

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. 32572-25-26 and 32759-25-26

Child's Name:

O.H.

Date of Birth:

[redacted]

Parent(s):

[redacted]

Counsel for Parent(s):

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Hearing Officer:

James Gerl, CHO

Date of Decision:

August 11, 2026

BACKGROUND

The parents filed a due process complaint alleging that the school district denied a free and appropriate public education to the student for the 2025–2026 school year, that the school district failed to implement certain provisions of the student's IEP, that the student was not educated in the least restrictive environment, and that the school district discriminated against the student on the basis of a disability in violation of Section 504.

The school district filed a separate due process complaint contesting the parents' request for an independent educational evaluation and asserting that the school district's evaluation was appropriate.

I find in favor of the school district on the FAPE issue, on the least restrictive environment issue, and on the Section 504 discrimination issue. I find in favor of the parents with regard to failure to implement issue and on the independent educational evaluation issue.

PROCEDURAL HISTORY

The parties stipulated to thirty-eight facts, and they agreed to voluminous joint exhibits. Despite the agreement to the large number of stipulations and joint exhibits, the hearing for this matter required two virtual sessions largely because of a significant amount of irrelevant testimony and witnesses being frequently asked to read aloud from exhibits already in evidence despite repeated warnings not to do so. The amount of time needed for hearing was also likely enlarged by apparent confusion concerning the IDEA legal standard for when a local education agency must provide related services to a student. See discussion later in this decision.

Eleven witnesses testified at the due process hearing. Joint exhibits J-1 through J-46 and J-49 were admitted into evidence. Exhibits J-47, J-48 and J-50 were excluded based on relevance.

After the hearing, counsel for both parties presented written closing arguments/post-hearing briefs and proposed findings of fact. 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).

ISSUES PRESENTED

The two due process complaints, as explained and clarified at the prehearing conference for this matter, present the following issues:

1. Whether the parents have proven that the school district denied a free and appropriate public education to the student for the 2025 – 2026 school year?
2. Whether the parents have proven that the school district failed to implement material provisions of the student's IEP?

3. Whether the parents have proven that the school district violated the least restrictive environment requirements of IDEA?

4. Whether the parents have proven that the school district discriminated against the student on the basis of a disability in violation of Section 504?

5. Whether the school district has proven that its evaluation of the student was appropriate and that the parents' request for an independent educational evaluation at public expense should be denied?

FINDINGS OF FACT

Based upon the parties' stipulations of fact, I have made the following findings of fact:

1. The student lives with [their] parents within the bounds of the Abington School District. The parents and the student are residents of the school district.

2. The student was born with [redacted], a genetic disorder that causes a range of physical and developmental abnormalities. Specifically, the student was born with, *inter alia*, bilateral profound hearing loss, vision deficiencies, speech and language developmental delays, and abnormalities of the heart.

3. The student underwent [redacted] surgery in October 2020.

4. The school district is the local education agency and receives federal funding within the meaning of IDEA.

5. The school district has found the student eligible for specially designed instruction based on the following educational disabilities: Other health impairment (OHI) due to his diagnosis of [redacted] and associated medical conditions and symptoms; hearing impairment (HI), and speech - language impairment (SLI).

6. To support [their] hearing in the classroom, the student uses an [redacted] assistive technology, which amplifies the teacher's voice [redacted]

7. The Montgomery County Intermediate Unit (MCIU) completed an evaluation report of the student on January 23, 2023. The student was found eligible for special education services based on the educational eligibility category of OHI.

8. An initial EI IEP dated February 7, 2023, provided the following supports for the student specialized instruction in the MCIU hearing support classroom; occupational therapy; vision services; speech therapy; physical therapy; behavior support; audiology support; hearing services; and transportation.

9. The student began attending the MCIU classroom in February 2023.

10. The student's class was taught by [teacher].

11. The student remained in [teacher's] classroom from February 2023 through the end of the 2024 – 2025 school year.

12. An annual MCIU IEP was created on February 1, 2024, reflecting student's continued placement in the MCIU hearing support/auditory oral classroom.

13. An annual MCIU IEP was created on January 27, 2025, reflecting the student's continued placement in the MCIU hearing support/auditory oral classroom.

14. The school district completed its Reevaluation Report on March 21, 2025, in preparation for the student's transition into [redacted] .

15. An IEP team meeting took place on April 15, 2025, at which time the school district's draft IEP for the student was reviewed and discussed.

16. The school district issued a NOREP on or around April 29, 2025, recommending an initial provision of itinerant learning support services for the student. The parents did not sign or return the NOREP.

17. An IEP meeting took place via Google Meet on August 25, 2025, with the mother, special education supervisor, and deaf hearing support teacher participating.

18. On August 27, 2025, the school district issued a NOREP declining the parents' request that the student receive American Sign Language (ASL) instruction. The parent signed the NOREP indicating both approval and disapproval.

19. The student began attending [redacted] Elementary School on September 2, 2025.

20. At the start of the student's [redacted] year, the student had access to a home [assistive technology], which [they] also utilized in the classroom setting.

21. An IEP meeting took place on September 17, 2025.

22. On September 17, 2025, the school district issued a NOREP declining the parents' request that the student be provided with a full-time ASL interpreter in the classroom. The parent signed and approved the NOREP.

23. On October 21, 2025, the parent, through counsel, provided the school district with a speech-language evaluation, conducted by the Children's

Hospital of Pennsylvania (CHOP), along with a letter requesting revisions to the student's IEP.

24. The CHOP evaluator noted that *inter alia*, the student "will continue to need access to ASL via an interpreter in the classroom to ensure access to all information."

25. An IEP meeting took place on November 14, 2025 to address the parents' concerns raised in their October 21, 2025 letter to the school district.

26. The school district issued a NOREP on November 14, 2025, which the parent received on November 19, 2025. The parent signed and approved the NOREP on November 25, 2025, noting a concern that the student "needs additional supports."

27. The November 14, 2025 IEP included additional special education supports for reading and math, including the development of math and reading IEP goals, as well as the provision of an [assistive technology] by the school district. However, the school district did not approve the parents' request for ASL instruction with progress monitoring and the provision of an ASL interpreter.

