

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. 31552-24-25

Child's Name:

A.R.

Date of Birth:

[redacted]

Father:

[redacted]

Counsel for Father:

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Mother, *pro se*:

[redacted]

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Hearing Officer:

Brian Jason Ford

Date of Decision:

12/03/2025

Introduction

This special education due process hearing concerns the rights of a child (the Student) who, until recently, was identified as a child with disabilities under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.* The Student's public school district (the District) reevaluated the Student and concluded that the Student was no longer a child with disabilities and should be exited from special education on that basis.

The Student's parents are divorced. The parents have equal legal custody of the Student and have equal educational decision-making rights. The Student's mother (the Mother) agreed with the District's reevaluation. The Student's father (the Father) disagreed with the District's reevaluation and requested an Independent Educational Evaluation (IEE) at public expense. The District declined the Father's request for an IEE and, as required by the IDEA, requested this hearing to defend the reevaluation.

After efforts to resolve the dispute failed, the matter proceeded to an efficient, one-session hearing. The District, the Mother, and the Father are separate parties. The Mother's position, however, is identical to the District's position.

Having reviewed the record, I find that the District has satisfied its burden of proof to establish that the reevaluation complied with the IDEA's procedural and substantive requirements in most aspects. There is, however, a critical element of the reevaluation that fell short of IDEA mandates. The District is required to fund a limited-scope IEE for that reason.

Issue Presented

One issue was presented for adjudication: Was the District's reevaluation appropriate?

Findings of Fact

I reviewed the record in its entirety. I make findings of fact only as necessary to resolve the issue before me. I find as follows:

1. On May 2, 2022, the District completed an initial special education evaluation of the Student and drafted an Evaluation Report (the ER).¹ S-1.

¹ No issues concerning the ER are presented for adjudication.

2. The ER included an administration of the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V). The WISC-V is a standardized, normative test of cognitive ability. The ER also included an administration of the Wechsler Individual Achievement Test, Fourth Edition (WIAT-4). The WIAT-4 and WISC-V are designed so that scores between the two can be compared to determine if a child is gaining academic skills commensurate with IQ-based expectations. S-1.
3. The District's Certified School Psychologist (CSP) scored the WISC-V and WIAT-4 and analyzed the results. The CSP found that all but two of the Student's reading scores were within the expected range based on the Student's average IQ. Word Reading, Pseudo-Word Decoding, Sentence Completion, Alphabet Writing Fluency, and Oral Expression were all in the expected range. The CSP, however, found a statistically significant discrepancy between the Student's Reading Comprehension and Oral Reading Fluency abilities and IQ-based expectations. S-1.
4. The ER also included a Speech and Language Evaluation conducted by a Certified Speech and Language Pathologist (SLP). Assessments conducted by the SLP indicated that the Student did not meet criteria for a speech or language impairment. S-1.
5. The ER also included narrative information from the Mother. S-1.
6. The Mother also completed the Behavior Assessment System for Children, Third Edition (BASC-3) and the Conner's 3rd Edition Parent Rating Scale (Conners 3). The BASC-3 is a broad-ranging behavior assessment in which people who know the Student well are asked to rate the Student's behaviors on a Likert scale. The BASC-3 is usually completed by both a teacher and a parent, but only the Mother's ratings appear in the ER. Similarly, the Conners 3 is a behavior rating scale but, unlike the BASC-3, targets ADHD symptoms specifically. The Conners 3 is also typically completed by multiple raters, but only the Mother's rating appears in the ER. S-1.
7. Both the BASC-3 and Conners 3 typically yield extensive, detailed data reports. The ER does not include that sort of report but does concisely summarize the Mother's ratings. On the BASC-3, the Mother's ratings of the Student placed the Student in the Clinically Significant range for Anxiety. In all other domains (of which there are many on the BASC-3), the Mother's ratings placed the Student in the average range. Similarly, on the Conners 3, the Mother's ratings placed the Student in the High Average range for Learning Problems but in the Average range in all other domains. S-1.

