematics (addition/subtraction with a baseline); and speech/language (receptive and expressive language skills with a baseline). Program modifications and items of specially designed instruction were direct instruction in reading and mathematics; checks

for understanding; preferential seating; and test/assignment accommodations. (S-4 at 13, 21-24.)

24. The September 2024 IEP provided for learning support and speech/language support at a supplemental level, with Student participating in regular education except during reading and mathematics instruction as well as speech/language therapy. The Parents approved the accompanying Notice of Recommended Educational Placement (NOREP). (S-4 at 27-28; S-5.)

Spring 2025

25. The Parents renewed the request for a reevaluation in early 2025, and the District agreed. (N.T. 45; S-15.)
26. Despite some variability on probes, Student's made steady growth on all IEP goals over the 2024-25 school year. (S-6.)
27. Student's IEP was revised in January 2025 after Student met the reading goal. The Parents made a request for an Independent Educational Evaluation (IEE) around that same time that was denied by the District. (N.T. 45, 71, 421; S-6 at 3; S-8; S-9.)
28. In early March 2025, the District sought consent of the Parents to conduct a new reevaluation of Student, and they consented. (S-12; S-14.)
29. Student's IEP was also revised in March 2025 to revise Student's mathematics goal after Student met the original goal. (S-14.)
30. Student's speech/language therapy services were provided in a small group over the 2024-25 school year. (N.T. 388-89, 392.)
31. The curricula used for Student's educational programming were all

research-based. (N.T. 121, 126, 131, 167, 175, 320.)

Reevaluation 2025

32. The District's RR issued in early May 2025. The report incorporated previous evaluations as well as input from the Parents and teachers. (S-15.)
33. Parent input into the District RR noted their concern with Student's emotional regulation, sensory needs, difficulty with changes to routine, and challenging behavior particularly when academic demands increased. (S-15 at 14.)
34. Teacher input into the District RR described Student's positive class participation, working well with peers, motivation, and willingness to complete directed tasks. By that time, Student had met the speech/language goal and was gaining skills in that domain. Staff recommendations included continuation of the supports in the IEP as well as giving warnings before transitions, use of manipulatives, and a visual schedule. (S-15 at 24-27, 40-41.)
35. The District school psychologist compiling its RR observed Student multiple times at different times of the day and in various settings for the report. (N.T. 278.)
36. The District's school psychologist's administration of assessments for Student's RR were all conducted in accordance with test protocols in a private room without distractions. The results were believed to be a fair representation of Student's functioning. (N.T. 281-82; S-15 at 28.)
37. Cognitive assessment for the District RR yielded somewhat variable scores across Indices but the Full Scale IQ was in the average range, comparable to that on the General Ability Index. Student did exhibit

relatively weak cognitive proficiency. (S-15 at 29-31.)

38. Student's adaptive behavior was again assessed through rating scales completed by the Parents and both the regular and special education teacher. The Parents' results indicated concerns with all domains (Communication, Community Use, Functional Academics, Home Living, Health and Safety, Leisure, Self-Care, Self-Direction, and Social Skills). The regular education teacher's scores identified average-range skills in the areas of Communication, School Living, Health and Safety, and Leisure, but below average in the other skill areas with the exception of Functional Academics (extremely low range). The special education teacher's scales only identified two areas as weaknesses: Community Use (below average range) and Functional Academics (low range). (S-15 at 36-38.)
39. Assessment of academic achievement for the District RR similarly were variable, both across subtests and Composites. Student's oral language skills were in the average range, but otherwise Student's reading, written expression, and mathematics scores were below average with the exception of oral reading fluency (far below average). (S-15 at 31-36.)
40. An ability-achievement analysis was interpreted to identify Student with a Specific Learning Disability in basic reading skills, reading fluency, reading comprehension, mathematics problem solving, and written expression. (S-15 at 35-36.)
41. Occupational therapy evaluation was also part of the District RR. Classroom observations were conducted in various settings and at various times of the day.⁴ The results indicated weaknesses with

⁴ Because the occupational therapist noticed Student's distractibility, Student's seat in the classroom was moved.

handwriting, and services were recommended. (N.T. 361-66, 372-73; S-15 at 81-88.)

