

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. 31161-24-25

Child's Name:

A.C.

Date of Birth:

[redacted]

Parent:

[redacted]

Counsel for Parent

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Hearing Officer:

Joy Waters Fleming, Esq.

Date of Decision:

July 25, 2025

INFORMATION AND PROCEDURAL HISTORY

The Student is a high school student who recently completed [redacted] grade at a Charter School ("Charter"). Under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973, the Student is eligible for special education services due to disabilities of Intellectual Disability, Autism, Speech/Language Impairment, and Other Health Impairment (OHI).

The Charter filed a due process complaint seeking to change the Student's placement to an outside therapeutic program, asserting that it can no longer meet the Student's needs within the current educational setting. Additionally, in response to the Parent's request for an independent educational evaluation (IEE), the Charter requests a determination that its September 2024 evaluation was appropriate. The Parent opposes the proposed placement, arguing that it violates the least restrictive environment (LRE) requirement, and maintains that the request for an IEE is legally justified.

After reviewing the record, and for the reasons detailed below, it is determined that the Charter has met its burden of proof. Therefore, the Charter's requests to change the Student's placement and to deny the IEE are granted.

ISSUES

1. Is the Charter School's recommendation to change the Student's placement to a more restrictive educational setting an offer of FAPE?

2. If the Charter's evaluation conducted in September 2024 was not appropriate, is the Parent entitled to an independent educational evaluation (IEE) at public expense?

FINDINGS OF FACTS

1. The Student qualifies for special education services due to Intellectual Disability, Autism, Speech/Language Impairment, and Other Health Impairment (OHI). (S-24)
2. The Student was first identified in kindergarten with a communication impairment and has a history of developmental delays, including difficulties with socialization and communication. (S-24; N.T. 393)
3. The Student recently completed [redacted] grade at a Charter School. (S-24)
4. The Student exhibits profound social anxiety, characterized by [redacted], avoidance of eye contact, non-participation in group activities, and limited verbal communication. (S-4, S-7, S-24; N.T. 301)
5. In the 2021-2022 school year, the Student entered [redacted] grade as a new enrollee at the Charter. (S-4)
6. In February 2022, the Charter conducted a reevaluation. Due to the Student's refusal to speak, the psychologist was unable to complete verbal IQ and achievement testing. Instead, the evaluator used nonverbal assessments and behavior rating scales. (N.T. 317-319)
7. The February 2022 reevaluation concluded that the Student required specially designed instruction under the classifications of Other Health

Impairment (OHI), Specific Learning Disability (SLD), and Speech-Language Impairment (SLI). (S-4, p. 37; N.T. 399)

8. On May 27, 2022, the Charter conducted another reevaluation that included a psychiatric evaluation and administration of the ADOS-2 to assess for autism. The psychiatrist reported that the Student understood all questions and responded appropriately. Diagnoses included Social Anxiety Disorder and Attention Deficit Hyperactivity Disorder (ADHD). (S-7, p. 42)
9. Results from the ADOS-2 suggested the Student's [redacted] that caused embarrassment and speaking avoidance. (S-6; N.T. 405, 457)
10. Based on the May 2022 reevaluation, the Student's disability categories were updated to: Intellectual Disability (primary), Autism (secondary), and Speech-Language Impairment (tertiary). (S-7, p. 44)

2022–2023 School Year

11. During the 2022-2023 school year, the Student attended a District high school in a life skills program. (S-16, p. 7; N.T. 30)
12. The Parent expressed dissatisfaction with this placement, citing inappropriate responsibilities such as separating trash and distributing mail. (N.T. 416–417, 472, 477)

2023–2024 School Year

13. In the 2023–2024 school year, the Student reenrolled at the Charter and repeated [redacted] grade. The Student received supplemental learning support. (S-16; N.T. 422)