8. The ER included a classroom observation by the CSP. The CSP found saw no significant behavioral problem but noted unspecified academic concerns. S-1.
9. The ER included recommendations from the Student's [redacted] grade teacher (2021-22 Teacher). The 2021-22 Teacher noted that the Student was a diligent, hard-working child who behaved appropriately and maintained friendships. The 2021-22 Teacher noted, however, that the Student's needed help with reading and read at a slow pace. The 2021-22 teacher listed several classroom interventions that helped the Student (e.g. extra time, reading directions out loud, drill and repetition). S-1.
10. The ER concluded that the Student qualified for special education as a child with a Specific Learning Disability (SLD) in reading because of the discrepancy between ability and achievement in that domain. The ER also noted concerns about anxiety in its recommendations to the IEP team. S-1.
11. On May 24, 2022, the District convened the Student's IEP team. Both Mother and Father participated. The resulting Individualized Educational Program (the 2022 IEP) included two reading goals: a phonics goal and a reading comprehension goal. The 2022 IEP also included various Specially Designed Instruction and Program Modifications and placed the Student in a Learning Support program at the itinerant level (the Student would receive instruction in the regular classroom 82% of the school day).² P-3.
12. On May 9, 2023, the District reconvened the Student's IEP team. Both Mother and Father participated. The team revised the Student's IEP (the 2023 IEP).³ The 2023 IEP included progress data for both goals from the 2022 IEP. The Student had mastered the reading comprehension goal and was making significant but somewhat inconsistent progress towards the phonics goal. The reading comprehension goal was discontinued with a note that the Student's reading comprehension was on grade level. The phonics goal was continued. Modifications, SDI, and the itinerant Learning Support placement all remained substantively the same. P-4.

² No issues concerning the 2022 IEP are presented for adjudication.

³ No issues concerning the 2023 IEP are presented for adjudication.

13. On May 9, 2024, the District reconvened the Student's IEP team. Both Mother and Father participated. The team revised the Student's IEP (the 2024 IEP).⁴ The 2024 IEP included progress data for both goals from the 2022 IEP, even though the reading comprehension goal was discontinued a year prior. The Student's reading comprehension continued to be at grade level. The Student had also mastered the phonics goal. Modifications, SDI, and the itinerant Learning Support placement all remained substantively the same. P-4
14. The record does not reveal when the Mother and Father separated or were divorced. However, a custody order dated May 30, 2024, specifies that the parent share legal custody of the Student. P-6.
15. On January 31, 2025, the District sent prior written notice to Mother and Father that it would reevaluate the Student. S-6.
16. On February 19, 2025, the District sent both parents a Parent Questionnaire to be used in the reevaluation. See S-8.
17. On February 27, 2025, the District sent the Parent Questionnaire to the Father by email. S-8.
18. On March 7, 2025, the District completed the reevaluation and issued a Reevaluation Report (RR). S-7.
19. The RR included the Student's classroom grades for the 2024-25 school year through February 24, 2025. The RR noted that the Student's grades in English included learning support accommodations. The Student was academically successful in all areas as measured by report cards. S-7.
20. The RR included a small amount of narrative input from the Mother, derived from the Parent Questionnaire. The Mother wanted the Student to fully participate in the regular education classroom with accommodations, depending on the RR's other results. See S-7 at 2.
21. The RR restated the results of the prior WISC-V and WIAT-4. S-7.
22. The RR reported PSSA testing from the 2022-23 and 2023-24 school years. The Student received "Basic" scores in reading and math both years. S-7.

⁴ No issues concerning the 2024 IEP are presented for adjudication.

23. The RR reported the Student's scores on District-wide, curricula-based, diagnostic testing. On the most recent of those assessments, the Student was found to be in the "green" zone for Reading and Science, but in the "Red" zone for Math. Green indicates that the Student is on grade level and red indicates that supports are likely needed. See S-7 at 4-5.
24. The RR included a reading comprehension assessment in which the Student was presented reading comprehension tasks from the PSSA. The Student reading comprehension was scored at 90% accuracy at the 5th grade level. S-7.
25. The RR included two assessments from the Student's special education reading program. The first assessment measures phonological skills. On that test, the Student scored a 93% for Total Sounds, an 82% for Total Reading, and a 67% for Total Spelling. The second assessment measures fundamental literacy skills. On that test, the Student scored at or above grade level in all domains. S-7.
26. The RR included a progress report, showing that the Student had mastered both IEP goals. S-7.
27. The RR included a classroom observation by the CSP. The CSP's report was detailed and specific, and found the Student was on task 90% of the observed time. S-7.
28. The RR included a District-made teacher survey, in which two teachers were asked to rate the Student in several school-related domains on a scale of 1 (low) to 7 (high). Both teachers rated the Student as a 6 or 7 in every domain except for "class participation." In that domain, one teacher rated the Student a 3 and the other rated the Student as 6. S-7.
29. Both teachers provided narrative comments with their ratings. The teacher who rated the Student a 3 for class participation clarified that the Student would participate when called on but did not volunteer. That teacher described the Student as "timid and shy." The other teacher commented that the Student would benefit from "more confidence." Both teachers described the Student as academically successful, diligent, polite, and conscientious. See S-7 at 7.
30. The RR included a statement that the IEP team determined that additional data is not needed. The RR states "The Team believes that the information gathered and assessments conducted for this

reevaluation are sufficient to render decisions regarding [Student's] educational program." S-7 at 8.