28. The November 14, 2025 IEP is the IEP implemented at the time of the parents' due process filing.

29. On or around January 26, 2026, the student's deaf and hearing support teacher left the school district to go on sabbatical.

30. The student underwent [redacted] surgery on January 26, 2026, and returned to school on February 2, 2026.

31. The parents filed for due process on February 6, 2026.

32. On March 4, 2026, the parents requested an IEE.

33. On March 12, 2026, the school district filed for due process in response to the parents' IEE request.

34. On April 7, 2026, the school district held its annual IEP team meeting. A draft IEP was sent to the parents and reviewed at the meeting.

35. Per diem substitute teacher [redacted] was hired through the school district's contracting agency on January 27, 2026, to fill the vacancy created by the deaf and hearing support teacher.

36. [Redacted] is not a teacher of the deaf and, therefore, was not qualified to provide all hearing support services delineated in the student's IEP.

37. The school district acknowledges that the student was denied FAPE and will be entitled to compensatory education for the period of [redacted]'s substitute teaching assignment, which ended on March 31, 2026.

38. Following the end of [redacted]'s assignment, the student was without a hearing support teacher until April 15, 2026, when a permanent TOD was hired through PA School for the Deaf. The student was denied FAPE during this period and is entitled to compensatory education.

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

39. The student's date of birth is [redacted]. (J-19)

40. The student is well liked and enjoys playing [sport]. (NT 393 – 394)

¹ (Exhibits shall hereafter be referred to as "J-1," etc. for joint exhibits; references to page numbers of the transcript of testimony taken at the hearing is the hereafter designated as "NT___").

41. During early intervention, the student was assigned to an auditory/oral classroom, where spoken English was emphasized. To the extent that sign language was used in the classroom, it was for the purpose of providing a bridge to spoken language; once the children learned the spoken words, the signs were phased out. During the student's time in the Intermediate Unit's auditory/oral classroom, the student did not require sign support in order to participate and or benefit from special education or the student's IEP. American Sign Language was not taught in the classroom. The student's IEPs during early intervention did not include any goal or specially designed instruction regarding American Sign Language instruction or interpretation. (J-2, J-5, J-19; NT 147 – 150, 159 – 161, 97 – 98, 479 – 480)

42. As a part of the process of transitioning to [redacted] in the school district, the parents completed a Parent Questionnaire on February 28, 2025. The parents did not include any information concerning a need for American Sign Language instruction or interpretation. The student's early intervention teacher completed the transition worksheet on March 10, 2025. The teacher did not include any input regarding the need for American Sign Language instruction or interpretation. The teacher described the student as a "talker," and she noted that the student understood what the student heard and that the student was very cooperative and participated in all activities. (J-13, J-15; NT 361 – 370)

43. The school district conducted an evaluation of the student that resulted in an evaluation report on March 21, 2025. The evaluation included parent input, a review of records, teacher input, classroom observation, assessment of cognitive abilities, academic readiness, and social – emotional functioning; a speech evaluation, an occupational therapy evaluation, physical therapy evaluation, a functional hearing assessment, a functional vision assessment, and a functional behavioral assessment. The parent input for the

evaluation included that the student was a fast learner and that the student knew how to listen to other people in conversation. The parents pointed out that the student made friends and interacted with most people. The parent input did not mention a need for American Sign Language. The teacher recommendations during the evaluation process did not mention a need for instruction in American Sign Language. During the classroom observation portion of the evaluation, the student did not use American Sign Language to communicate with teachers or peers; verbalizations were the method of communication within the classroom. The school psychologist conducted assessments of the student using spoken English with no problems or issues. (J-17; NT 165 – 167, 481 – 483, 483 – 484, 507)

44. The school district evaluation included a functional behavioral analysis for aggressive and tantrum behaviors based upon parent reports of such behaviors by the student in the home setting. The targeted behaviors were not observed in the preschool classroom. (J-17)

45. The evaluation included a functional hearing assessment consisting of a record review, classroom observation, input from teachers and service providers, input from parent, and hearing assessments. The functional hearing assessment was conducted by the school district's teacher of the deaf. A review of the student's records indicated that the student used spoken English to communicate. During the classroom observation, instruction was delivered through spoken English except when communicating with a profoundly deaf peer. The evaluator administered the Test of Auditory Processing (TAPS-4). The student's overall scores fell within the average range. The evaluation made recommendations for specially designed instruction and hearing support services. The evaluator did not recommend that the student receive American Sign Language interpretation or instruction. (J-17; NT 235 – 236; 221 – 230, 183 – 190, 233 – 236)

46. The March 21, 2025 evaluation of the student by the school district did not include an audiogram. (J-17; NT 720 – 723)

47. An audiogram maps the results of a hearing test and helps understand how a person hears at different decibels. (NT 196 – 197)

48. On August 27, 2025, the school district's special education director sent an email to the special education supervisor stating that a "full-blown" paraprofessional would not be needed to collect data on the student's hearing needs and that the only data "...that will connect [student's] needs to hearing loss is an audiogram." The special education supervisor assumed that the parents would provide an audiogram, but it did not occur to the special education supervisor to obtain an audiogram through the audiologist available at the Intermediate Unit. (J-45; NT 720 – 723)

49. The school district's evaluation report did not determine that the student had a need for American Sign Language instruction or an American Sign Language interpreter. (J-17)

50. An IEP was developed for the student on April 15, 2025. A CHOP advocate attended the IEP team meeting with the parent. The IEP addresses the needs identified by the school district's evaluation. The IEP includes goals in the areas of articulation, fine motor skills, visual motor skills, auditory memory skills, understanding of the student's hearing loss/advocacy skills, lower extremity strength and balance, cross motor skills, and social/behavior skills. The IEP includes numerous specially designed instruction, including specific hearing supports, such as, an FM system, preferential seating, repetition, sound reduction, pre-teaching and reviewing classroom vocabulary and check-ins. The specially designed instruction includes consultation between the regular education teachers and the hearing support teacher, direct instruction by the hearing support teacher related hearing loss and self-advocacy skills, and monitoring of computer-based assessments by the

hearing support teacher. The IEP includes weekly direct instruction in social skills and emotional regulation for 30 minutes per session. In response to parental input at the meeting concerning fatigue, the IEP includes specially designed instruction to accommodate the student's fatigue, including rest breaks, access to the elevator, supervision on the stairs, and adult supervision at recess, lunch and specials. The IEP includes the following related services: small group speech and language therapy for 30 minutes per week, small group occupational therapy for 30 minutes per week, small group hearing support for 10 minutes per week, individual hearing support for 60 minutes per week, individual physical therapy for 30 minutes per week, and vision consultation four times per year for 30 minutes per session. (J-17, J-19; NT 518 – 519, 676, 683 – 684, 686 – 687, 241 - 243)

