

*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. 31812-25-26**

**Child's Name:**

M.C.

**Date of Birth:**

[redacted]

**Parent:**

[redacted]

**Local Educational Agency:**

Lehigh County Technical Institute  
4500 Education Park Drive  
Schnecksville, PA 18078

**Counsel for LEA:**

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**Hearing Officer:**

Michael J. McElligott, Esquire

**Date of Decision:**

03/31/2026

## Introduction

This special education due process hearing concerns the educational rights of M.C. (“student”), a student who resides in the Allentown School District (“District”).<sup>1</sup> As part of the student’s education, the student attends part-day vocational programming at the Lehigh County Technical Institute (“LCTI”). The student qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEA”)<sup>2</sup> as a student with a disability.

In August 2025, parent filed a special education due process complaint which contained multiple allegations of denial of a free appropriate public education (“FAPE”) against the District. One aspect of that complaint contained an allegation against LCTI.<sup>3</sup>

In the complaint, the parent claimed that, as a result of a disciplinary incident at LCTI in late August 2025, LCTI discriminated against the student on the basis of the student’s disability, pursuant to the Rehabilitation Act of

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<sup>1</sup> The generic use of “student”, and avoidance of personal pronouns, are employed to protect the confidentiality of the student.

<sup>2</sup> It is this hearing officer’s preference to cite to the pertinent federal implementing regulations of the IDEA at 34 C.F.R. §§300.1-300.818. *See also* 22 PA Code §§14.101-14.162 (“Chapter 14”).

<sup>3</sup> The procedural history of this matter is complicated. Parent filed three complaints, in quick succession, in late August 2025, one of which contained the claims against LCTI addressed in this decision. Those complaints, along with a fourth complaint filed by the District in defense of its evaluation process and report, were consolidated into one hearing process. Intricate hearing planning followed, including a two-day, in-person hearing planning meeting and the scheduling of multiple hearing sessions. At the first hearing session in the consolidated matter, parent failed to appear. The District moved to dismiss the complaints, a request which was granted. LCTI wished to continue to fact-finding in defense of its position on parent’s allegations as to LCTI. A two-session hearing was scheduled. LCTI presented evidence at the first session, evidence which led to the fact-finding in this decision. The second session was scheduled for parent’s testimony. Parent did not appear at either session.

1973, particularly Section 504 of that statute ("Section 504").<sup>4</sup> Specifically, the allegations against LCTI were lodged in two sentences in the complaint, as follows: "(The student) and...parent were never provided the LCTI (joint operating committee) policy or student code of conduct prior to the alleged violation. Disciplinary measures were pursued as if (the student) had prior knowledge, which is unfair and discriminatory." (Complaint – 31812-2526-AF at page 3).

LCTI asserted that, at all times, it met its obligations to the student under Section 504.

For reasons set forth below, I find in favor of LCTI.

## **Issues**

Did LCTI discriminate the student on the basis of disability?

## **Findings of Fact**

All evidence of record was reviewed. The citation to any exhibit or aspect of testimony is to be viewed as the necessary and probative evidence in the mind of the hearing officer.

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<sup>4</sup> 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.

1. The student resides, and attends school, in the Allentown School District. (LCTI Exhibit – 1; Notes of Testimony[“NT”] at 559-609).
2. LCTI is a secondary-level vocational-technical program, supported by a geographic consortium of area school districts. Allentown School District is a member of the consortium. Members from the consortium school boards serve on the joint operating committee (“JOC”) that governs LCTI. (See, e.g., various JOC exhibits at LCTI-16 through LCTI-23; NT at 559-609).
3. In the current 2025-2026 school year, the student is in [redacted] grade. (LCTI-1; NT at 559-609).
4. In February 2025, the spring of the student’s [redacted] grade year, the student applied for admission to LCTI. (LCTI-1).
5. In May 2025, the student was accepted for programming at LCTI. The student was enrolled in the [redacted] program. (LCTI-1; NT at 559-609).
6. The student has an individualized education program as a result of qualifying for special education under the terms of the of the IDEA as a student with a disability. (LCTI-1; NT at 559-609, 611-625).
7. As part of the intake process prior to the start of the school year, students and families are provided with information on accessing LCTI

materials, including the student/parent handbook, which includes the student code of conduct. (LCTI-14, LCTI-15; NT at 559-609).

