

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. 32341-25-26

Child's Name:

C.S.

Date of Birth:

[redacted]

Parent:

[redacted]

Local Education Agency:

Boyertown Area School District
911 Montgomery Avenue
Boyertown, PA 19512

Counsel for the LEA:

Shannon Pierce, Esq.
McNees Wallace
401 Plymouth Road
Plymouth Meeting, PA 19462

Hearing Officer:

James Gerl, CHO

Date of Decision:

April 17, 2026

Background

The parent requested an independent educational evaluation at public expense. The school district filed a due process complaint contesting the parent's right to an independent educational evaluation at public expense. I find in favor of the school district.

PROCEDURAL HISTORY

Prior to the hearing the parent requested a number of accommodations under the Americans with Disabilities Act. The first request was that the hearing officer appoint a lawyer to represent her in this proceeding. That request was denied as unreasonable. (NT 9). The parent was advised, however, that IDEA permits the parent to hire a lawyer to represent her in this matter. The parent was unrepresented in this case.

Additional requests by the parent for ADA accommodations were denied because they were not reasonable and/or because they requested legal advice or strategy suggestions from the hearing officer. Two of the parent's ADA accommodation requests, however, were granted as reasonable in view of the parent's stated disabilities. The parent was granted leave to ask questions concerning procedures whenever unclear and copies of all emails or other communications in this case would be sent to the parent by U.S. mail as well as by email after the parent provided a mailing address. (NT 9-10).

During the prehearing phase of the proceedings, the parent repeatedly referred to counsel for the school district in the address line of emails as "Abuse Law." The parent was warned that if such name-calling misbehavior continued, there could be adverse consequences to the parent's case. After the third time that the insult was used by the parent, the parent attempted to

argue that "ABUSE" is really an acronym for a new non-profit, civil rights organization formed by the parent in response to this special education case. The acronym argument has no merit. The parent only uses the "acronym" when using the name of the school district's lawyer in email address lines. Clearly, the parent was engaging in name-calling and not some type of creative acronym application. I take these cases seriously, and I expect the parties to do so as well. Name calling and other inappropriate behavior is detrimental to the parties' right to a fair hearing. Nonetheless, the parent disregarded my directive and continued the name-calling. I had initially decided to impose adverse consequences upon the parent's case for this misconduct. Because the parent is not represented by counsel and because the parent elected not to defend the IEE request by presenting evidence at the hearing, however, I reconsidered and decided that I will not impose serious adverse consequences upon the parent's case. It is sufficient to issue a strong reprimand to the parent for this misconduct and note it for the record in the event that there are future proceedings involving these parties.

The parent did not appear at the due process hearing or submit any evidence or argument. No prehearing conference was convened in this case because the parent did not cooperate in the scheduling of the conference.

A one-session, in-person due process hearing was convened for this matter. When the parent did not appear at the hearing at the designated starting time, I attempted to telephone the parent on the record to ensure that she knew that the hearing was proceeding. I left a voicemail message stating the location of the hearing and that the hearing had begun, and I left my phone number on the parent's voicemail. After waiting a reasonable period of time without hearing from the parent, I then convened the hearing without the parent being present. (NT 3-7)

Three witnesses testified at the hearing. School district exhibits S-1 to S-6 were admitted into evidence. The parent did not present any witnesses or offer any exhibits. At the close of the hearing, I ordered the school district to file a written post-hearing brief and invited, but did not require, the unrepresented parent to submit a post-hearing brief. Counsel for the school district submitted a post-hearing brief, and the parent did not do so.

All arguments submitted by the parties have been considered. To the extent that the arguments advanced by the parties are in accordance with the findings, conclusions and views stated below, they have been accepted, and to the extent that they are inconsistent therewith, they have been rejected. Certain arguments and proposed findings have been omitted as not relevant or not necessary to a proper determination of the material issues as presented. To the extent that the testimony of various witnesses is not in accordance with the findings as stated below, it is not credited.

To the extent possible, personally identifiable information, including the names of the parties and similar information, has been omitted from the text of the decision that follows. FERPA 20 U.S.C. § 1232(g); and IDEA § 617(c).

This decision will be sent to the parent by both U.S. mail and by e-mail.

ISSUE PRESENTED

The due process complaint in this matter presents the following issue:

Whether the school district has proven that the parent is not entitled to an independent educational evaluation at public expense?