51. The IEP includes a communication plan that provides for weekly monitoring of the student's [assistive devices] by the hearing support teacher. The communication plan notes that the student uses listening and spoken language as the student's mode of communication at home, during instruction and in noninstructional settings at school. The plan notes that the student uses spoken English with most of the student's peers, although the student communicates with one peer using simple signs because the peer communicates in sign language only. The plan states that at home, the student uses some sign language but not American Sign Language. The parents raised no objection to American Sign Language not being identified as a need for the student in the communication plan. (J-19; NT 105 – 108, 244 – 246, 102 – 105, 246 – 247)

52. The April 15, 2025 IEP does not include American Sign Language instruction or an American Sign Language interpreter. The parent and the parents' advocate did not raise any concerns at the meeting concerning sign language. The IEP provides for an itinerant level of support with the student

inside the regular education classroom approximately 89% of the school day. (J-19; NT 239 – 243, 687 – 688)

53. A NOREP reflecting the IEP was sent to the parent on approximately April 29, 2025. The parent did not immediately return the NOREP because of concerns about whether the school district would be providing the [assistive technology] that the student would be using at school. (J-20, J-21; NT 690 – 694)

54. On August 25, 2025, a meeting was held with the parent, the supervisor of special education and the teacher of the deaf to discuss the student's [assistive technology] and the parents' request for American Sign Language instruction and an American Sign Language interpreter in the classroom. Following the meeting, the student's IEP was amended to include specially designed instruction concerning the teaching of eight to 10 vocabulary words in sign language each week. The amendment to the IEP was made in response to the parents' request to allow the student to have the opportunity to be a bimodal communicator. A NOREP declining the parents' request for the American Sign Language interpreter and direct instruction in American Sign Language was provided to the parents. The parents approved the district programming but noted that it did not believe that sufficient services to allow the student to become bimodal/bilingual while in school. The parent checked both the approved box and the disapproved box on the NOREP regarding the student's educational program. (J-23, J-24; NT 248, 699, 702 – 704).

55. A placement with a sign language interpreter is a highly restrictive placement. (J-45; NT 710, 745)

56. An IEP team meeting was held on September 17, 2025 to discuss the student's transition to [redacted]. Teacher input provided for the meeting stated that the student had adjusted well to the [redacted] classroom. The

student demonstrated a positive attitude and success in learning. The student's teachers had no concerns regarding the student's ability to participate in the classroom and to understand instruction. The student attended to lessons and showed improvement in following directions. (J-25, J-31; NT 641 – 643, 645, 706)

57. At the September 17, 2025 IEP team meeting, the parent again requested an American Sign Language interpreter be provided in the classroom. A NOREP declining the parents' request for an American Sign Language interpreter in the classroom was approved by the parents. (J-25, J-26)

58. As a result of parent input, the IEP was revised to include specially designed instruction for consultation between the hearing support teacher and the IU audiologist concerning the [student's assistive technology]. (J-25, J-31)

59. On October 21, 2025, counsel for the parents provided the school district with a speech language evaluation done by the Children's Hospital of Philadelphia. The evaluation found that the student had average receptive and expressive language skills and age-appropriate pragmatic language skills. The CHOP evaluation did not include any hearing assessments or input from an audiologist. The evaluation did not include any classroom observations of the student or input from the student's teacher. The report of the evaluation refers to the student's "recent reliance on ASL" and recommends that the student "continue to receive the services of an ASL interpreter." (J-29; NT 115 – 122, 480 – 482, 577 – 578)

60. An IEP team meeting was convened on November 14, 2025. Teacher input for the meeting stated that the student continued to make progress following routines and managing emotions. The student participated often in class and engaged appropriately with peers and teachers. The

student's transition into the [redacted] classroom was described as "beautiful." As of November 2025, the student was making progress on the student's goals. (J-31; NT 648 – 651, 253 – 254, 258 – 260)

61. The IEP team reviewed results of diagnostic testing and curriculum-based assessments. Because the student was not on grade level in reading and math, the team agreed to revise the student's programming to include direct instruction in reading and math. Also at the November 14, 2025 meeting, the school district agreed to provide an [assistive technology] system to be paid for by the school district for the student to use in school. The IEP provides that the student will be in the general education classroom approximately 77% of the school day. (J-25, J-31; NT 489 – 490, 646 – 647, 205 – 206, 257)

62. Following the meeting, the parent provided input that stated that the parent "appreciates the school district efforts to increase [student's] support in reading and math," but that the parents were concerned that the student required instruction in American Sign Language, noting that this is "one of our chosen modes of communication." The parents again requested an American Sign Language interpreter for the student. On November 25, 2025, the parents approved the amended IEP but noted that they believed additional supports, including American Sign Language instruction and American Sign Language interpretation were required. (J-31, J-32)

63. Near the end of November 2025, the student began receiving direct instruction in reading and direct instruction in math, in addition to the social skills instructions and push in and push out hearing support. (NT 617-620, 668)

64. The [assistive technology] is used throughout the student's school day. [redacted] During group work, the [assistive technology] can be placed

in the middle of the table so that the student can work together with other students. (NT 573- 577, 629 – 635)

65. The student had either the home [assistive technology] or the school district supplied [assistive technology] available at all times during the school year. (NT 577; 733-736)

66. Over the course of the 2025 – 2026 school year, the student made progress on the student's IEP goals and the student's academic skills. (J-34, J-36, J-38, J-31; NT 500-522, 566 – 573, 591 – 599, 614, 641-645, 647-652, 666, 705-706, 249-253, 257-260; record evidence as a whole)

67. At all relevant times, the student communicated in the school setting using spoken English. (record evidence as a whole)

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 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. In conducting an evaluation, a local education agency 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 providers, 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.