42. Student also was evaluated for physical therapy needs for the District RR although no related concerns were shared with the therapist. The results indicated appropriate skills for school activities; however, Student exhibited higher-level balance and coordination weaknesses that were addressed in outside therapy. Consultative physical therapy was recommended to provide adaptations when needed. (N.T. 253-57, 260-62; S-16 at 91-92.)
43. Student's speech/language skills were assessed for the District RR. By that time, articulation was no longer a weakness, but Student continued to exhibit receptive and expressive language deficits qualifying Student for continuation of those services. (S-15 at 88-91.)
44. The District obtained BASC-3 rating scales from the Parents and both teachers. The Parents' ratings were in the clinically significant range with atypicality; and in the at-risk range with hyperactivity, somatization, and functional communication. The regular education teacher's results were in the clinically significant range with atypicality, learning problems, and somatization; and in the at-risk range with hyperactivity, withdrawal, and functional communication. The scales of the special education teacher were in the clinically significant range with somatization only, and none in the at-risk range. Additional rating scales for executive functioning skills overall suggested those skills were an area of deficit. Other rating scales measuring ADHD characteristics for the District RR supported the diagnosis. (S-15 at 72-77.)
45. Student's emotional functioning was assessed for an emotional disturbance, which was not indicated. In addition, rating scales for

autism by the Parents and two teachers were completed. Only the regular education teacher's results suggested this eligibility category for certain characteristics. Other instruments to assess children's depression yielded all average-range scores. (S-15 at 71-72, 77-79.)

46. A Functional Behavior Assessment was also performed by the District behavior specialist for the District RR. The behaviors identified were task avoidance, disruption, and emotional outbursts, but all were inconsistent and infrequent. The District behavior specialist only observed task avoidance and disruptive behavior during the many observations conducted. The hypothesized function of the behaviors was determined to be to escape or avoid demands, to gain access to preferred activities/items, to obtain sensory input or attention, or to manage overstimulation. (N.T. 96-103; S-15 at 39-66.)
47. The behavior specialist did not recommend a behavior support plan for Student because the behaviors identified were infrequent and of low intensity; in addition, Student was easily redirected. Student's behaviors were similar to those of peers, and did not impact Student's access to educational programming. She did recommend a behavior chart for Student. (N.T. 108-11.)
48. The District RR concluded that Student was eligible for special education under the Other Health Impairment (ADHD and the medical condition), Specific Learning Disability, and Speech/Language Impairment categories. A number of strengths were identified with respect to academic, behavioral, and social/emotional functioning. Weaknesses were also provided in the RR, including with reading, mathematics, and writing skills; behavior and executive functioning; social/emotional functioning; and occupational, physical, and

speech/language skills. (S-15 at 92-94.)

Proposal for 2025-26 School Year

49. An IEP meeting was held in May 2025 to develop a new program. (N.T. 194-95; S-16.)
50. The May 2025 IEP incorporated Student's educational strengths and needs from the District RR. Annual goals addressed reading (decoding nonsense words at grade level); mathematics (addition/subtraction problem solving at grade level); written expression (completing writing assignments with proper letter formation, placement, size, and spacing); and speech/language (receptive and expressive language skills). (S-17.)
51. Program modifications and items of specially designed instruction included direct instruction in reading and mathematics; use of manipulatives; sensory support; additional processing; notice of transitions and changes to routine; positive reinforcement for appropriate behavior; prompts and repetition; clear directions broken down as necessary; provision of choices when possible; preferential seating; and test/assignment accommodations. Occupational and speech/language were specified as related services along with consultative physical therapy. (S-17 at 36-38.)
52. The IEP addressed each of the considerations for extended school year (ESY) services, and Student exhibited none so did not qualify. (S-17 at 40.)
53. The May 2025 IEP provided for continuation of learning support and speech/language support at a supplemental level, with Student participating in regular education except during reading and mathematics instruction as well as occupational, physical, and speech/language therapy. Student's special education instruction

would be provided through a combination pullout and push-in model. The Parents did not approve the NOREP accompanying this IEP. (S-17 at 41-42; S-18.)

