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. 32715-25-26

Child's Name:
L.M.

Date of Birth:
[redacted]

Parent(s):
[redacted]

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Hearing Officer:
Michael J. McElligott, Esquire

Date of Decision:
07/21/2026

Introduction

This special education due process hearing concerns the educational program of L.M. ("student"), a student who resides in the Tunkhannock Area School District ("District").[1] As the basis of this dispute, the parties disagreed as to whether the student should have qualified under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA")[2] as a student who requires special education. Parent claims that the District failed to identify the student for eligibility under IDEA.[3]

Specifically, parent claims that the District's November 2024 evaluation report ("ER"), in failing to identify the student for eligibility under IDEA, was prejudicially flawed. The District counters that the November 2024 ER was appropriate and that the District's conclusion that the student was not eligible for services under IDEA is supported by the ER.

Having found that the student was not eligible for services under IDEA, the District found that the student was eligible for services under the Rehabilitation Act of 1973, specifically Section 504 of that statute ("Section 504").[4] Parent claims that, notwithstanding the allegations of related to the

[1] The generic use of "student", and avoidance of personal pronouns, are employed to protect the confidentiality of the student.
[2] It is this hearing officer's preference to cite to the pertinent federal implementing regulations of the IDEIA at 34 C.F.R. §§300.1-300.818. *See also* 22 PA Code §§14.101-14.162 ("Chapter 14").
[3] The student qualifies for gifted programming under 22 PA Code §§16.1-16.65. The student's receipt of gifted education does not impact this decision.
[4] It is this hearing officer's preference to cite to the pertinent federal implementing regulations of Section 504 at 34 C.F.R. §§104.1-104.61. See also 22 PA Code §§15.1-15.11.

November 2024 ER, the student's Section 504 programming was inappropriate.

Additionally, on March 3, 2026, the student was involved in a behavior incident in school. The parent asserts various claims regarding the District's handling of that incident.

For the reasons set forth below, I find in favor of the parent in part and in favor of the District in part.

Issues

1. Were the November 2024 ER, and its conclusions, appropriate?
2. Was the student's Section 504 programming appropriate?
3. Did the District err in its handling of the March 3, 2026 incident?

Findings of Fact

All evidence in the record, both exhibits and testimony, was considered. Specific evidentiary artifacts in findings of fact, however, are cited only as necessary to resolve the issue(s) presented. Consequently, all exhibits and all aspects of each witness's testimony are not explicitly referenced below.

[Redacted]

1. In August 2024, upon enrollment in [redacted] at the District, the student's parent contacted the District about services, based on the student's need for behavior support in [redacted] settings. (School District Exhibit ["S"]-5; Notes of Testimony ["NT"] at 80-154, 162-300).
2. After receiving permission to evaluate the student in September 2024, the District undertook an evaluation and, in November 2024, issued an ER. (Parent Exhibit ["P"]-2; S-8; NT at 162-300).[5]
3. The November 2024 ER contained parent input. (P-2 at pages 1-2).
4. The parent reported that the student's strengths as "very smart, wants to learn"; the student's challenges were reported as "social/emotional regulation and behavior". (P-2 at page 2).
5. The student had been receiving support through a community-based mental health agency. The District was provided with a June 2023 autism diagnostic evaluation issued by the community-based mental health agency. (P-2 at pages 2-4).
6. The evaluator medically diagnosed the student with autism spectrum disorder and ADHD. (P-2 at pages 2-4).

[5] Each party submitted an identical exhibit for the November 2024 ER, at P-2 and S-8. The parent exhibit will be cited.

