

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. 32147-25-26

Child's Name:

W.D.

Date of Birth:

[redacted]

Parent:

[redacted]

Local Education Agency:

Bethel Park School District
301 Church Road
Bethel Park, PA 15102

Counsel for LEA:

Rebecca Heaton Hall, Esq.
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Pittsburgh, PA 15219

Hearing Officer:

Joy Waters Fleming, Esq.

Date of Decision:

March 13, 2026

INFORMATION AND PROCEDURAL HISTORY

The Student is [redacted] years old and enrolled in the [redacted] grade at a District middle school.¹ The Student is eligible for special education pursuant to the Individuals with Disabilities Education Act (IDEA) as a child with a specific learning disability and a speech or language impairment.² The Student has a disability entitling the Student to protections under Section 504 of the Rehabilitation Act of 1973.³

A Parent filed a due process complaint alleging that the District held an improper IEP meeting that significantly impeded the Student's opportunity to participate in the decision-making process, resulting in a procedural denial of a free appropriate public education (FAPE). In response, the District contended that no FAPE denial occurred, and no relief was due to the Parent.⁴

ISSUES

1. Did the District deny the Student a FAPE by holding an IEP meeting that prohibited the Parent from meaningfully participating?

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 at 34 C.F.R. §§ 300.1-300. 818. The applicable Pennsylvania regulations are outlined in 22 Pa. Code §§ 14.101 - 14.163 (Chapter 14).

³ 29 U.S.C. § 794. The federal regulations implementing Section 504 are set forth at 34 C.F.R. §§ 104.1-104.61. The applicable Pennsylvania regulations are set forth in 22 Pa. Code §§ 15.1 - 15.11 (Chapter 15).

⁴ After the due process hearing concluded, the father and filing party, through email, withdrew "any request for compensatory education or substantive program changes" and sought only a declaration that the "District violated IDEA participation safeguards." (HO-1)

2. If the District denied the Student a FAPE, what remedy, if any, is appropriate?

FINDINGS OF FACTS

1. The Student is currently eligible for special education as a child with a specific learning disability and a speech or language impairment. (S-10)
2. On November 11, 2025, the District conducted a virtual IEP meeting with both parents. (S-9; N.T. 13, 21-22)
3. After the IEP meeting commenced, the filing party's parent (father) informed the IEP team that his attorney advised him to stop the meeting. (N.T. 22)
4. The mother, who also holds educational rights for the Student, expressed her desire to continue with the IEP meeting. (N.T. 22)
5. Based on Mother's request, the School District proceeded with the IEP meeting. (N.T.22)
6. After the IEP meeting, the father filed a Due Process Complaint alleging that the mother had a protection-from-abuse order (PFA) against him and that he could not be present, even virtually, if the mother were present. (P-1)
7. The District first learned of the PFA through the Due Process Complaint. (P-1; N.T. 22, 47-48)
8. After learning of the PFA, the Director of Student Support Services contacted father by telephone and followed up by email to inform him that the District would make accommodations to permit both parents to participate in IEP meetings separately. (P-1; N.T.47-52, 58)
9. Following disclosure of the PFA, the father and the District agreed that the IEP team would meet separately with the parents. (S-9, S-13, S-14; N.T. 47-52, 58)

10. Under the agreed-upon process, the IEP team would conduct a full IEP meeting with one parent and then hold a separate meeting with the other parent to discuss any recommended changes from the first meeting. (S-9, S-13, S-14; N.T. 47–52, 58)
11. The District agreed that no IEP or other special education document would be finalized until both parents provided input and were asked whether they agreed with the proposed changes. (S-9, S-13, S-14; N.T. 47–52, 58)
12. The District provided each parent with a full opportunity to participate in the IEP process by holding separate meetings, sharing proposed changes, and seeking agreement from both parents prior to finalizing any IEP or special education document. (P-1; N.T. 42, 49, 50–52, 58)

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 the burden of 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 Parent is the party seeking relief and bears the burden of proof.

Witness Credibility

During a due process hearing, the hearing officer is responsible for judging the credibility of witnesses and must make express, qualitative determinations regarding the relative credibility and persuasiveness of the witnesses. One purpose of an explicit credibility determination is to provide courts with the information they need in the event of judicial review.

I find that all witnesses testified credibly, candidly sharing their recollections of the facts and their opinions, making no effort to withhold information or deceive. To the extent that witnesses recall events differently or draw different conclusions from the same information, genuine differences in recollection or opinion explain the difference.