2025-26 School Year

54. The parties worked together to try to resolve the Parents' concerns, but were unsuccessful. One proposal was to describe the learning support as at an itinerant level to reflect the push-in learning support. In early August 2025, the Parents provided notice of their intention to place Student in a private school and seek tuition reimbursement from the District. (N.T. 47; S-19; S-20; S-22; S-25.)
55. Student's classes at Private School are small in size, and Student is provided one-on-one instruction. The Parents are pleased with Student's Private School experience and believe that Student has made significant academic gains across subject areas. (N.T. 48-49, 52, 74-75.)
56. The Parents obtained a private psychological evaluation with a report completed in January 2026. That evaluation diagnosed Student with Autism based upon the Childhood Autism Rating Scale – Second Edition. (P-30.)

DISCUSSION AND APPLICATION OF LAW

General Legal Principles

In any legal proceeding, 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.

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). This hearing officer found each of the witnesses who testified to be generally credible as to the facts; she did not discern any intention to mislead. Any 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, merely 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 one of the Parents in particular was understandably steeped in their concerns for Student from a loving parent/advocate perspective. Indeed, their apprehensions over the District’s programming were clearly conveyed. The testimony of the District professionals was persuasive and accorded great weight in light of their familiarity with Student and peers as well as experience in the field.

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).

Evaluation Requirements

Substantively, the IDEA sets forth two purposes of a special education evaluation: to determine whether or not a child is a child with a disability as defined in the law, and to “determine the educational needs of such child[.]” 20 U.S.C. §1414(a)(1)(C)(i). The IDEA explicitly identifies the following qualifying disabilities: “intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance[], orthopedic impairments, autism, traumatic brain injury, other health impairments, [and] specific learning disabilities.” 20 U.S.C. § 1401(3); *see also* 34 C.F.R. § 300.8(a).

The evaluation must assess the child “in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance,

communicative status, and motor abilities[.]” 34 C.F.R. § 304(c)(4); see also 20 U.S.C. § 1414(b)(3)(B). Additionally, the evaluation must be “sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified,” and utilize “[a]ssessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child[.]” 34 C.F.R. §§ 304(c)(6) and (c)(7); see *also* 20 U.S.C. § 1414(b)(3). Any evaluation or reevaluation must also involve a review of existing data including that provided by the parents in addition to available assessments and observations. 34 C.F.R. § 300.305(a). In Pennsylvania, LEAs are required to provide a report of an evaluation within sixty calendar days of receipt of consent, excluding summers. 22 Pa Code §§ 14.123(b), 14.124(b).

ESY Services

This 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 determine whether a student is eligible for ESY. 22 Pa. Code § 14.132(a)(2). The state regulations provide as follows:

In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors; however, no single factor will be considered determinative:

- (i) Whether the student reverts to a lower level of functioning as evidenced by a measurable decrease in skills or behaviors which occurs as a result of an interruption in educational programming (Regression).
- (ii) Whether the student has the capacity to recover the skills or behavior patterns in which regression occurred to a level

demonstrated prior to the interruption of educational programming (Recoupment).

(iii) Whether the student's difficulties with regression and recoupment make it unlikely that the student will maintain the skills and behaviors relevant to IEP goals and objectives.

(iv) The extent to which the student has mastered and consolidated an important skill or behavior at the point when educational programming would be interrupted.

(v) The extent to which a skill or behavior is particularly crucial for the student to meet the IEP goals of self-sufficiency and independence from caretakers.