14. On September 6, 2023, the IEP team met to develop a new program. On February 13, 2024, the IEP team reconvened. The revised IEP identified the Student's exceptionalities as Intellectual Disability (primary), Autism (secondary), SLI (tertiary), and OHI (quaternary). (S-16, S-20)
15. Teacher feedback noted that in Spanish class, the Student was respectful and completed work at home but did not participate, did not speak, and at times required redirection for off-task behavior (e.g., [redacted] or cell phone use). Spanish class was later replaced with a study hall. (S-20)
16. Although the Student qualified for Extended School Year (ESY) services in summer 2024, the Parent instead chose to have the Student participate in an OVR-sponsored job at an [redacted]. (S-34, p. 6)

2024–2025 School Year

17. In the 2024–2025 school year, the Student entered [redacted] grade at the Charter. (N.T. 29; S-24, S-27)
18. On September 30, 2024, the Charter completed a reevaluation report (RR). The Student engaged verbally, allowing for full testing. The RR included a review of prior evaluations; results from the CELF-5, TOPL-2, PPVT-5, and EVT-3; cognitive, academic, and social-emotional assessments; family and teacher input; a summary of a 2022 psychiatric evaluation; and a 15-minute physical education class observation. (S-24; N.T. 320–323)

19. On the WAIS-IV, the Student's Full Scale IQ was 69, placing overall cognitive functioning in the extremely low range—consistent with prior evaluations. (S-24; N.T. 321–322)
20. On the WIAT-4, the Student showed strengths in oral reading fluency and word reading but had significant weaknesses in math problem-solving, numerical operations, and reading comprehension. (S-24; N.T. 323–324)
21. Behavior rating scales completed by the Parent and teachers reflected notable discrepancies: the Parent's ratings were in the adequate range, while teachers reported clinically significant concerns in areas such as withdrawal and adaptive functioning. (S-24; N.T. 327–330)
22. Similarly, results on the Vineland-3 revealed stronger adaptive behavior ratings at home compared to school. (S-24; N.T. 329–330)
23. An evaluator observation found that the Student exhibited withdrawal, preferred to work alone, and had difficulty engaging socially. (S-24)
24. On October 23, 2024, the IEP team met to develop updated programming. The October IEP included goals, program modifications, and specially designed instruction (SDI) such as preferential seating, one-on-one check-ins, modified assessments, extended time, guided notes, chunking of material, auditory repetition, visual guides, multimodal instruction, and clearly defined roles for group work. Related services included 90 minutes per month of in-school speech-language therapy and 30 minutes per month outside the classroom. (S-27, p. 26)

25. On October 25, 2024, the IEP team met to revise the Student's program. The Parent requested that the Student be encouraged to use verbal communication with peers and teachers rather than relying on assistive technology. The team discussed challenges the Student experienced during oral presentations in group projects. Additional accommodations—such as the use of rubrics and clearly identifying the Student's role in group work—were proposed. (S-25, S-34, p. 6)
26. On October 28, 2024, the IEP team reconvened and added three specific accommodations to support the Student during group projects. The Speech-Language Pathologist (SLP) also agreed to accompany the Student to a career fair scheduled for November. (S-34, p. 5)
27. On February 7, 2025, the IEP team met to discuss the Student's social anxiety and the Charter's outreach to outside educational programs. The Parent noted that the Student had held a prior job requiring communication and had also made presentations at church. (S-34, p. 5)
28. On February 28, 2025, the Charter sent a letter to the Parent indicating that a change in placement was likely necessary due to concerns about the Student's classroom functioning and the results of recent evaluations. (S-29)
29. In March 2025, the Charter requested consent to conduct an updated psychiatric evaluation to address the Student's increasing social anxiety. On the NOREP, the Parent did not check the boxes granting or denying consent but instead requested an Independent Educational Evaluation (IEE), citing that no full evaluation had occurred since 2020. (S-31)
30. On March 12, 2025, the IEP team met again. During the meeting, the school psychologist reviewed the reevaluation report with

the Parent and explained which tests were verbal and which were nonverbal. (S-34)