7. The District was provided with a February 2024 psychiatric evaluation issued by the community-based mental health agency. (P-2 at 5-6).
8. The student's parent reported significant behavior difficulties at [redacted] in the prior school year, including frustration, tantrums, and aggression. The report seems to indicate that those behaviors were somewhat diminished in the then-current school year, although the parent moderated the student's days of attendance. The student also voiced negative self-talk and comments of self-harm. (P-2 at pages 5-6).
9. The psychiatric evaluator did not see symptomology of autism spectrum disorder and medically diagnosed the student with disruptive mood dysregulation disorder and ADHD. The evaluator recommended blended mental health case management across settings but did not recommend medicinal intervention. (P-2 at pages 5-6).
10. Given the length of waiting lists for community-based services, upon enrollment at the District, the family coordinated with the local intermediate unit ("IU") to see if the student would qualify for school-based mental health support.[6] As part of that intake process for potential IU services, in August 2024 the IU conducted an assessment

[6] In the record, these IU services were described by, or referred to with, different names or acronyms. In this decision, any IU school-based mental health support is simply noted as an "IU" service, as there was no other IU involvement in the student's programming or school day.

of the student. The results of the IU assessment were included in the November 2024 ER. (P-2 at pages 7-9; NT at 80-154).

11. The IU assessment included parent and teacher input, assessments, and observation of the student. The IU observations included inattention and distraction, but generally successful classroom behavior with two episodes of elevated dysregulation. (P-2 at pages 7-9).

12. The IU assessment identified the need for the student to develop coping skills, understanding personal boundaries and social interaction, and impulse control, especially when dysregulated or emotionally elevated. (P-2 at pages 7-9).

13. The IU found that the student qualified for mental-health support. The IU developed a treatment plan with goals in attention/impulsivity, emotional regulation, and social skills, along with a safety plan and interventions for those instances when the student became dysregulated. (P-2 at pages 8-9).

14. The IU mental-health services assessment and plans were included in the November 2024 ER. (P-2 at pages 7-9).

15. The November 2024 ER contained input from the student's [redacted] teacher. (P-2 at pages 10-11).

16. The student's teacher indicated that the student exhibited strong academics. Behaviorally, the student exhibited behaviors which were

consistent with the observations of the IU assessment—frustration, personal boundaries (although the teacher reported good socialization skills), occasional aggression, difficulty with correction or re-direction, and dramatic changes in mood. (P-2 at pages 10-11).

17. The student also exhibited an elopement behavior which had been noted from [redacted] settings: When frustrated or escalated, the student would retreat under the desk. (P-2 at pages 10-11; NT at 585-566).

18. At the November 2024 multi-disciplinary team meeting, as noted in the November 2024 ER, and as credibly testified to at the hearing, the teacher reported that the student's behavior had improved over the course of the beginning months of school, with problematic behaviors less frequent, the student employing coping strategies, and the student rarely retreating to the desk. (P-2 at pages 10-11; NT at 485-566).

19. The November 2024 ER contained an observation of mathematics instruction by a school counselor. The counselor observed largely attentive and successful instruction, although during a transition in the lesson, the counselor observed issues with personal space, a negative peer interaction, and a brief dis-engagement from the group learning setting. (P-2 at page 11).

20. A summary of factors completed by the school counselor indicated that coping, emotionality, socialization, and behavior when dysregulated all interfere with the student's learning or that of others. (P-2 at 13-14; NT at 651-705).

21. Although early in the [redacted] year, the District had administered curriculum-based assessments. In literacy, the student had scores in the 'well below benchmark', 'below benchmark', and 'at benchmark' range. In another literacy assessment, the student scored in the 'emerging kindergarten' and 'early kindergarten' range. (P-2 at pages 14-16).

22. In mathematics, the student scored in the 'emerging kindergarten' range. (P-2 at page 16).

23. The November 2024 ER contained cognitive assessment results from the July 2023 evaluation conducted by the community-based mental health agency. The student's full-scale IQ was 110. (P-2 at pages 16-18).

24. The November 2024 ER contained an updated cognitive assessment, with a full-scale IQ score of 113. (P-2 at page 18).

25. The November 2024 ER contained academic achievement testing. On a school readiness assessment, the student scored at the 88th percentile, in the 'advanced' range. (P-2 at page 19).

26. Additional academic achievement testing included ‘below average’ scores in the reading and written expression composite tests, and ‘average’ scores in mathematics, with a total achievement score in the ‘average’ range. (P-2 at pages 20-22).