31. Through the RR, the District found that the Student "does not have a disability and no longer is eligible for special education." S-7 at 8.
32. On March 6, 2025, the District invited both parents to a meeting to discuss the RR. P-10.
33. On March 10, 2025, the Father returned his copy of the Parent Questionnaire to the District. S-8.
34. The Father's input on the Parent Questionnaire mirrored the Mother's input and input from both teachers in many ways. The Father was concerned about the Student's Basic scores on PSSAs but, on the whole, wanted the Student to gain confidence and decrease supports while leaving accommodations in place. S-8.
35. On March 13, 2025, the District resent the team meeting invitation to the Father. The Father did not respond to the invitation. P-10.
36. On March 20, 2025, the District resent the team meeting invitation to the Father. The Father did not respond to the invitation. P-10.
37. On April 4, 2025, the District reconvened the IEP team to discuss the RR. See P-10. issued a Notice of Recommended Educational Placement (NOREP) recommending that the Student be exited from special education. P-11.
38. The Mother approved the NOREP when it was issued on April 4, 2025. P-11.
39. The Father also received a copy of the NOREP on April 4, 2025, but did not sign it. P-11.
40. On April 9, 2025, the Father sent an email to the District asking for an IEE at public expense.⁵ In the same email, the Father requests a "step down" program for the Student's academics and testing to determine if

⁵ All three parties treat the email of April 9, 2025, as a request for an IEE at public expense. The first unambiguous request for a District-funded IEE comes in an email from the Father sent on May 19, 2025. P-20 at 18-19. While the April 9, 2025, email does not include an explicit request for a District-funded IEE, no "magic words" are needed, and I see no need to disrupt the parties' mutual understanding.

the Student requires special education because of anxiety. P-10 at 20-21.

41. On April 21, 2025, the District issued a NOREP denying the Father's request for an IEE at public expense. P-13.
42. On May 23, 2025, the Mother approved the NOREP denying the Father's request for an IEE at public expense. P-13.
43. On May 30, 2025, the Father rejected the NOREP denying his request for an IEE at public expense. P-13.
44. On June 27, 2025, the District filed a due process complaint initiating this hearing.
45. In July and August 2025, the Mother denied consent for all special education and any further evaluations. *Passim; see, e.g.* S-14.

Witness Credibility

During a due process hearing, the hearing officer is charged with the responsibility of judging the credibility of witnesses, and must make "express, qualitative determinations regarding the relative credibility and persuasiveness of the witnesses." *Blount v. Lancaster-Lebanon Intermediate Unit*, 2003 LEXIS 21639 at *28 (2003). One purpose of an explicit credibility determination is to give courts the information that they need in the event of judicial review. *See, D.K. v. Abington School District*, 696 F.3d 233, 243 (3d Cir. 2014) ("[Courts] must accept the state agency's credibility determinations unless the non-testimonial extrinsic evidence in the record would justify a contrary conclusion").

I find that all witnesses testified credibly. To the extent that testimony from different witnesses is contradictory, that is a function of genuine differences in recall or understanding. More importantly, the outcome of this matter in no way depends on the credibility of any witness.

Applicable Laws

Evaluation Criteria

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

In substance, evaluations must “use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining” whether the child is a child with a disability and, if so, what must be provided through the child’s IEP in order for the child to receive FAPE. 20 U.S.C. § 1414(b)(2)(A).

Further, the evaluation must “not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child” and must “use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors”. 20 U.S.C. § 1414(b)(2)(B)-(C).

In addition, the District is obligated to ensure that:

assessments and other evaluation materials... (i) are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer; (iii) are used for purposes for which the assessments or measures are valid and reliable; (iv) are administered by trained and knowledgeable personnel; and (v) are administered in accordance with any instructions provided by the producer of such assessments.