3. 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).

4. The United States Supreme Court has developed a two-part test for determining whether a school district has provided a free appropriate public education (hereafter sometimes referred to as "FAPE") to a student with a disability. There must be: (1) a determination as to whether a school district has complied with the procedural safeguards as set forth in IDEA, and (2) an analysis of whether the individualized educational program is reasonably calculated to enable the child to make progress in light of the child's

circumstances. Endrew F by Joseph F v. Douglass County School District RE-1, 580 U.S. 386, 69 IDELR 174 (2017); Board of Educ., etc. v. Rowley, 458 U.S. 178, 553 IDELR 656 (1982); KD by Theresa Dunn and Jonathan Dunn v. Downingtown Area School District, 904 F.3d 248, 72 IDELR 261 (3d Cir. 2018).

5. In order to provide FAPE, an IEP must be reasonable, not ideal. KD by Dunn v. Downingtown Area School District, *supra*; LB by RB and MB v Radnor Twp Sch Dist, 78 IDELR 186 (ED Penna 2021).

6. The appropriateness of an IEP in terms of whether it has provided a free appropriate public education must be determined at the time that it was made. The law does not require a school district to maximize the potential of a student with a disability or to provide the best possible education; instead, it requires an educational plan that provides the basic floor of educational opportunity. Ridley School District v. MR and JR ex rel. ER, 680 F.3d 260, 58 IDELR 281 (3d Cir. 2012); DS v. Bayonne Board of Education, 602 F.3d 553, 54 IDELR 141 (3d Cir. 2010); Mary Courtney T. v. School District of Philadelphia, 575 F.3d 235, 251, 52 IDELR 211 (3d Cir. 2009).

7. For a procedural violation to be actionable under IDEA, the parent must show that the violation results in a loss of educational opportunity for the student, seriously deprives the parents of their participation rights, or causes a deprivation of educational benefit. Ridley School District v. MR and JR ex rel. ER, *supra*; IDEA § 615(f)(3)(E); 34 C.F.R. § 300.513(a).

8. IDEA does not require a school district to guarantee a particular result or to close the gap between children with disabilities and their non-disabled peers. JN and JN ex rel. JN v. Southwest School District, 56 IDELR 102 (N.D. Penna. 2015); see, Kline Independent School District v. Hovem, 690 F. 3d 390, 59 IDELR 121 (5th Cir. 2012); HC and JC ex rel. MC v. Katonah – Lewisboro Union Free School District, 59 IDELR 108 (S.D. NY 2012); District

of Columbia Public Schools, 111 L.R.P 77405 (SEA D.C. 2011). Progress toward FAPE is measured according to the unique individual circumstances of the individual student and not in comparison to other students. See, GD by Jeffrey and Melissa D v. Swampscott Public Schs, 122 LRP 6305 (1st Cir. 2022). The Third Circuit has specifically ruled that IDEA does not require that all (or even most) disabled children advance at a grade-level pace. KD by Dunn v. Downingtown Area School District, 904 F. 3d 248, 72 IDELR 261 (3d Cir. 2018).

9. A school district must provide a related service, such as speech language therapy, occupational therapy or interpreter services, to a student with a disability only when the related service is necessary for the student to benefit from special education. 34 C.F.R. § 300.34; Irving Independent School District v. Tatro, 468 U.S. 883, 555 IDELR 511 (1984); Cedar Rapids Community School District v. Garrett F., 526 U.S. 66, 29 IDELR 966 (1999); Mary Courtney T. v. School District of Philadelphia, 575 F. 3d 235, 52 IDELR 211 (3d Cir. 2009).

10. To prevail on a claim of failure to implement an IEP, a parent must show that the school district failed to implement substantial or material provisions contained in the IEP. Abigail P by Sarah F v. Old Forge Sch Dist, 105 F.4th 57, 124 LRP 21769 (3d Cir 2024); MP by VC v. Parkland School District, 79 IDELR 126 (E.D. Penna. 2021); see, Van Duyn v. Baker School District, 481 F 3d 770, 47 IDELR 182 (9th Cir. 2007).

11. A school district must "...to the maximum extent appropriate (ensure that) children with disabilities... are educated with children who are non-disabled and that special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only if the nature or severity of the disability is such that education in the regular classroom with the use of supplementary aids and services cannot be achieved

satisfactorily.” 34 C.F.R. § 300.114(a)(2); Individuals With Disabilities Education Act (hereinafter sometimes referred to as “IDEA”) § 612(a)(5)(A); 22 Pa. Code § 14.145.

12. The Third Circuit has stated that the least restrictive environment provision sets forth a “strong congressional preference” for integrating children with disabilities in regular classrooms. Oberti v. Board of Education, 995 F.2d 1204, 19 IDELR 908 (3d Cir. 1993). The court adopted a two-part test for determining whether a district is in compliance with IDEA’s mainstreaming requirement. First, the court must determine whether education in a regular classroom with the use of supplementary aids and services can be achieved satisfactorily. Second, if the court finds that placement outside a regular classroom is necessary for the child to benefit educationally, then the court must decide whether the school has “mainstreamed the child to the maximum extent appropriate,” that is, whether the school has made efforts to include the child in school programs with nondisabled children whenever possible. In determining the first prong of the two-part test, the court set forth three factors to be determined: First, the court should look at the steps that the school has taken to try to include the child in a regular classroom. Second, the court should consider in determining whether a child with a disability can be included in the regular classroom, comparing the educational benefits the child will receive in a regular classroom with supplementary aids and services versus the benefits the child will receive in a segregated special education classroom. Third, the court should consider the possible negative effects of the child’s inclusion on the education of other children in a regular classroom. When considering negative effects, the court must keep in mind the school’s obligation to provide supplementary aids and services to accommodate the child’s disabilities. Oberti, supra.