27. The November 2024 ER contained adaptive behavior scales completed by parent from the July 2023 evaluation conducted by the community-based mental health agency. The student scored in the ‘adequate’ or ‘moderately low’ range across almost every domain, with a ‘low’ score in the coping-skills sub-test. The overall adaptive behavior composite was in the ‘moderately low’ range. (P-2 at page 23).

28. The November 2024 ER contained an updated developmental and functioning assessment, scales completed by the parent and the [redacted] teacher. All scales were in the ‘average’ range, except for the parent’s scales in the physical domain, which was ‘below average’. The general development score for both raters was in the ‘average’ range. (P-2 at page 24).

29. The November 2024 ER contained social/emotional/behavior scales completed by parent from the July 2023 evaluation conducted by the community-based mental health agency. The parent’s scales were almost uniformly in the ‘clinically significant’ and ‘at-risk’ range, including the externalizing-problems, internalizing-problems, and

behavior-symptoms indices and all sub-scales. The adaptive-skills index was in the average range, although the adaptability sub-scale was in the 'at-risk' range. (P-2 at pages 24-25).

30. The November 2024 ER contained updated social/emotional/behavior scales, completed by the parent and the [redacted] teacher. (P-2 at pages 25-28).

31. The evaluator noted that the parent's responses triggered a caution for her ratings on the F-index, with the parent rating the student in an inordinately negative fashion. (P-2 at page 25).

32. The student's parent rated the student in the 'clinically significant' range on the hyperactivity, anxiety, and depression sub-scales, and the externalizing-problems and internalizing-problems indices. The parent rated the student in the 'at-risk' range on the aggression and adaptability sub-scales, and the behavior-symptoms and adaptive-skills indices. (P-2 at page 26).

33. The student's [redacted] teacher rated the student in the 'clinically significant' range on the aggression and depression sub-scales, and the externalizing-problems index. The teacher rated the student in the 'at-risk' range on the hyperactivity and atypicality sub-scales, and the behavior-symptoms index. (P-2 at page 26).

34. Analysis of certain social/emotional/behavior scales for specific maladaptive behaviors by both raters indicated 'clinically significant'

ratings in anger control and negative emotionality. The student's parent rated the student as 'clinically significant' for emotional self-control; the teacher rated the student as 'at-risk'. Both raters indicated 'at-risk' ratings for executive functioning. (P-2 at page 27).

35. Both raters indicated either 'extremely elevated' or 'elevated' scoring for executive functioning on the behavioral control index and the overall executive functioning index, with the parent's ratings consistently higher than the teacher's. Both raters rated the student as 'not elevated' for attentional control index, and both rated the student as 'extremely elevated' for the emotional control index. (P-2 at pages 27-28).

36. On the social/emotional/behavior ratings, the [redacted] teacher rated the following critical items: almost always loses control when angry, often hits other children, often threatens to hurt others, sometimes bullies others. (P-2 at page 28).

37. On the social/emotional/behavior ratings, the [redacted] teacher rated the following behaviors as, in the words of the ER, "particularly problematic": almost always speaks out in class, almost always refuses to speak, often disrupts the play of other children, often annoys other children, often loses temper too easily, often threatens to hurt others, often hits other children, often has trouble keeping hands/feet to self, sometimes cannot wait to take turns, sometimes bullies others,

sometimes bothers other children when they are working, sometimes responds appropriately when asked questions. (P-2 at page 28).

38. The November 2024 ER contains autism rating scales completed by the parent and the [redacted] teacher. The parent's ratings were nearly all higher than the teacher's. The parent rated the student in the 'very elevated' range across multiple scales, including the total score on the assessment. The teacher rated the student in the 'low' range and the 'average' range in almost all scales, with 'slightly elevated' scores in two scales. The teacher's total score on the assessment was in the 'average range'. (P-2 at pages 29-30).

39. The November 2024 ER contained a functional behavior assessment. (P-2 at pages 30-36).

40. The November 2024 ER contained a speech and language ("S&L") evaluation. (P-2 at pages 37-39).

41. The S&L evaluation in the November 2024 ER included parent and teacher input, formal assessment, and observation. The evaluator concluded that the student did not require S&L supports or services. (P-2 at pages 37-39).