(vi) The extent to which successive interruptions in educational programming result in a student's withdrawal from the learning process.

(vii) Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe intellectual disability, degenerative impairments with mental involvement and severe multiple disabilities.

(b) Reliable sources of information regarding a student's educational needs, propensity to progress, recoupment potential and year-to-year progress may include the following:

(1) Progress on goals in consecutive IEPs.

(2) Progress reports maintained by educators, therapists and others having direct contact with the student before and after interruptions in the education program.

- (3) Reports by parents of negative changes in adaptive behaviors or in other skill areas.
- (4) Medical or other agency reports indicating degenerative-type difficulties, which become exacerbated during breaks in educational services.
- (5) Observations and opinions by educators, parents and others.
- (6) Results of tests, including criterion-referenced tests, curriculum-based assessments, ecological life skills assessments and other equivalent measures.

22 Pa. Code §§ 14.132(a)(2), 14.132(b).

If the student is eligible, the team must also determine the services to be provided. 22 Pa. Code § 14.132(a)(1). In evaluating whether a proposed ESY program is appropriate, the general principles applicable to special education must be applied. furthermore, ESY services must not be based on a desire or need for a program that “may provide educational benefit, [but] are not required to ensure the provision of a free appropriate public education.” 22 Pa. Code § 14.132(c)(3).

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).

Along with IEP content, special education placement must be determined by the IEP team. 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.116(b), 300.501(b). The IDEA demands that LEAs have available a “continuum of alternative placements” in order to meet the educational and related service needs of its IDEA-eligible children. 34 C.F.R. § 300.115(a); 22 Pa. Code § 14.145. That “continuum” of placements in the law describes and enumerates settings beginning with regular education classes with supplementary aids and services, and growing progressively more restrictive moving first toward special classes and then toward special schools, instruction in the home, and instruction in hospitals and similar facilities. 34 C.F.R. § 300.115.

General IDEA Principles: Parental Placements

Parents who believe that an LEA is not providing or offering FAPE to their child may unilaterally place him or her in a private school and thereafter seek reimbursement from the LEA. 20 U.S.C. § 1412(a)(10)(C); 34 C.F.R. § 300.148(c). Reimbursement for tuition and related expenses is an available remedy to parents to receive public funding of the costs associated with their child's placement in a private school where it is determined that the program offered or provided by the public school did not provide FAPE, and the private placement is proper. *Florence County School District v. Carter*, 510 U.S. 10 (1993); *School Committee of Burlington v. Department of Education*, 471 U.S. 359 (1985); *Mary Courtney T. v. School*

District of Philadelphia, 575 F.3d 235, 242 (3d Cir. 2009). Equitable principles are also relevant in deciding whether reimbursement for tuition is warranted. *Forest Grove School District v. T.A.*, 557 U.S. 230 (2009); *C.H. v. Cape Henlopen School District*, 606 F.3d 59 (3d Cir. 2010); *Carter, supra*. Those principles include compliance with the ten-day notice provision in the IDEA. 20 U.S.C. § 1412(a)(10)(C)(iii).

A private placement need not satisfy all of the procedural and substantive requirements of the IDEA. *Carter, supra*. The standard is whether the parental placement was reasonably calculated to provide the child with educational benefit. *Id.* Taken together, there are three prongs to this inquiry, commonly referred to as the Burlington-Carter test. There is no requirement that a child have prior provision of public special education services for purposes of this remedy. *Forest Grove, supra*, 557 U.S. at 247.

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 first issue is whether the District's evaluation of Student was conducted in accordance with IDEA criteria set forth above. The District's 2025 RR clearly utilized multiple assessment tools, strategies, and

instruments, rather than any single measure, to gather information about Student. At the outset, the District incorporated information from previous evaluations; summarized parental input on their perspective of Student's strengths and weaknesses both directly and through multiple rating scales; and reported on input from teachers and observations by its school psychologist.