13. Section 504 of the Rehabilitation Act provides that no otherwise qualified individual with a disability shall solely by reason of his or her disability be excluded from participation and/or denied the benefits of or be subject to discrimination under any program that receives federal funds. 29 U.S.C. § 794; 34 C.F.R. § 104.33; 22 Pa. Code § 15.1. To establish a violation of Section 504, a parent must prove: 1) that the student is disabled; 2) that the student was otherwise qualified to participate in school activities; 3) that the school district receives federal funds; and 4) that the student was excluded from participation in and denied the benefits of or subject to discrimination at the school. To offer an appropriate education under Section 504, the school district must reasonably accommodate the needs of a handicapped child to ensure meaningful participation in educational activities and meaningful access to educational benefits. In order to receive a free and appropriate public education as defined by Section 504, a student must be provided with regular or special education and related aids and services that are designed to meet the individual educational needs of disabled persons as adequately as the needs of nondisabled persons are met. 34 C.F.R. § 104.33(b); Ridley School District v. MR and JR ex rel. ER, 680 F.3d 260, 58 IDELR 281 (3d Cir. 2012); Strepp ex rel MS v Midd West Sch Dist, 65 IDELR 46 (M.D. Penna. 2015). Section 504 requires a separate and different analysis than IDEA to determine whether or not a school district has violated the anti-discrimination statute; 504 defines disability more broadly, but imposes fewer demands upon school districts, including not requiring a written plan. BSM by Gabriel M. v. Upper Darby Sch. Dist., 103 F. 4th 956, 124 LRP 17147 (3d Cir. 2024)

14. An IDEA hearing officer has broad equitable powers to issue appropriate remedies when a local education agency violates the Act. All relief under IDEA is equitable. Forest Grove School District v. TA, 557 U.S. 230, 129 S. Ct. 2484, 52 IDELR 151 (n. 11) (2009); Ferren C. v. Sch. Dist. of Philadelphia, 612 F.3d 712, 54 IDELR 274 (3d Cir. 2010); CH by Hayes v.

Cape Henlopen Sch Dist, 606 F.3d 59, 54 IDELR 212 (3d Cir 2010); School District of Philadelphia v. Williams ex rel. LH, 66 IDELR 214 (E.D. Penna. 2015); Stapleton v. Penns Valley Area School District, 71 IDELR 87 (N.D. Penna. 2017). See Reid ex rel. Reid v. District of Columbia, 401 F.3d 516, 43 IDELR 32 (D.C. Cir. 2005); Garcia v. Board of Education, Albuquerque Public Schools, 530 F.3d 1116, 49 IDELR 241 (10th Cir. 2008); In re Student with a Disability, 52 IDELR 239 (SEA W.V. 2009). The conduct of the parties is always relevant when fashioning equitable relief. CH by Hayes v. Cape Henlopen Sch Dist, 606 F.3d 59, 54 IDELR 212 (3d Cir 2010). See, Branham v. District of Columbia, 427 F.3d 7; 44 IDELR 149 (D.C. Cir. 2005).

15. Compensatory education is one remedy that may be awarded to a parent when a school district violates the special education laws. In general, courts, including the Third Circuit, have expressed a preference for a qualitative method of calculating compensatory educational awards that addresses the educational harm done to the student by the denial of a free and appropriate public education. GL by Mr. GL and Mrs. EL v. Ligonier Valley School District Authority, 802 F. 3d 601, 66 IDELR 91 (3d Cir. 2015); Gwendolynne S by Judy S and Geoff S v West Chester Area Sch Dist, 78 IDELR 125 (ED Penna 2021); see Reid ex rel. Reid v. District of Columbia, 401 F. 3d 516, 43 IDELR 32 (D.C. Cir. 2005). In Pennsylvania, in part because of the failure of special education lawyers to provide evidence regarding harm to the student caused by the denial of FAPE, courts and hearing officers have frequently utilized the more discredited quantitative or “cookie cutter” method that utilizes one hour or one day of compensatory education for each day of denial of a free and appropriate public education. The “cookie cutter” or quantitative method has been permitted by courts, especially where there is an individualized analysis of the denial of FAPE or harm to the particular child. See, Jana K. by Kim K v. Annville Sch. Dist., 39 F. Supp. 3d 584, 53 IDELR 278 (M.D. Penna. 2014).

16. The parents have not proven that the school district denied a free and appropriate public education to the student for the 2025 – 2026 school year.

17. The parents have proven that the school district failed to implement material provisions of the student's IEPs.

18. The parents have not proven that the school district violated the least restrictive environment provisions of IDEA.

19. The parents have not proven that the school district discriminated against the student on the basis of a disability in violation of Section 504.

20. The school district has not proven that its evaluation of the student was appropriate and, therefore, the parents are entitled to an independent educational evaluation / audiogram at public expense.

DISCUSSION

I. Merits

1. Whether the parents have proven that the school district's denied a free and appropriate public education to the student for the 2025 – 2026 school year?

The parents contend that the school district denied a free and appropriate public education to the student for the 2025 – 2026 school year because the school district failed to provide American Sign Language instruction and an American Sign Language interpreter for the student. The school district contends that it provided FAPE to the student. The parents have not proven that the school district denied FAPE to the student for the 2025 – 2026 school year.

Interpreter services are among the related services that, under IDEA, a local education agency must provide under certain circumstances. In this case, the briefs of both parties misstate the legal standard for when a school district is required to provide a related service. The school district argues that a related service must be provided when it is needed for the student to access the curriculum. As the parents point out, this is not the correct standard. However, the parents' brief also misstates the standard. The parents assert that related services must be provided in order to assist the student to benefit from special education. This is also incorrect. The correct legal standard is that a school district must provide a related service when the service is required in order for the student to benefit from special education. The well settled law on this point includes two U. S. Supreme Court decisions. It is deeply troubling that the lawyers for both parties have misstated the legal standard for the central issue that is at the heart of this case.

Applying the correct legal standard, the record evidence shows that the student clearly does not need an American Sign Language interpreter in order to benefit from special education. The record evidence demonstrates that the student has communicated through spoken English throughout the student's entire educational experience. Parent input forms and discussion at IEP team meetings reveal that the parents told the school district that the student communicates through spoken English with only the use of some non-ASL sign language at home. The school district was not required to provide an interpreter for the student as a related service.