42. The November 2024 ER contained an occupational therapy ("OT") evaluation. (P-2 at pages 39-41).

43. The OT evaluation in the November 2024 ER included parent and teacher input, formal assessment, and observation. The evaluator

noted the student's needs for social skills support and recommended OT support for social participation. (P-2 at pages 39-41).

44. The November 2024 ER contained summaries of the evaluation results in academics, functional performance, and behavior. (P-2 at pages 41-46).

45. The November 2024 ER noted that through the various prior diagnoses (autism, ADHD, disruptive mood dysregulation disorder), the student has a disability but that the student's needs can be met through adaptations of the regular education environment; the student did not require special education. (P-2 at page 47).

46. The November 2024 ER recommended that the student receive regular education supports through a Section 504 plan and made recommendations for the Section 504 team to consider. (P-2 at page 47).

47. In January 2025, the student's Section 504 team developed a Section 504 plan. (S-11, S-12).

48. The January 2025 Section 504 plan included 60 minutes monthly of OT services for supports in social skills and social participation . (S-12; NT at 310-363).

49. The January 2025 Section 504 plan also provided for time and place (when needed) for de-escalation, check-in/check-out to discuss

expectations and behavior, preferential seating, use and reinforcement of problem-solving/coping strategies, and movement breaks. (S-12).

50. By the end of the [redacted] year, on the District's curriculum-based benchmark assessment, the student was at benchmark or above benchmark in all areas of reading and literacy. (S-3).

51. The student was meeting expectations on almost all academic and skill-development areas in[redacted]. (S-4).

52. The [redacted] teacher testified credibly that the student's behaviors were more problematic in the beginning of the [redacted] year and improved over the course of the year. While still present at the end of the year, those behaviors were largely non-problematic. (p-12; NT at 485-566).

53. Weight was also accorded to the [redacted] teacher's explanation that the social/emotional/behavior ratings were generated early in the school year and were skewed more toward problematic behaviors which were not present, or present to the same degree, as the [redacted] year unfolded. (NT at 485-566).

[Redacted] Grade

54. The student began the [redacted] grade year with the January 2025 Section 504 plan in place. (S-12; NT at 571-645).

55. In the [redacted] grade year, at times the student continued to exhibit problematic behaviors but the [redacted] grade year, prior to

the winter break, was largely successful from a behavioral perspective. (P-5 at pages 1-8; NT at 571-645).

56. In October and December 2025, on beginning-of-year and middle-of-year curriculum-based literacy benchmark assessments, the student was at or above benchmark. On additional curriculum-based literacy benchmark assessments, in October 2025 and February 2026, the student was respectively at the 89th and 93rd percentile. (S-3, S-15, S-16).

57. In October 2025 and February 2026, on curriculum-based mathematics benchmark assessments, the student was respectively at the 83rd and 100th percentiles. (S-16).

58. In January 2026, the student's Section 504 plan was revised. (S-13).

59. The January 2026 Section 504 plan contained the same accommodations from the January 2025 Section 504 plan, in addition to a new accommodation, allowing the student to make independent choices with academic work. (S-13).

60. Beginning in January 2026 and continuing through March 3, 2026, the student's behavior began to become more problematic, including refusals, defiance, prolonged episodes of dysregulation, self-harm, aggression, and elopement. (P-5 at pages 8-16; NT at 571-645).

61. Prior to the winter break, the [redacted] grade teacher had little interaction with the IU service providers; after the winter break, the teacher found herself resorting to the intervention of the IU service providers more often. (P-13; NT at 571-645).

62. After the winter break, the student was eloping frequently enough from the classroom that the teacher was given a radio to contact school administration if the student had left the class. While always in visual proximity, the student would be out in the hallway or down the hall. (NT at 571-645).

63. The student's elopement was unpredictable, but the teacher testified that as the student's behavior continued to escalate after January 2026, the teacher would sometimes need to contact school administration up to 6-7 times per day. (NT at 571-645, 710-735).