20 U.S.C. § 1414(b)(3)(A).

Finally, evaluations must assess “all areas of suspected disability”. 20 U.S.C. § 1414(b)(3)(B).

Independent Educational Evaluation at Public Expense

Parental rights to an IEE at public expense are established by the IDEA and its implementing regulations: “A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency...” 34 C.F.R. § 300.502(b)(1). “If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either – (i) File a due process complaint to request a hearing to show that it’s evaluation is

appropriate; or (ii) Ensure that an independent educational evaluation is provided public expense.” 34 C.F.R. § 300.502(b)(2)(i)-(ii).

“If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.” 34 C.F.R. § 300.502(b)(4).

Discussion and Conclusions of Law

Throughout this hearing, all three parties have encouraged me to consider factors that are not directly related to the issue before me. The parties, to varying degrees, urge me to consider the specifics of the Parent’s custody order. The order does not divest either parent of educational decision-making rights. There is no dispute that both parents fall within the IDEA’s definition of “Parent.” See 20 U.S.C. § 1401(23).

Similarly, the District urges me to consider the Mother’s revocation of consent for the Student to receive special education. The District argues that for however long the Mother’s revocation remains in place, the District is affirmatively barred from providing special education for the Student. The District argues that even if I determine that the reevaluation was not appropriate and order an IEE at public expense; and even if the IEE concludes that the Student is a child with disabilities and in need of special education; and even if the District accepts the results of the IEE and drafts an IEP for the Student, the District is barred from implementing special education services. The law on this is well-settled and District is correct, but the issue before me. This hearing does not concern the District’s current obligation, if any, to provide special education for the Student. The only issue presented in this hearing is the question of whether the District’s reevaluation was appropriate.

The parties’ arguments also run tangent to questions about the District’s own obligations to evaluate the Student. Noted in the findings above, the series of emails between the Father and the District in April and May of 2025 can be construed as a request for the District itself to evaluate the Student to determine special education eligibility. At the same time, the Mother has affirmatively revoked or withheld consent for any further evaluation. Should the District evaluate the Student again, that evaluation would be an initial evaluation because the Student has been exited from special education. The District’s obligations when one parent requests an initial evaluation and

another parent withholds consent are murky at best.⁶ But, like the District's ongoing obligation to provide services to the Student, that issue is not presented in this hearing. However, the fact that all parties to varying degrees address or present argument about these non-presented issues illustrates the limitations of the IDEA's dispute resolution processes for cases in which parents disagree about a child's educational needs.

Turning, at last, to the issue before me, I consider whether the RR satisfied the IDEA's procedural and substantive requirements as detailed above. It is the District's burden to prove that the RR was appropriate. Even so, understanding the Father's objections to the RR helps contextualize the dispute. The Father raises several objections, most of which are both substantive and procedural in nature. The Father argues that the RR did not include updated cognitive or achievement testing, did not include parental input from the Father, ignored or glossed over negative test scores, and was insufficient for its failure to consider the Student's psychological needs. In the Father's view, the RR was little more than pretext to justify an agreement between the District and the Mother to remove the Student from special education – an agreement from which the Father was excluded.

The absence of updated cognitive testing like the WISC-V and updated achievement testing like the WIAT-4 is striking. The discrepancy between the Student's scores on the WIAT-4 and the Student's predicted scores based on the WISC-V in the ER was the primary basis of the Student's special education eligibility. Though the ER, the District examined that discrepancy in conjunction with other information about the Student's reading abilities to determine that the Student had a disability. There is no similar analysis in the RR to determine that the Student does *not* have a disability.

The IDEA explicitly contemplates circumstances in which additional testing is *not* required as part of a reevaluation. The IDEA permits the IEP team to review existing data and, "on the basis of that review, and input from the child's parents, identify what additional data, *if any*, are needed to determine" whether the Student is a child with a disability and whether the Student needs special education. 20 U.S.C. § 1414(c)(1) *emphasis added*. The words "if any" indicate that there are circumstances in which additional testing is not needed.

Here, it is important to underscore that the Student's entitlement to special education is predicated on a two-part test that is codified in the definition of "child with a disability." If a student is a "child with a disability" as defined by the IDEA, the student is entitled to special education. A student is a child

⁶ See, e.g. 20 U.S.C. 1414 §§(a)(1)(C)(i)(I), (D)(i)(I), (D)(ii)(I).

with a disability if 1) the student has any of the disabilities or categories of disabilities recognized by the IDEA and 2) "by reason thereof, needs special education and related services." 20 U.S.C. § 1401(3).