Moreover, it should be noted that the parents only attack one part of the student's IEPs– the lack of a sign language interpreter or sign language instruction. When reviewing whether substantive FAPE has been provided to a student, an IEP must be viewed as a **whole**. In the instant case, when the

IEP is viewed as a whole IEP, it is clear that the IEP is reasonably calculated to provide meaningful educational benefit in view of the unique individual circumstances of the student. The IEP appropriately addresses the student's areas of need. The student's unique circumstances include the use of spoken English as the means of communication the entire time that the student has been in school. The absence of an interpreter or ASL instruction does not render the IEP substantively inappropriate.

The parents' post-hearing brief contends that there is a separate FAPE standard for deaf students. This is emphatically not true. Overemphasis upon the category of disability can lead to stereotypical thinking about people with disabilities and is misplaced. School District of Philadelphia v. Post, et al, 262 F. Supp. 3d 178, 70 IDELR 96 (E.D. Penna. 2017); See, Minnetonka Pub Schs, Independent Sch Dist No. 276 v. M.L.K., by S.K. and D.K, 81 IDELR 123 (8th Cir. 2022); see also, Analysis of comments to proposed federal regulations, 71 Fed. Reg. 156 at p. 46586, 46588 (OSEP August 14, 2006); In re Student With A Disability, 52 IDELR 239 (SEA W.Va. 2009). The FAPE standard for substantive challenges to an IEP articulated by the U.S. Supreme Court is the standard for all students with disabilities. The parents' argument is rejected.

IDEA does require that an IEP team consider special factors in drafting IEPs in certain cases. For student's who are deaf or hard of hearing, an IEP team must consider the student's mode of communication and must consider the student's full range of communication needs. 34 C.F.R. § 300.324(a)(2)(iv). The record evidence shows that that is precisely what the IEP team did in this case. Throughout the student's education, the student's mode of communication has been spoken English. When the parents expressed a desire for the student to be a bimodal communicator, the school

district added instruction in American Sign Language to the specially designed instruction in the IEP.

The parents also attempt to incorporate into IDEA certain sections of the Americans With Disabilities Act regarding mode of communication. An IDEA hearing officer does not have jurisdiction over the Americans With Disabilities Act. IDEA §615(f)(A); 34 C.F.R. § 300.507(a); 22 Pa. Code § 14.162. The parents cite no authority that ADA provisions are applicable in an IDEA FAPE analysis. The parents' argument is rejected.

In any event, the record evidence is clear that the school district appropriately took into account the parents' desire to add American Sign Language to the student's skillset when the IEP was amended at the parents' request to include specially designed instruction to teach the student American Sign Language. The parents contend that the school district somehow violated IDEA by including the sign language instruction in the IEP's specially designed instruction section rather than in the IEP goals section. The parents' brief cites no legal authority, and indeed there is no such authority, to support their argument that certain topics must be addressed as IEP goals rather than specially designed instruction. Once again, the FAPE standard is whether the IEP as a whole at the time it was drafted was reasonably calculated to confer meaningful educational benefit in view of the student's unique circumstances. The argument is rejected.

The parents' post-hearing brief also asserts that the school district violated state law by not including American Sign Language instruction into the student's communication plan. The evidence shows that the student's IEP has a communication plan, and the communication plan analyzes the information provided by the parents and teacher concerning the student's near exclusive use of spoken English at school. The school district has clearly

complied with the requirement under state law that requires that a communication plan be developed that analyzes the student's method of communication.

In a footnote, the parents' brief refers to a document that is not in evidence. For obvious reasons involving procedural due process, a party cannot offer evidence after the hearing has been concluded by including it in a brief. Documents that were not admitted into evidence at the hearing were not considered in writing this decision.

The parents' brief also cites certain Office of Dispute Resolution hearing officer decisions ruling against the school district. Apparently, the parents seem to be arguing that the school district has an uncontrollable habit of violating IDEA or a custom and practice of denying FAPE. It is established beyond question, however, that IDEA cases are decided solely upon the unique facts of an individual case. IDEA requires individualization and nuanced analysis of the particular facts involving the unique circumstances of the individual student involved in a special education hearing. It is not appropriate in any type of administrative hearing to take notice of past decisions that go in favor of or against a party in cases with different facts. It is particularly inappropriate to do so, however, in a special education administrative hearing which is predicated upon the **Individuals** With Disabilities Education Act and which requires analysis of the unique **individual** circumstances of the particular student involved in the case. The parents' argument that past ODR hearing officer decisions about other students should somehow influence the outcome of this case in any way is without any basis in the law, and it is rejected.

The parents offered the testimony of an expert speech language pathologist and an advocate from the Children's Hospital of Philadelphia in

support of their position. The speech language expert's testimony is entitled to little weight because her testimony was based upon best practices, impaired by bad memory and the fact that the witness had not observed the student in class or had discussions with the student's teachers. The testimony of the advocate is entitled to little weight because the CHOP report contains severe inaccuracies, including whether the student in the past had relied upon American Sign Language interpreters in the classroom and the recommendation that the student should 'continue' to receive American Sign Language interpretation in the classroom.

Although a school district is not required to show that the student made actual progress, in this case, it is clear that the student did make meaningful progress under the IEPs. The credible and persuasive evidence in the record indicates that the student made meaningful progress under the student's IEPs while using spoken English as the mode of communication.

When the student's IEP is viewed as a whole, it is clear that it is reasonably calculated to confer meaningful educational benefit in view of the student's unique individual circumstances. The student does not need a sign language interpreter in order to benefit from special education. The IEP appropriately addresses the student's needs, and the student has in fact made actual progress under the education plan.