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 the 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)

General IDEA Principles: Procedural FAPE

From a procedural standpoint, the family plays "a significant role in the IEP process." Schaffer, *supra*, at 53. This critical concept extends to placement decisions. 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.116(b), 300.501(b); see also *Letter to Veazey*, 37 IDELR 10 OSEP 2001 (confirming the position of OSEP that LEAs cannot unilaterally make placement decisions about eligible children to the exclusion of their parents). Consistent with these principles, a denial of a FAPE may be found 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).

The IEP proceedings entitle parents to participate not only in the implementation of IDEA's procedures but also in the substantive formulation of their child's educational program. Among other things, IDEA requires the IEP Team, which includes the parents as members, to consider any "concerns" parents have "for enhancing the education

of their child” when it formulates the IEP. *Winkelman v. Parma City School District*, 550 U.S. 516, 530 (2007).

Full participation in the IEP process does not, however, mean that LEAs must defer to parents' wishes. *See, e.g., Blackmon v. Springfield R-XII School District*, 198 F.3d 648, 657-58 (8th Cir.1999)(noting that IDEA “does not require school districts simply to accede to parents' demands without considering any suitable alternatives,” and that failure to agree on placement does not constitute a procedural violation of the IDEA). As has previously been explained by the U.S. Department of Education:

The IEP team should work toward a general agreement. However, the public agency is ultimately responsible for ensuring the IEP includes the services the child needs to receive a free appropriate public education (FAPE). If the team cannot reach an agreement, the public agency must determine the appropriate services and provide the parents with prior written notice of the agency's determinations regarding the child's educational program and of the parents' right to seek resolution of any disagreements by initiating an impartial due process hearing or filing a State complaint. *Letter to Richards*, 55 IDELR 107 (OSEP 2010); *see also* 64 Fed. Reg. 12406, 12597 (1999).

Parent Claims

In this matter, the Parent alleged that the District denied Student a FAPE by preventing a Parent from meaningfully participating in the IEP process, as the District convened an IEP meeting with both parents present despite the existence of a PFA. Based on this hearing record, the Parent has failed to establish, by a preponderance of the evidence, that the District denied the Student a FAPE.

Under the IDEA, parental participation is a fundamental procedural safeguard. However, a procedural violation results in a denial of FAPE only if it significantly impedes a parent's opportunity to participate in decision-making, impedes the student's right to FAPE, or causes a deprivation of educational benefit. 20 U.S.C. § 1415(f)(3)(E)(ii); *Board of Education v. Rowley*, 468 U.S. 176 (1982). Furthermore, the IDEA requires that public agencies take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are allowed to participate. 34 CFR 300.322(a).

In this matter, the record does not support the determination that such a denial occurred. At the time the District convened the virtual IEP meeting, it had no notice of or knowledge of a protection-from-abuse order between the parents. Absent such knowledge, the District could not reasonably be expected to modify IEP meeting procedures to accommodate a restriction that had not been disclosed. The decision to proceed with the meeting was based on the mother's request to continue and her undisputed educational rights.

Once the District became aware of the PFA, it acted promptly and appropriately. The District implemented accommodations to ensure that both parents could meaningfully participate in the IEP process by holding separate IEP meetings. Importantly, the District ensured that neither parent's input would be excluded and that no IEP or special education document would be finalized without review and input from both parents.

The hearing record does not establish that the father was excluded from participation, denied the opportunity to express concerns, or prevented from influencing IEP decision-making. The record further does not demonstrate that the disputed virtual November meeting resulted in changes

to the Student's educational programming or services, or that the Student suffered any educational harm or deprivation because the meeting was held with both parents present. Even assuming the joint meeting created discomfort or conflict due to the parents' relationship, such circumstances do not constitute a procedural violation attributable to the District, nor did they rise to the level of a significant impediment to meaningful parental participation under the IDEA.

Accordingly, the evidence does not support the conclusion that the District denied the Student a FAPE, and no remedy is warranted, particularly where the father has withdrawn any request for relief.

ORDER

1. The Parent's claims are DENIED.
2. No relief is due.
3. Jurisdiction is relinquished.

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

Joy Waters Fleming, Esq.

Joy Waters Fleming, Esq.
Special Education Hearing Officer

March 13, 2026