31. During this meeting, the Student's classroom functioning was discussed. For a class project on broken bones, the Student created a slide presentation that incorporated personal interests. In another class, the Student used fewer slides and [redacted] during the presentation. (S-34, pp. 6-7)
32. Following the meeting, the team recommended obtaining an updated psychiatric evaluation and issued two NOREPs proposing a change to a more restrictive placement. (S-34, p. 7)
33. The first NOREP proposed placement in a full-time life skills program with speech-language support. The second proposed placement in a full-time therapeutic emotional support academy (Academy), also with speech-language support. The Parent did not approve either recommendation. (S-33, S-36)
34. The Academy serves approximately 75 students, both general and special education, and provides education, individual and group counseling, and therapeutic supports targeting behavioral and emotional needs. Its therapeutic model emphasizes restorative practices and guided group interaction. Students are referred for issues including social anxiety, autism, and credit recovery. (N.T. 125-126, 250)
35. If placed at the Academy, the Student would be grouped with 13 peers who have social anxiety and autism. Programming would focus on increasing comfort, building social skills, and developing peer relationships through guided interaction and a positive peer culture. (N.T. 50, 129-131)

36. The Academy embeds counseling within classes and daily activities. Each student receives at least one individual counseling session per week, with additional sessions provided as needed. (N.T. 134–135)
37. Academic support at the proposed Academy placement includes instructional modifications for students performing below grade level. Paraprofessionals and special education teachers provide both in-class and pull-out support. (N.T. 134)
38. The Academy offers transition services in collaboration with the Office of Vocational Rehabilitation (OVR), including college tours, trade school visits, résumé writing, and work-study co-op opportunities. (N.T. 139–140)
39. On March 21, 2025, the Charter again requested consent to conduct a psychiatric evaluation and provided the Parent with information regarding how to request an IEE at public expense. (P-5, S-37)
40. On April 2, 2025, the Charter sent a letter to the Parent reiterating its position that the Student required a more supportive special education placement to make meaningful educational progress. The letter also denied the request for an IEE and acknowledged the Parent’s rejection of both the recommended evaluations and the proposed placement. (S-39)
41. On April 16, 2025, the Charter filed a due process complaint. (S-40)
42. During the 2024–2025 school year, the Student received both individual and small group speech-language therapy focused on improving verbal communication and social interaction. The SLP used verbal and nonverbal prompts to encourage participation in group

settings and supported the Student in engaging with peers in conversations about personal topics. The SLP also collaborated with classroom teachers to address the Student's communication and social-emotional needs. (N.T. 178, 182, 195–197, 200–202, 211–212, 286)

43. The Student received push-in special education support in math and English classes. In film class, a special education teacher sat with the Student to provide assistance, and in psychology class, a special education teacher was present for support. (N.T. 31–34, 36, 38, 102, 116)

44. The Student received modified assignments tailored to individual strengths and needs. Social-emotional interventions included teacher check-ins, chunking of assignments, role-playing exercises, guidance from the SLP, and introduction of an augmentative communication device. A study hall was added to provide extra time to complete tasks. (N.T. 32, 112, 272, 286, 289, 296)

45. Since enrolling in the Charter, the Student has made limited progress in managing social anxiety. The Student continues to socially isolate, avoids eye contact and group interactions, and rarely speaks, though the Student expresses a desire to make friends. In smaller settings, the Student appears more at ease. (N.T. 45, 172–173, 180, 186, 244, 246–247, 288, 298, 301)

46. While some improvement in verbal communication has occurred, the Student still struggles with speech and exhibits [redacted]. The Student rarely initiates or maintains conversations and typically relies on rehearsed or prompted responses. (S-34; N.T. 164, 199–202, 206–208, 275)

47. The Student successfully read a book aloud to kindergarten students, maintaining eye contact and demonstrating appropriate social interaction. (N.T. 213–215)

48. Despite receiving academic modifications, one-on-one support, and extensive prompting, the Student continues to perform below grade level and faces significant academic challenges. (S-34; N.T. 101–102, 173, 183–184, 186, 241)

DISCUSSION AND APPLICATION OF LAW

General Legal Principles

The Burden of Proof

The burden of proof consists of two elements: the burden of production and persuasion. In special education due process hearings, the burden of persuasion 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 party seeking relief must prove entitlement to their demand by preponderant evidence and cannot prevail if the evidence rests in equipoise. *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). In this case, the Charter, as the party seeking relief bears the burden of proof.