The testimony of school district witnesses was more credible and persuasive than the testimony of the parents' witnesses with regard to this issue. This conclusion is made because of the demeanor of the witnesses, as well as the following factors: the analysis of the credibility issues above concerning the parents' expert speech language pathologist and the Children's Hospital of Philadelphia employee and report are incorporated by reference herein. The credibility and persuasiveness of the testimony of the student's

mother is impaired because the parents subpoenaed the student's preschool teacher in this case based upon the parents' assertion that American Sign Language interpretation was used to instruct the student in preschool. The testimony of the subpoenaed witness was to the contrary of the assertion made by the parents in order to obtain the subpoena. The parents' untrue assertion that American Sign Language was used to instruct the student in preschool severely undermines the credibility and persuasiveness of the testimony of the mother with regard to this issue. In addition, the demeanor of the student's mother was evasive, especially with regard to questions concerning previously supplied parent input regarding the student's nearly exclusive reliance upon spoken English.

When the student's IEPs for the 2025–2026 school year are viewed as a whole, it is concluded that they were reasonably calculated to confer meaningful educational benefit in view of the student's unique individual circumstances. The parents have not proven that the school district denied FAPE to the student.

2. Whether the parents have proven that the school district failed to implement material portions of the student's IEPs?

The parents contend that the school district failed to implement material portions of the student's IEPs.

The parties have stipulated that the student was without a hearing support teacher because of a sabbatical taken hearing support teacher who had been working with the student. The parties agree that the student needed a hearing support teacher- a material provision of the student's IEP. The student was without a hearing support teacher, according to the parties'

stipulation from February 2, 2026 through April 15, 2026. The parties have stipulated that the IEP was not implemented during that period of time and that the student is entitled to compensatory education. It will be so ordered.

The second area in which the parents contend that the school district failed to implement the student's IEP involves the [assistive technology] used by the student. The student's IEPs provided that the student would have an [redacted] system to ensure that the student could hear what was being said through [redacted]. Throughout the student's time at the school district, the student had the use of an [assistive technology] system, but for a significant period of time, the [assistive technology] was supplied by the parents and not by the school district. The parents began asking the school district to supply the [assistive technology] rather than have the parents' private insurance supply the [assistive technology] at some point after the April 2025 IEP team meeting and the resulting NOREP was issued. The school district finally supplied the [assistive technology] at public expense as of November 14, 2025. The [assistive technology] was clearly a material portion of the student's IEP because the amplification provided by the system allows the student to participate in and benefit from the classroom experience.

It should be noted that the evidence in the record reveals that the student had the use of an [assistive technology] system available throughout the student's time in the school district. However, it is the responsibility of the local education agency and not the parents to implement a student's IEP. Although no compensatory education will be awarded for this violation because the student suffered no educational harm because an [assistive technology] was always in use, it is possible that the parents incurred various co-pays, deductibles or other fees or costs as a direct result of supplying the home [assistive technology] system so that the school district could

implement the student's IEPs. The school district will be ordered to pay any such documented out-of-pocket costs incurred by the parents as a result of the school district's failure to implement the material provision of the student's IEPs concerning the [assistive technology] system.

Because the parties have largely stipulated to the facts with regard to this issue, it is likely not necessary to make a credibility analysis. To the extent necessary, however, the testimony of the parent was more credible and persuasive than the testimony of the school district witnesses with regard to this issue because of the demeanor of the witnesses and because the documentary evidence is consistent with the mother's testimony.

It is concluded that the school district failed to implement material portions of the student's IEP with regard to the provision of a hearing support teacher for a period of time, as well as by failing to supply an [assistive technology] system for the student at school district expense for a period of time.

3. Whether the parents have proven that the school district violated the least restrictive environment requirement of IDEA?

The parents contend that the school district violated the least restrictive environment mandate of IDEA by placing the student in special education classes for math and English rather than educating the student in the general education classroom with an American Sign Language interpreter. The school district contends that it provided a placement for the student in the least restrictive environment.

The parents have not proven that the school district violated the least restrictive environment requirement. The student's mother in responding to a NOREP stated that she "appreciates the school district efforts to increase the [student's] support in reading and math." The parents simply cannot have it both ways. The parents cannot agree to the math and English supports at a team meeting, and then thank the school district in writing for placing the student in special education classes in math and English, and then file a due process complaint claiming that the school district somehow violated the law by placing the student in such classes. The prior inconsistent positions taken by the parents on this issue render this argument invalid.

This argument appears to be a backdoor attempt to relitigate the FAPE question concerning the provision of a sign language interpreter and American Sign Language instruction discussed above rather than a serious least restrictive environment argument. Moreover, to the extent that the parents' suggested placement requires an adult interpreter to sit near the student in each class, it is clear that the placement requested by the parents would be more restrictive than the student's current placement in the school district.

The parents add a predetermination/meaningful participation argument to their brief concerning this issue. Predetermination was not one of the issues listed by the parents prior to the hearing and agreed upon at the beginning of the hearing. Accordingly, the predetermination argument is waived and is not considered herein. JL v Lower Merion Sch Dist, 81 IDELR 251 (E.D. Penna 2022); LB by RB and MB v Radnor Township Sch Dist, 78 IDELR 186 (E.D. Penna 2021). Even assuming, *arguendo*, that the predetermination argument was properly before the hearing officer, however, there is no evidence in this case to support an argument that the school district predetermined the student's placement without parent participation. Indeed, it is clear from the

evidence in the record that the student's parents actively and meaningfully participated at all IEP team meetings and that the school district considered parent input and made changes to the student's IEPs in response thereto. There was no predetermination or failure to afford the parents meaningful participation in this case.

The testimony of the school district witnesses was more credible and persuasive than the testimony of the parents' witnesses with regard to this issue. This conclusion is made based upon the demeanor of the witnesses, as well as the factors set forth herein, including the parents' prior inconsistent statements regarding agreement to additional supports in reading and math at the meeting followed by a written thank you for such supports prior to filing a due process complaint asserting the illegality of such supports.

It is concluded that the parents have not proven a least restrictive environment violation.

4. Whether the parents have proven that the school district discriminated against the student on the basis of a disability in violation of Section 504?

The parents contend that the school district discriminated against the student on the basis of a disability in violation of Section 504. The school district contends that it did not discriminate against the student.