With respect to the measures that comprised the assessment portion of the District RR, there can be no question that all areas of suspected disability were evaluated. Cognitive functioning and academic achievement together with a detailed discrepancy analysis provided a solid basis for identifying Student's areas of Specific Learning Disability. Student's other disability categories are similarly well-supported by the record.

The instruments chosen were administered in accordance with publisher directions and the experienced school psychologist provided cogent and convincing testimony that the results were reasonably believed to be valid representations of Student's functioning. The mere fact that additional assessments could have been completed does not lead to a conclusion that the District's RR was incomplete; clearly any evaluation could include more testing. Moreover, merely because a different psychologist reached a different conclusion on Student having autism based on similar rating scales used by the District does not mean that the District erred in its conclusion on that disability at the time of its reevaluation. For all of these reasons, the Parents have not established that the District's RR was in any respect inappropriate.

The next claim is whether the District's programming for Student over the 2024-25 school year and the summer of 2025 was in compliance with applicable law. Student's IEP developed in the fall of 2024 was based on the information from that same calendar year in an RR by a different LEA. The IEP contained annual goals targeting the needs identified by that evaluation,

incorporating its recommendations. Overall, this IEP was reasonably calculated to enable Student to make meaningful educational progress based on information known at the time of its development. Although Student did exhibit some variability across probes on the goals, the general trend over time was in a positive direction. Indeed, Student met each of the IEP goals before the end of the school year, and the goals were revised accordingly as the District through the IEP team was required to do. The team also considered the factors relevant to ESY eligibility and found none. There is no evidence in the record to contradict this IEP determination.

Student's instruction was research-based and included specialized instruction, regular education interventions, and speech/language therapy. Student's behaviors were similar to those of peers and were easily managed, including redirection and prompts as needed. The District appropriately responded when necessary and involved the Parents in its programming decisions. Furthermore, the program was provided in the least restrictive environment that the District was mandated to follow. The evidence is more than preponderant that there were no fatal flaws over the 2024-25 school year. Similarly, although the Parents suggested that ESY services in 2025 would have benefitted Student, the law does not demand such ideal programming. This claim must accordingly fail.

Next, the Parents challenge the IEP proposed for the 2025-26 school year as the first element of their tuition reimbursement claim. This IEP followed a thorough and quite comprehensive evaluation with various strengths and needs identified. Annual goals in the proposed IEP addressed Student's academic and functional needs and, based on information known at the time, were reasonably calculated to enable Student to make meaningful educational progress. The evidence is more than preponderant that this IEP complied with all requisite standards and criteria.

The Parents expressed concerns that Student remained below grade expectations over the 2024-25 school year. However, as set forth in longstanding legal precepts discussed above, the law does not require an LEA to “close the gap” for a child with a disability. The standard is whether programming is appropriately based on the Student’s potential and unique circumstances. As several District witnesses explained, Student’s specific disabilities must be considered in evaluating growth. Further, as difficult as it may be for parents to accept, this fact defeats the first element of the test for tuition reimbursement; thus, there is no need to proceed to the other prongs.

Finally, to the extent that the Parents raise challenges to procedural aspects of FAPE for Student, none (if any exist) rise to the level of significantly impeding their meaningful participation on this record. Accordingly, those must also be dismissed as unfounded.

CONCLUSIONS OF LAW

1. The District’s evaluation of Student in 2025 was appropriate under the law.
2. The District’s programming over the 2024-25 school year and the summer of 2025 was appropriate based on applicable standards.
3. The Parents are not entitled to reimbursement for tuition for the private school or any other relief.

ORDER

AND NOW, this 27th day of June, 2026, in accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that the Parents' claims are **DENIED** in their entirety.

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

/s/ Cathy A. Skidmore

Cathy A. Skidmore, Esquire
HEARING OFFICER
ODR File No. 32035-25-26

Sent to both parties this date as required by 34 C.F.R. § 300.515 by electronic mail message as requested⁵ consistent with 22 Pa. Code § 14.162(n).

⁵ N.T. 453-54.