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.” *Blount v. Lancaster-Lebanon Intermediate Unit*, 2003 LEXIS 21639 at *28 (2003). One purpose of an explicit credibility determination is to give courts the information that they need in the event of judicial review. *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).

During this hearing, the Student’s case manager/math teacher, treating Speech-Language Pathologist (SLP), the Supervisor of special education, regular and special education teachers, evaluating psychologist Academy director, Charter Dean of students, the Parent and grand-parent testified. This hearing officer found each of the witnesses who testified to be credible as to the facts. In the relatively few instances that there were contradictions, those are attributed to variations in memory, or to differing perspectives, rather than any intention to deceive. The weight accorded the evidence, however, was not equally placed and is discussed further below as necessary. The findings of fact were made only as necessary to resolve the issues; thus, not all of the testimony and exhibits were explicitly cited. For example, testimony that merely reiterated the content of documents was not necessary and is generally not referenced. However, 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 requires each of the states to provide a “free appropriate public education” (FAPE) to children who are eligible for special education services. 20 U.S.C. § 1412. FAPE consists of both special education and related services. 20 U.S.C. § 1401(9); 34 C.F.R. § 300.17. 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. The various states, through local educational agencies (LEAs), 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 IEP “is constructed only after careful consideration of the child’s present levels of achievement, disability, and potential for growth.” *Endrew F. v. Douglas County School District RE-1*, ___ U.S. ___, ___, 137 S. Ct. 988, 999, 197 L.Ed.2d 335, 350 (2017)

Individualization is, accordingly, the fundamental consideration for purposes of the IDEA. Nevertheless, an LEA is not obligated 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). 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). IEP development, of course, must follow and be based on an evaluation as monitored and updated by changes in the interim. 20 U.S.C. § 1414(d); 34 C.F.R. §§ 300.320-300.324.

Least Restrictive Environment

The IDEA contains a crucial 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. § 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).

The Third Circuit in *Oberti* identified a two-pronged test making a determination of whether a student’s placement is in conformity with the LRE mandate in the IDEA. The first prong involves consideration of

whether the child can, with supplementary aids and services, be educated successfully within the regular classroom. 995 F.2d at 1215.¹ If placement outside of the regular classroom is determined to be necessary, the second prong requires an assessment of whether the child has been included with non-disabled children to the maximum extent possible. *Id.*

Also crucial to the LRE analysis is a recognition that its principles “do not contemplate an all-or-nothing educational system” of regular education versus special education. *Oberti, supra*, 995 F.2d at 1218 (quoting *Daniel R.R. v. State Board of Education*, 874 F.2d 1036, 1050 (5th Cir. 1989)). Rather, LEAs are required to have available a “continuum of alternative placements” to meet the educational and related service needs of IDEA-eligible children. 34 C.F.R. §300.115(a); 22 Pa. Code § 14.145. Furthermore, the “continuum” of placements in the law encompasses settings that grow progressively more restrictive, beginning with regular education classes, then moving first toward special classes and subsequently toward special schools and beyond. 34 C.F.R. § 300.115.

Evaluation Requirements

The IDEA establishes requirements for evaluations. Substantively, those are the same for initial evaluations and reevaluations. 20 U.S.C. § 1414. In substance, 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

¹ In examining this prong, the *Oberti* court considered three factors: (1) the extent to which reasonable efforts were made to accommodate the student in the regular classroom setting with the use of supplemental supports; (2) the outcome of comparing the benefits of the regular education setting versus the more restrictive setting; and (3) the possible negative effects of inclusion on other students. 995 F.2d at 1215

must be provided through the child's IEP for the child to receive FAPE. 20 U.S.C. § 1414(b)(2)(A). 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". 20 U.S.C. § 1414(b)(2)(B)-(C).