The parents have not proven that the school district violated Section 504. As the Third Circuit has stated, there must be a separate analysis of whether there has been discrimination under Section 504 independent of any IDEA analysis. In the instant case, there is no evidence that the student's individual needs were not met as adequately as the needs of nondisabled

students. Indeed, there is no evidence of any kind concerning nondisabled students in this case. There is also no evidence that suggests that the student was excluded because of, or discriminated against, on the basis of a disability. The parents have not proven discrimination on the basis of a disability in violation of Section 504.

The parents' post-hearing brief concerning this issue makes an argument that the school district violated the deliberate indifference standard. The deliberate indifference standard applies only to whether or not a court, not a hearing officer, should award compensatory or money damages for intentional discrimination. BSN by Gabriel N. v. Upper Darby SD, 103 F. 4th 956, 124 L.R.P. 17147 at n. 5 (3d Cir. 2024); See, AJT v Osseo Area Schools, # 279, 605 U.S. 335 (2025). It is well settled that an IDEA hearing officer cannot award money damages. Accordingly, the deliberate indifference standard is not applicable to an IDEA due process hearing. All of the parents' argument with regard to the deliberate indifference standard for money damages is not relevant to this proceeding. It is not considered herein. The parents' argument is rejected.

The testimony of the school district witnesses was more credible and persuasive than the testimony of the parents' witnesses with regard to this issue. This conclusion is made based upon the demeanor of the witnesses, as well as the other factors set forth herein.

It is concluded that the parents have not proven that the school district discriminated against the student on the basis of a disability in violation of Section 504.

5. Whether the school district has proven that the its evaluation of the student was appropriate and that the parents' request for an independent educational evaluation should be denied?

The parents requested an independent educational evaluation at public expense. The school district denied the request and filed a due process complaint to prove that its evaluation was appropriate.

The school district has not met its burden of proving that its evaluation of the student was comprehensive or appropriate.

Much of the evidence provided by both parties regarding this issue concerns the details of the school district's functional hearing assessment. The parents provided unpersuasive evidence from their expert speech-language pathologist that the school district's functional hearing assessment did not utilize best practices, or was not conducted in the way that their witness would have conducted it. Such evidence does not amount to a showing that the school district evaluation was not appropriate, and it is not considered as persuasive evidence herein.

However, the record is also clear that the school district evaluation of the student did not include an audiogram. The school district, in its post-hearing brief, emphasizes the fact that the parents did not provide an audiogram to the school district. It is not the responsibility of a parent, however, to evaluate the student on behalf of the school district. The local education agency has the responsibility for evaluating the student.

As the parents' brief points out, the importance of an audiogram for the student was highlighted in internal email correspondence by the special

education director to the special education supervisor stating that "...the only data that will connect the [student's] needs to hearing loss is an audiogram." The school district's special education supervisor testified that it did not occur to her to contact the audiologist available at the Intermediate Unit in order to obtain an audiogram, but perhaps she should have done so.

The failure of the school district to obtain an audiogram as a part of the evaluation process renders the school district evaluation inappropriate. Without an audiogram, the evaluation is clearly not comprehensive. Accordingly, the parents will be awarded an independent educational evaluation/audiogram at public expense.

The testimony of the parents' witnesses was more credible and persuasive with regard to this issue than the testimony of the school district staff. This conclusion is made based upon the demeanor of the witnesses, as well as the fact that the documentary evidence, including the internal email, supports the position that the audiogram was important for this student and yet not conducted as a part of the evaluation.

It is concluded that the school district has not proven that its evaluation of the student was comprehensive or appropriate, and the parent is awarded an IEE/audiogram at public expense.

II. Relief

The parents have not proven a denial of FAPE because of the failure of the school district to provide an American Sign Language interpreter or American Sign Language instruction. The parents have also not proven a violation of Section 504 or a least restrictive environment violation.

The parents have proven implementation violations by the school district. Because the absence of a hearing support teacher is a material provision of the student's educational program, the student will be awarded full days of compensatory education for the period during which the school district did not provide a qualified hearing support teacher for the student. Concerning the failure to provide an [assistive technology] system at school district expense, the student did not suffer any educational harm, so compensatory education is not awarded. Because the school district relied upon the parents to implement this provision of the student's IEP, however, the parents are awarded any documented out-of-pocket expenses, including deductibles, co-pays, or other expenses they have directly incurred as a result of providing the student's home [assistive technology] system for the student while in school.

The school district did not prove that its evaluation was appropriate or comprehensive. Accordingly, the parents are awarded an independent educational evaluation (audiogram only) at public expense.

Because all relief under IDEA is equitable relief and should be flexible in nature, and because special education under IDEA requires a collaborative process, Schaffer v. Weast, 546 U.S. 49, 44 IDELR 150 (2005), the parties shall have the option to agree to alter or amend the relief awarded herein, so long as both parties and their lawyers agree to do so in writing.

ORDER

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

1. The school district shall provide the parents with an independent educational evaluation (audiogram only) at public expense. The evaluation shall be consistent with the school district's criteria applicable to independent educational evaluations. The independent educational evaluation shall be completed on or before November 1, 2026; and

2. The school district is ordered to provide one full day of compensatory education to the student for each school day during the period during which the school district failed to implement the material portion of the student's IEP that required a hearing support teacher, as described above.

a. The student's parents may decide how the compensatory education is provided. The compensatory education may take the form of any appropriate developmental, remedial or enriching educational service, product or device for the student's educational and related services needs;

b. The compensatory education may be used at any time from the present until the student turns age twenty-one (21); and

c. The compensatory education shall be provided by appropriately qualified professionals selected by the parent. The cost to the school district of providing the awarded days of compensatory education may be limited to the average market rate for private providers of those services in the county where the district is located; and

3. The school district is ordered to reimburse the parents for any documented out-of-pocket costs incurred by the parents in providing the home [assistive technology] system in order to implement the student's IEP while the student was at school.

4. The school district shall, on or before November 1, 2026, reimburse the parents for any documented expenses described in the preceding paragraph.

5. The parties may adjust or amend the terms of this order by mutual written agreement signed by all parties and counsel of record; and

6. All other relief requested by the two instant due process complaints is hereby denied.

IT IS SO ORDERED.

ENTERED: August 11, 2026

James Gerl

James Gerl, CHO
Hearing Officer