FINDINGS OF FACT

Based upon the evidence in the record compiled at the due process hearing, I have made the following findings of fact: ¹

1. The student's date of birth is [redacted]. (S-5)
2. The student is a [redacted]. (NT 28-29; S-3)
3. The student is in [redacted] grade in the school district. The student is eligible for special education services under the eligibility classification of Specific Learning Disability. (S-3, S-5; NT 32)
4. The school district had previously paid for an independent educational evaluation of the student in response to the parent's request. The IEE was conducted by an independent psychologist on September 27, 2024. The independent evaluator concluded that the student was no longer eligible for special education, but recommended Section 504 supports. Both the school district and the parent disagreed with the evaluator's conclusion that the student was no longer eligible for special education. (S-2; NT 20, 59-61, 77-78)
5. The student was reevaluated by the school district on February 25, 2025. The evaluation was conducted by the school district's licensed school psychologist. The assessments were chosen to provide a full picture of the student. A licensed audiologist also evaluated the student as a part of the

¹ (Exhibits shall hereafter be referred to as "S-1," etc. for the school's exhibits; references to page numbers of the transcript of testimony taken at the hearing is the hereafter designated as "NT____").

reevaluation. The parent did not provide any input during the reevaluation process. The evaluation concluded that the student had weaknesses in long-term memory, processing speed and auditory processing. The evaluator recommended that the student continue to be eligible for special education under the category of Specific Learning Disability. (S-3, S-5; NT 20 – 24, 30, 24-26, 35, 36-41, 69-70)

6. The school district's reevaluation of the student on February 25, 2025 assessed the student in all areas of suspected disability. The reevaluation was comprehensive in nature. (S-3; NT 22–28, 36-41, 69-70; record evidence as a whole)

7. On March 26, 2025, the student's IEP team met to review the Reevaluation Report. The student's parent did not raise any objections to the reevaluation report or state any concerns about the reevaluation at the meeting. The parent did not raise any concerns about the reevaluation after the IEP team meeting. (S-5, S-6; NT 26-27, 29-31, 44-47, 61-63, 68-70)

8. The parent stated to the special education director at an IEP team meeting that the parent believed that the director and the previous independent evaluator had engaged in an improper phone call or conspiracy of some type to disqualify the student from special education. The director had not had a conversation or other communication with the private evaluator during the IEE process or otherwise for years before the IEE was conducted. (NT 63, 70-73, 78-79)

9. The parent provided the school district with a note dated August 11, 2025 from a hospital psychologist that made IEP recommendations for the student. The student's IEP team met to discuss the recommendations on September 26, 2025. Some of the recommendations were adopted by the team. (S-5)

10. On November 18, 2025, the parent emailed the school district requesting an independent educational evaluation of the student at public expense. The email expresses concerns with the previous IEE by the private evaluator but does not raise concerns about the school district's reevaluation. (S-6; NT 62-67, 75-76)

11. On December 2, 2025, the parent emailed the school district repeating the request for an independent educational evaluation at public expense. The email again expresses concerns with the previous IEE. The email also requests that the student be placed at a private school. The email does not raise problems with the school district's reevaluation. (S-6; NT 75-76, 64-66)

12. On December 15, 2025, the school district issued a Notice of Recommended Educational Placement (NOREP) denying the parent's request for an independent educational evaluation at public expense. The school district sent the parent an email rejecting the IEE request on the same day. (S-4, S-6; NT 67-68)

13. On December 16, 2025, the parent emailed the school district rejecting the NOREP that denied the IEE. (S-6; NT 66-69)

CONCLUSIONS OF LAW

Based upon the arguments of the parties, all of the evidence in the record, as well as my own legal research, I have made the following conclusions of law:

1. A parent or a local education agency may file a due process complaint alleging one or more of the following four types of violations of the

Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq., (hereafter sometimes referred to as “IDEA”): an identification violation, an evaluation violation, a placement violation or a failure to provide a free and appropriate public education. IDEA §615(f)(A); 34 C.F.R. § 300.507(a); 22 Pa. Code § 14.162.

2. If a parent disagrees with a school district evaluation, the parent may request an independent educational evaluation at public expense. IDEA § 615(d)(2)(A); 34 C.F.R. § 300.502(b)(1); PP by Michael P and Rita P v. West Chester Area School District, 585 F.3d 727, 53 IDELR 109 (3d Cir. 2009). When a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay, either pay for the evaluation or else request a due process hearing to show that its evaluation is appropriate. 34 C.F.R. § 300.502(b)(2); JH v West Chester Area School District, 121 LRP 13514 (SEA Penna 2019); 22 Pa. Code § 14-102(a)(2)(xxix). The IDEA regulations contemplate that a school district will get the first crack at evaluating the student. PP ex rel. Michael P and Rita P v. Westchester Area School District, 585 F.3d 727, 740 (3d Cir. 2009); see D.Z. v. Bethlehem Area School District, 2 A.3d 712, 54 IDELR 323 (Pa. Comm. Ct. 2010); School District of Philadelphia, 74 IDELR 27 (SEA Penna 2019); 34 C.F.R. § 300.502(b)(1).