64. A school administrator testified that [the school administrator] had no involvement or need to support the student in [redacted] or the first half of [redacted] grade. Beginning in January 2026, the dean of students began to support the student and staff approximately twice per week; by February 2026, the administrator was involved with the student multiple times per day. (NT at 710-735).

65. By February 2026, in addition to the teacher and school administration, multiple additional educators, including the school

psychologist and school counselor, were aware of changes in the student's behavioral profile. (NT at 162-300, 651-705).

66. In February 2026, the school psychologist reached out to the parent to discuss potential program modifications. The parent shared that one of the student's grandparents was ill and that in the [redacted] year, other family members had passed away. (S-5).

67. On March 3, 2026, the student was involved in a significant behavioral incident. (S-18; NT at 80-154, 571-645, 651-705, 710-735).

68. On March 3rd, the student was involved in an episode of elopement from the classroom. (NT at 571-645).

69. The student was in a highly dysregulated state and was brought to a safe space at an administrator's office. The school counselor was one of a number of adults who responded to the situation. The school counselor engaged with the student, which would temporarily de-escalate the student, but the student would quickly re-escalate to a dysregulated state. (NT at 571-645).

70. The student aggressed toward others with furniture, so the student was conducted out of the office to a calming space without furniture or objects. (NT at 571-645).

71. The student's dysregulation increased, and the student began to engage in head-banging. The school counselor used her hand to

protect the student's head from contact with the wall. The student became aggressive with the counselor. As the student's dysregulation continued to escalate, with slef-harm and aggression increasing, the District employed a restraint and engaged its crisis-response protocol. (S-18; NT at 571-645).

72. A District security officer engaged in a seated restraint to prevent the student from head-banging and to protect staff from aggression. During the restraint, the student engaged in the self-injurious behavior of head-punching. The restraint lasted approximately 2-3 minutes when the student relaxed and the restraint was released. (S-18).

73. District employees do not engage in direct crisis-response. Where a student threatens harm to self or others, or where District employees feel a student's behavior has entered a crisis stage, the District works with a community-based mental health agency to respond to provide crisis intervention. (NT at 571-645).[7]

74. A crisis-response specialist from the community-based mental health agency arrived and began to engage in crisis response with the student. Once the agency begins to provide crisis-response

[7] The agency with which the District contracts for crisis-intervention services is the same community-based mental health agency that provided mental health services to the student prior to the student's enrollment in [redacted].

intervention, District educators are no longer involved in the crisis-response process. (P-7, P-9; NT at 80-154, 571-645).

75. The crisis-response specialist required that the student receive a self-harm assessment, and the student's mother removed the student from school. (NT at 80-154, 651-705, 740-761).

76. The incident took place on Tuesday, March 3rd. The community-based mental health agency performed its assessment on Wednesday, March 4th and cleared the student to return to school. The District was prepared to welcome the student back to school the next day, Thursday March 5th, but March 5 was a half-day and there was no school on Friday, March 6. Monday, March 9, was the beginning of spring break, so the student did not return to school until after the spring break. (S-5 at pages 6-7, S-14; NT at 80-154).[8]

77. On March 5, 2026, the parent filed the complaint that led to these proceedings. (P-11).

[8] The parent's complaint referred only to the behavior incident on March 3rd. There was a subsequent behavior incident on March 13, 2026, and parent's testimony and a handful of parent exhibits addressed that incident. To ensure that the record might be overly comprehensive, evidence about the March 13th incident came into the record. As the evidence was weighed by this hearing officer, however, it appears that this record should address only the March 3rd incident as (1) parent's complaint of March 5th touches only on that incident and (2) the District requested permission to evaluate the student on March 6th.
The District's re-evaluation process led to a subsequent complaint, at a separate ODR file number, which is currently at issue between the parties. To the extent that evidence related to the March 13th incident is relevant or probative at any point to a dispute between the parties, that evidence is available through this record. But it will not be part of the evidentiary constellation in the instant matter.