When parents disagree with LEA's educational evaluation, they may request an IEE at public expense. 20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502(b). 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 its evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided at public expense." 34 C.F.R. § 300.502(b)(2)(i)-(ii). A parent is entitled to an IEE funded by the LEA if its evaluation does not meet IDEA criteria.

DISCUSSION

This matter concerns a Student, a rising high school [redacted], eligible for special education and the Charter School's proposal to change the educational placement to a more restrictive setting. The Parent disagreed, citing a longstanding commitment to inclusion and concern about unnecessary restrictiveness. At issue is whether the Charter's proposed placement is appropriate and necessary under the Individuals with Disabilities Education Act (IDEA) and the standards established in *Oberti v. Board of Education*, 995 F.2d 1204 (3d Cir. 1993). The Parent has also requested an IEE at public expense. Based on this hearing record, the Charter has met its burden of proof that a change in placement is

appropriate and necessary, and that the most recent evaluation was legally sufficient. Accordingly, the Parent's request for an independent educational evaluation (IEE) is denied.

The first issue for consideration is the sufficiency of the Charter's September 2024 reevaluation. The September 2024 report (RR) reflected a comprehensive review of existing data, incorporated teacher and parent input, included a classroom observation, and results from a range of standardized instruments assessing cognitive functioning, academic achievement, communication skills, social-emotional functioning, and adaptive behavior. Assessment measures included the WAIS-IV, WIAT-4, BASC-3, Vineland-3, CELF-5, TOPL-2, PPVT-5, and EVT-3, all of which are widely accepted, technically sound instruments administered by qualified professionals.

Importantly, the evaluation addressed each of the Student's identified and suspected disabilities: intellectual disability, autism, speech/language impairment, and OHI. The evaluators synthesized data from multiple domains and settings, incorporating information on classroom performance and functional behavior. The reevaluation was conducted in the fall of 2024 and was thus current at the time of the Parent's request for an IEE in March 2025.

The Parent's disagreement with the findings and recommendations of the RR does not alone render the evaluation inappropriate. The legal standard is whether the evaluation met the IDEA's requirements—not whether the Parent agrees with the conclusions. Based on the totality of the evidence, the September 2024 evaluation met all applicable legal standards under the IDEA. The Charter has satisfied its burden of demonstrating that the evaluation was appropriate; therefore, the Parent is not entitled to an IEE at public expense.

The next issue for consideration is whether the Charter School's recommendation to change the Student's placement to a more restrictive educational setting is an offer of FAPE. Under *Oberti*, an LEA must ensure that children with disabilities are educated in the least restrictive environment (LRE) that is appropriate to their needs.

The evidence here demonstrates that the Charter has implemented a wide range of support within the general education setting over multiple school years. These included itinerant learning support for core academics, individual and small-group speech-language services, modified assignments, alternative assessments, preferential seating, extended time, guided notes, and check-ins, as well as one-on-one support within some classes. Additionally, the removal of group oral presentation expectations, the use of rubrics with home practice and role assignment, attempts to introduce an augmentative communication device, and collaboration with OVR and career-readiness supports were implemented.

Despite these efforts, the Student continues to function at levels significantly below grade expectation across academic domains and exhibits persistent difficulty initiating and sustaining peer interactions. While there have been brief successes, such as presenting a class project with heavy support and reading to younger students, these gains are inconsistent and heavily scaffolded.

The record indicates that while the Student can sometimes speak in small groups or highly structured contexts, this does not generalize to the classroom as a whole. Moreover, the Student's academic and functional performance has remained largely static, despite well-documented and appropriately delivered supports. Accordingly, under *Oberti*, the Charter has established that the Student cannot be satisfactorily educated in the regular education setting even with supplementary aids and services.