3. Where a school district files a due process complaint and the final decision is that the school district’s evaluation is appropriate, the parent still has a right to an independent educational evaluation, but not at public expense. 34 C.F.R. § 300.502(b)(3).

4. In conducting an evaluation, a school district must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child. It must use technically sound instruments to assess the child. The assessments must be

conducted by trained and knowledgeable personnel and administered in accordance with any instructions provided by the producer. The child must be assessed in all areas related to the suspected disability. The evaluation must be comprehensive. When conducting an evaluation, a school district must review appropriate existing evaluation data, including classroom-based assessments and observations by a teacher or related service provider, and on that basis determine whether any additional data are needed to determine whether the student is eligible, as well as to identify the child's special education and related services needs. Perrin ex rel JP v Warrior Run Sch Dist, 66 IDELR 254 (M. D. Penna. 2015); IDEA § 614; 34 C.F.R. §§ 300.301, 300.304 – 300.305; 22 Pa. Code § 14-123.

5. The school district has proven that the parent is not entitled to an independent educational evaluation at public expense.

DISCUSSION

Whether the school district has proven that the parent is not entitled to an independent educational evaluation at public expense?

The parent requested an independent educational evaluation (hereafter sometimes referred to as "IEE") at public expense. The school district opposed the request and filed a due process complaint to contest the IEE.

The school district contends that the parent never disagreed with the February 25, 2025 reevaluation and that the February 25, 2025 reevaluation was appropriate and in compliance with IDEA requirements. Unfortunately, the parent did not appear at the hearing. Because, as the filing party, the school district has the burden of persuasion, the hearing proceeded even though the parent did not appear.

The school district has proven that the parent should not be awarded an independent educational evaluation at public expense. The school district has shown both that the parent did not disagree with the school district's reevaluation and that the school district's reevaluation was appropriate.

It is apparent from the documentary evidence and the testimony that the student's parent did not raise any concerns about the school district's reevaluation of the student. Instead, the reason behind the request for an independent educational evaluation is the parent's dissatisfaction with a previous private IEE evaluator and not any problems with the school district's reevaluation.

The record evidence reveals that the student was reevaluated by the school district on February 25, 2025. The parent did not raise any objection to the reevaluation report. Indeed, the parent's first request for an independent educational evaluation was not until November 2025, nearly nine months after the school district's reevaluation was completed.

This is not a case where a parent takes issue with a school evaluation and seeks an IEE. All evidence shows that the parent had problems instead with the evaluator whom the parent had selected to perform a previous IEE. Even though the parent and the school district had both disagreed with the "not eligible" conclusion of that IEE evaluator, the parent remained upset with the IEE evaluator. Because the parent does not disagree with the school district reevaluation, however, the IDEA right to an IEE is not applicable.

Moreover, the school district has proven that its reevaluation of the student was appropriate and compliant with IDEA. The evidence in the record shows that the reevaluation was comprehensive and that the student was evaluated in all areas of suspected disability. The parent put on no evidence to demonstrate that the reevaluation was inappropriate. Indeed, the parent put on no evidence of any kind. The testimony and documentary evidence at the hearing show that the reevaluation met all IDEA requirements and was appropriate. Thus, even if the parent had disagreed with the school district reevaluation, the parent is not entitled to an IEE at public expense.

Because the parent presented no evidence at the hearing, a credibility determination is not necessary. However, the testimony of school district witnesses who testified at the hearing was credible and persuasive.

It is concluded that the school district has sustained its burden and has proven that its reevaluation of the student was appropriate and in compliance

with IDEA requirements. The parent is not entitled to an independent educational evaluation at public expense.

ORDER

Based upon the foregoing, it is HEREBY ORDERED as follows:

1. The school district's complaint is sustained; and
2. The school district is not required to provide an independent educational evaluation to the parent at public expense.

IT IS SO ORDERED.

ENTERED: April 17, 2026

James Gerl

James Gerl, CHO
Hearing Officer