Applied in this case, the District concluded through the ER that the Student had one of the disabilities recognized by the IDEA: SLD in reading. The District drew this conclusion from the discrepancy between the Student's actual and expected reading abilities. The District also concluded that the Student required special education (SDI) by examining the Student's performance both on standardized testing for the ER and by examining the Student's actual performance in school. Nearly three years passed between the ER and the RR. The RR includes robust information about the Student's academic functioning. That information is certainly relevant to the question of whether the Student requires special education. That information does not answer the question of whether the Student is still a child with a disability.

Through the RR, the District did not simply conclude that the Student no longer required special education. Instead, the District said that the Student "does not have a disability and no longer is eligible for special education." S-7 at 8. There is insufficient support for that conclusion in the RR. The District may very well be correct that the Student is remediated and no longer needs to be in a learning support program, even at the itinerant level. But nothing in the RR establishes that the discrepancy between the Student's projected reading ability and actual reading achievement has closed. The District cannot conclude that the Student "does not have a disability" without first undertaking that analysis.

It is entirely possible that the Student both has a disability and no longer requires special education. Many students with disabilities do not require SDI or related services. Those students are protected by Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 701 *et seq.* and its Pennsylvania implementing regulations at 22 Pa. Code § 15 *et seq.* (Chapter 15). The majority of information gathered and presented in the RR concerns the Student's need for special education, or lack thereof. Regardless of the Student's disability status, the question of whether the Student continues to require special education is not presented in this hearing. The only issue presented concerns the RR's procedural and substantive appropriateness. I find that the RR was substantively inappropriate because there is no support for its conclusion that the Student's disability no longer exists.

The Father's other objections are less meritorious. There is no preponderance of evidence that the District and the Mother conspired to exclude the Father. To the contrary, the District has established by preponderant evidence that it treated both parents equally and actively

solicited input from both. The Mother responded to the District's requests for input. The Father did not. It is certainly true that the District and the Mother are in total agreement about the Student's educational needs. That does not prove a violation of the Father's right to participate in the RR.

I reject the Father's argument that the District should have "reopened" the RR when he provided input after the reevaluation was complete and the report was written. There is no support for this argument in the IDEA and, if there was, there is nothing in the Father's input that is so different from the information already in the RR that the result would be different. The Father's input did not bring to light any information that the District did not already have and consider.

I reject the Father's argument that the District ignored or glossed over negative test scores. The Father correctly notes that some of the Student's scores on District-wide testing were in the "red" zone, indicating that intervention was needed. Nothing in the record equates a "red" score as indicative of a special education need. Moreover, those same scores show the Student's consistent improvement over time. By the time of the RR, the Student's math score was the only score in the red zone. At the same time, other metrics of the Student's math ability indicated progress through a grade level curriculum. To qualify the Student for special education based on a single score from a single benchmarking tool would be to do what the IDEA prohibits: use of a single measure as the sole criterion for an eligibility determination. See 20 U.S.C. § 1414(b)(2)(B). I also find that the Student's academic scores, viewed as a whole, did not constitute a signal that additional academic testing was needed to determine the Student's academic needs.⁷ The District has a strong argument that the Student no longer requires special education. I hold only that the District's determination that the Student no longer has a disability is conclusory.

My holding is nearly identical concerning the Student's psychological needs. All three parties agree that the Student is shy and would benefit from having more confidence. Unlike the ER, the RR did not include a formal, statically valid measure of the Student's behavioral and psychological functioning. The District has proven by preponderant evidence, however, that no such testing was required as part of the RR. When the RR was written, the District had no reason to suspect a psychological or social/emotional need that could require special education. Despite the lack of formal testing, the RR is robust in this regard. Multiple forms of teacher input and an observation by the CSP were conducted as part of the reevaluation and reported in the RR. By all

⁷ This includes the Student's PSSA scores. I find that tests designed to assess schools are a particularly poor metric of any individual student's achievement.

accounts, the Student exhibited no social or emotional needs that interfered with the Student's education at that time. The only evidence to the contrary comes from one teacher's rating in one domain on one survey.⁸ Again, see 20 U.S.C. § 1414(b)(2)(B).

I do not discount the Father's concerns about the Student's social/emotional wellbeing. The dispute between the parents notwithstanding, nothing in this decision impacts upon the Father's right to request evaluations from the District in the future. See, e.g. 20 U.S.C. § 1414(a)(2). My task, however, is to evaluate the RR at the time it was written. At that time, preponderant evidence establishes that the Student was not expressing psychological needs that required additional testing.