78. On March 6, 2026, the District sought permission to re-evaluate the student. Seeking permission for an evaluation, or re-evaluation, is a standard District response whenever the crisis intervention protocol is engaged for a student. (S-24; NT at 740-761).

Witness Credibility

All witnesses testified credibly and a degree of weight was accorded to each witness's testimony. The testimony of the student's [redacted] and [redacted] grade teachers was found to be especially credible and was accorded heavy weight as to those respective school years. (NT at 485-566, 571-645).

Legal Framework

A determination of eligibility under IDEA is the initial step in the provision of services under IDEA. A local education agency's duty to locate, evaluate, and identify students who might require special education is commonly referred to as an agency's "child find" obligation. (34 C.F.R. §300.111; 22 PA Code §14.121). In meeting its child-find obligation, once a school district receives parental consent, it initiates an evaluation process to see whether or not the student qualifies for special education. (34 C.F.R. §§300.300-300.311; 22 PA Code §14.123).

Qualifying for eligibility under IDEA has two distinct aspects: (1) A student must have one or more of the qualifying disability profiles under

IDEA/Chapter 14 and (2) as a result of that disability, the student requires specially-designed instruction (i.e., special education). (34 C.F.R. §§300.8, 300.39; 22 PA Code §14.101(a)(2)(ii, viii)). Therefore, a student without a qualifying disability is not eligible for services under IDEA. And a student with a qualifying disability who does not require specially-designed instruction as a result of the disability is also not eligible for services under IDEA.

As for a school district evaluation process, an evaluation must "use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining" an understanding of the student's potential disability and, if eligible, the content of the student's IEP. (34 C.F.R. 300.304(b)(1); 22 PA Code §14.102(a)(2)(xxv)). Furthermore, the school district may not use "any single measure or assessment as the sole criterion for…determining an appropriate educational program for the child". (34 C.F.R. 300.304(b)(2); 22 PA Code §14.102(a)(2)(xxv)).

Finally, where a student is not eligible for services under IDEA, the student may still receive regular education services and support under Section 504.

Discussion

November 2024 Evaluation & Re-Evaluation. Here, the record supports a finding that the November 2024 ER and its conclusions were not inappropriate. Taking the record as a whole, both the exhibits and testimony, it is almost a tale of two students. To look at the assessment data in the November 2024 ER, one might easily reach a conclusion that the student qualifies for services under IDEA. To gauge the testimony of the individuals who know the student best in educational environments—the [redacted] and [redacted] grade teachers – the data takes on contours which more deeply inform an understanding of what the data portrays (and this comes through in the report as well as testimony). This is exactly why the nature of evaluation is multi-disciplinary and attempts to take in both quantitative and qualitative information about a student. In November 2024, with the student only three months into [redacted], the conclusions of the ER that the student has disabilities but did not require special education was not unwarranted. It is a conclusion supported by the record taken as a whole.

This is not to minimize the student's needs—the student most definitively had needs in educational settings. But the supports of the IU mental-health providers and the District's regular education interventions provided through the Section 504 plan both provided the student the services necessary to make academic, functional, and behavioral progress without the need for special education.

In the discussion above, the point is made that the November 2024 ER was issued in the early days of November. The student had been in the District, and indeed in a formal educational setting, for approximately 8-10 weeks. For a very young child in the first weeks of schooling, where there are concrete needs, complex data, and, as here, currents regarding eligibility under IDEA that flow in different directions, a multi-disciplinary team might be cautious in moving to identification. This was not made explicit on the record, but if forms a backdrop for caution.

And, indeed, for the [redacted] year and half of [redacted] grade, the caution seemed to pay dividends. Academically, functionally, and behaviorally, the student was largely successful in regular education with the supports and accommodations being provided. Then, roughly coincident with the winter break of [redacted] grade, that success evaporated. An exchange during the examination of the [redacted] grade teacher captures the circumstance: Regarding the change in the student's behavior beginning in January/February 2026, the teacher testified "Q: So, it was almost like it was a different student? A: Absolutely." (NT at 598, lines 22-24). In fact, the stark and sudden nature of the behavioral changes that commenced in January/February 2026 and continued shows the success of the regular education supports in place to that point.