Next, the evidence has established that the benefits of the proposed setting outweigh those of the current placement. The proposed placement at The Academy offers a counselor-driven, small-group setting with embedded therapeutic supports specifically designed for students with profiles similar to Student's—those with social anxiety, autism, and significant emotional or behavioral needs. The Academy's programming includes individual and group counseling integrated throughout the school day, functional academic instruction, structured social skills development, and transition planning services such as vocational preparation and work-study opportunities. These features are not incidental; they are essential given the Student's ongoing failure to meaningfully access either the academic or social curriculum in the current placement.

Regarding the consideration of the Student's impact on the educational environment of others, the Charter has satisfied this requirement under *Oberti*. The Charter has provided significant modifications, one-on-one assistance, and extensive prompting to support the Student. These interventions require substantial staff resources and individualized attention during core academic periods. Despite these efforts, the Student continues to struggle with verbal communication, social withdrawal, and task completion. Teachers have had to redirect the Student from off-task behaviors such as [redacted] and inappropriate cell phone use, which may disrupt the flow of instruction and divert attention from the needs of other students. Additionally, the Student's participation in group work is frequently limited to rehearsed or prompted roles, placing additional strain on peers and educators to accommodate communication deficits. The Charter has documented repeated attempts to foster integration and academic engagement; however, the Student's continued minimal progress, particularly in verbal interaction and group settings, raises concerns that the

intensity of support required may detract from the Charter's ability to deliver FAPE to other students in the general education environment.

Concerning the second prong under *Oberti*, the Charter has demonstrated that it has considered and implemented all feasible efforts to include the Student with non-disabled peers to the maximum extent appropriate. The Charter did not propose a change in placement lightly. The current proposal emerged only after multiple team meetings, reevaluation including updated cognitive, academic, behavioral, and psychiatric data, continued support attempts in general education with documented limited effect, and exploration of both life skills and therapeutic placements, ultimately favoring the Academy, with a mix of both regular and special education students. This setting is tailored not to isolate the Student, but to create a context in which they can participate more meaningfully in instruction and social development, currently unavailable at the Charter. Accordingly, under the second prong of *Oberti*, the Charter has demonstrated that it has mainstreamed the Student to the maximum extent appropriate, and that the proposed Academy placement reflects a reasonable and individualized effort to provide FAPE in the least restrictive educational environment.

The Charter School has met its burden of showing that the Student cannot be satisfactorily educated in the general education setting with supplementary aids and services, and that it has made every effort to provide services in the least restrictive environment appropriate to the Student's needs. The Charter has satisfied the requirements under the *Oberti* standards. Accordingly, the Charter's request for a change of placement is granted.

It is essential to note that the family has consistently demonstrated genuine and sustained advocacy on behalf of the Student. They have

actively participated in IEP meetings, voiced thoughtful concerns, requested clarification of services, and sought to preserve this Student's dignity and agency throughout the process. That advocacy is commendable and reflects deep parental investment. Nonetheless, when viewed through the lens of the applicable legal standards, the weight of the evidence supports the conclusion that the Charter's proposed placement is necessary and appropriate at this critical juncture in Student's educational career.

ORDER

AND NOW, this 25th day of July 2025, after careful consideration of the record and applicable law, it is hereby ORDERED as follows:

1. The Parent's request for an Independent Educational Evaluation (IEE) at public expense is **DENIED**.
2. The Charter School's request to change the Student's placement to a full-time, specialized special education setting with embedded therapeutic and speech-language support is **GRANTED**.
3. The IEP Team shall reconvene no later than thirty (60) calendar days after the start of the 2025-2026 school year to review the Student's adjustment to and progress in the new placement, and to determine whether any revisions to the IEP or placement are necessary to ensure the provision of FAPE in the least restrictive environment.

It is FURTHER ORDERED that any claims not specifically addressed herein are denied and dismissed.

/s/ Joy Waters Fleming, Esquire

Joy Waters Fleming

HEARING OFFICER

ODR File No. 31161-24-25

July 25, 2025