In sum, I find that the RR was inappropriate in only one domain: the District conclusion that the Student no longer has a disability is not supported by the RR itself. Under the standards to which I am bound, I must conclude that the Student is entitled to an IEE at public expense to determine if the Student is still a child with a specific learning disability in reading. Under the terms of the custody order, both parents must agree to the independent evaluator.⁹ The independent evaluator shall be selected by the parents but must satisfy all requirements found at 34 C.F.R. § 300.502. The District may propose evaluators who satisfy "agency criteria" under that regulation, but the Parents may make the ultimate selection.¹⁰ The independent evaluator must share results with all three parties simultaneously.

I am not ignorant to the significant practical and legal problems created by this decision and order. I am ordering the District to fund an evaluation for which one parent has affirmatively withheld consent. The function of that evaluation is to determine whether the Student has a SLD in reading,

⁸ A screen shot of a text conversation between the Father and a person who the Father claims is or was the Student's private psychologist includes a statement that the Student is diagnosed with Generalized Anxiety Disorder. P-12. This document is dated April 4, 2025. This document is hearsay and cannot be used to form the basis of this decision. There is no preponderant evidence as to when the District knew or had reason to know of the Student's diagnosis. Even more importantly, when the RR was written, there is no evidence that the District had reason to suspect social or emotional needs potentially requiring special education. The only evidence of the Student's anxiety in school is a reluctance to volunteer in class. There is no preponderant evidence that this reluctance was interfering with the Student's education when the RR was written.

⁹ Under the custody order, both parents have equal educational decision-making rights and so both parents must approve the independent evaluator. That is my understanding of the custody order, but I also recognize that I am not an expert in Pennsylvania family law. This issue was not briefed as part of this due process hearing, and my interpretation of the custody order is subordinate to any contrary order from any court of competent jurisdiction.

¹⁰ While the parents are not constrained to the District's list of evaluators, they still must choose an evaluator who complies with criteria detailed at 34 C.F.R. § 300.502.

despite strong evidence that the child likely does not require special education. The District is very likely prohibited from providing special education for the Student regardless of the IEE's outcome. Further, as I read the custody order, the IEE cannot occur until both parents approve an independent evaluator. I imagine that will be difficult, given the parents' different positions concerning the Student's educational needs. As I noted throughout these proceedings, a special education due process hearing is an especially poor way to resolve a dispute between parents.

I am obligated to set these real-world concerns aside and stay in my lane. My exclusive task was to determine if the District's RR complied with the IDEA's substantive and procedural requirements at 20 U.S.C. § 1414. In many ways, the RR complied with those requirements, and I reject most of the Father's arguments to the contrary. I find, however, that it was substantively inappropriate for the District to affirmatively conclude that the Student no longer has a disability. Regardless of the Student's need for special education, the District cannot declare that the Student no longer has an SLD in reading without confirming that the basis of that qualification is no longer present. An IEE is the required remedy under these circumstances, and so I order an IEE tailored to cure the deficiency in the RR, under the terms and conditions set forth above.

ORDER

Now, December 3, 2025, it is hereby ORDERED as follows:

1. The District shall fund an Independent Educational Evaluation (IEE) for the Student to determine if the Student has a Specific Learning Disability in reading.
2. The IEE shall be conducted by an evaluator who satisfies agency criteria and shall otherwise comport with requirements at 34 C.F.R. § 300.
3. The IEE shall not commence until both parents agree in writing to the evaluator.
4. The total cost of the IEE shall not exceed the market rate for such evaluations in the District's geographical area.
5. Any report of the IEE shall be transmitted by the evaluator or the evaluator's office to the District, Mother, and Father.

6. Nothing herein limits either parents' right to request other evaluations, provide or withhold consent for evaluations, or provide or withhold consent for special education.
7. Nothing herein limits the Student's rights under the IDEA, Section 504, or their federal and Pennsylvania implementing regulations.
8. Either in lieu of or in addition to the IEE ordered herein, the District, Mother, and Father may agree to different or additional evaluations of or for the Student. Any such agreement must be in writing.

It is **FURTHER ORDERED** that any claim not specifically addressed in this order is **DENIED** and **DISMISSED**.

/s/ Brian Jason Ford
HEARING OFFICER