Those behavioral changes certainly were stark and sudden, and the District cannot be faulted for not having programming in place at that time;

the behavioral change were so stark and sudden that it almost overtook any sense of programming.[9] But the District can be faulted for not responding sooner to undertake a re-evaluation.

By mid-February, multiple educators were cognizant that the student's behavior had dramatically deteriorated, the teacher was experiencing multiple incidents of elopement and/or severe dysregulation each day, and school administration had become involved on an almost daily basis. It is the considered opinion of this hearing officer that the District should have sought permission to evaluate the student by mid-February 2026. That step was undertaken on March 6th after crisis-intervention, but that was only because of District protocol because of the crisis-intervention.

Again, it is not a question of programming, it is a question of re-evaluation. And, on this record, the District should have moved to re-evaluate the student sooner than it did, specifically by mid-February 2026. Remedy for this failure to request permission to re-evaluate will be addressed below.

Section 504 Programming. The record fully supports the conclusion that the District's regular education services as part of the Section 504 plans were reasonably calculated to provide appropriate programming to the student in light of the student's disabilities. As set forth above, the student's

[9] In a handful of weeks, the student went from success with regular education programming to the need for radio communication to track elopement and, on March 3rd, a new and singular incident involving restraint and crisis intervention.

academic, functional, and behavioral success under the Section 504 plans for the second half of [redacted] and first half of [redacted] grade is strong evidence that not only was special education not necessary but that the Section 504 programming was effective. There is no grounds for remedy related to the student's Section 504 programming.

March 3rd Incident. Parent's claims that the District mis-handled the response to the March 3rd incident cannot be supported. As set forth above, the District should have moved to re-evaluate the student sooner. But there was no failure of programming—the dramatic changes in the student's behavior in school were akin to an educational tsunami. The incident of March 3rd was part of this dramatic change. But even with increasing intensity of the student's behavior in January and February, nothing like those behaviors had been exhibited in school prior to March 3rd. In fact, the District's response to the March 3rd incident was entirely appropriate: The student was shepherded to safe spaces, educators kept the student safe from self-harm, and the District necessarily and appropriately engaged its crisis-intervention protocol. There is no grounds for remedy related to the District's handling of the March 3rd incident.

Compensatory Education. As indicated above, the District should have sought permission to re-evaluate the student by mid-February 2026. Ostensibly, one might argue that with the advent of the March 3rd incident, the District sought permission to re-evaluate the student only two weeks

later. But that is cutting matters too finely. The District should have known by mid-February 2026 that the sudden and stark behavior changes, and concomitant involvement of multiple District educators, should have led to a re-evaluation process. There must be remedy for that omission.

Where a school district has denied fails to meet its obligations to a student under the terms of IDEA or Section 504, compensatory education is an equitable remedy that is available to a student. (Lester H. v. Gilhool, 916 F.2d 865 (3d Cir. 1990); Big Beaver Falls Area Sch. Dist. v. Jackson, 615 A.2d 910 (Pa. Commonw. 1992)). Here, a quantitative/hour-for-hour calculation will be used to calculate a compensatory education award.

How should one calculate a compensatory education award where a school district delayed a request for re-evaluation? And while it does not enter into the finding that the re-evaluation process should have been initiated, it is a fact that the process was initiated approximately two weeks later.

It appears to this hearing officer that an award of 100 hours of compensatory education provides a basis for adequate remedy for the student and serves as an indication of the seriousness of the omission. Accordingly, the student will be awarded 100 hours of compensatory education.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Tunkhannock Area School District ("District") failed, as of mid-February 2026, to meet its obligations to the student by not initiating a re-evaluation process. As a result, the student is awarded 100 hours of compensatory education.

The District met its obligations to the student through its Section 504 programming and in its handling of the March 3, 2026 behavior incident.

Any claim not specifically addressed in this decision and order is denied and dismissed.

s/ *Michael J. McElligott, Esquire*
Michael J. McElligott, Esquire
Special Education Hearing Officer

07/21/2026