8. The JOC has promulgated policies that touch on various aspects of parent's claims, including policies addressing non-discrimination, non-discrimination on the basis of disability, special education services, discipline of students with disabilities, trauma-informed approach to meet academic and behavioral needs of students, student discipline, prohibitions on tobacco and vaping products, and prohibitions on controlled substances/paraphernalia. (LCTI-16, LCTI-17, LCTI-18, LCTI-19, LCTI-20, LCTI-21, LCTI-22, LCTI-23; NT at 559-609).
9. The student participates in a half-day vocational program at LCTI and a half-day academic program at the Allentown School District. (NT at 559-609).
10. Over May, June, and July of 2025, parents had access to, and received communications through, LCTI's communication platform regarding various enrollment, procedural, and administrative matters. (LCTI-12; NT at 559-609).
11. The first day of school for the 2025-2026 school year at LCTI began on Monday, August 25, 2025. (NT at 559-609).
12. On Tuesday, August 26, 2025, LCTI sent a communication regarding the start of the 2025-2026 school year. The message

included a request for the completion of necessary forms (had those not yet been completed), information about access to the LCTI parent/school communication platform, and information about school uniforms. Parents were invited to contact the school by phone with any questions. (LCTI-3).

13. On the morning of Wednesday, August 27, 2025, a vape detector activated in a student restroom at LCTI. (LCTI-8, LCTI-10; NT at 559-609, 611-625).
14. Administrators at LCTI engaged in the standard investigation process whenever a vape detector is activated. (NT at 559-609, 611-625).
15. A LCTI administrator reviewed hallway video of the restroom entrance. The video confirmed that the student was escorted to the restroom by the student's aide, that the student entered the restroom, and that the student was in the restroom when the detector was activated. On the video, the student's aide remains in the hallway outside of the restroom. (LCTI-6, LCTI-10; NT at 611-625).
16. The administrator's comprehensive review of the video indicated that the student was the only individual who was present in the restroom at the time the vape detector activated. (NT at 611-625).

17. Once the student was identified, the [redacted] program supervisor, the student's special education teacher, and a LCTI intervention specialist were summoned. Thereafter, the student was summoned to the LCTI office and instructed to bring belongings. (NT at 559-609, 611-625).
18. The meeting included two LCTI administrators and the student's special education teacher. The student's aide remained outside the room. When asked, the student admitted to being in possession of a vape and a search of the student's belongings confirmed that possession. When asked, the student admitted to using the vape in the restroom and the fact that it contained a controlled substance. (LCTI-7, LCTI-10, LCTI-22; NT at 559-609, 611-625).
19. With possession of contraband confirmed, and the indication that a controlled substance might be involved, the LCTI school police officer employed directly by LCTI, was summoned. Prior to employment at LCTI, the LCTI police officer had decades of experience as a community police officer, including experience as part of a local drug task force. (LCTI-21; NT at 627-633).
20. The LCTI police officer tested the material in the vape, testing which indicated that the vape contained a controlled substance. The

vape was secured by the LCTI police officer as evidence. (LCTI-7, LCTI-10, LCTI-23; NT at 627-633).

21. With a confirmation that the vape contained a controlled substance, the student was taken to the nurse's office to be checked by the nurse. (LCTI-10; NT at 559-609).
22. LCTI administrators and the LCTI police officer testified credibly that the investigation and involvement of all three was a standard process whenever a student has suspected contraband and/or suspected possession of a controlled substance. (NT at 559-609, 611-625, 627-633).
23. A LCTI administrator contacted the parent by telephone. The phone call was contentious, but the administrator informed the parent that the Allentown School District would be informed, that the student would be suspended, and that an email would follow with specific information. The administrator sent the email the morning of August 27th. (LCTI-5, LCTI-10; NT at 559-609).
24. Given the nature of the incident (possession of a vape, possession of a controlled substance), LCTI does not allow a student to be transported home as the student normally would be transported. The parent was not able to retrieve the student. Ultimately, on the afternoon of August 27th, a LCTI administrator, accompanied by the

student's special education teacher, utilized a LCTI vehicle to deliver the student home. (LCTI-10; NT at 559-609).

25. LCTI consulted with administrators at the Allentown School District. Administrators from both entities agree that discipline should not be harsh; administrators agreed that the student should be suspended for three days. (LCTI-10, LCTI-15, LCTI-21; NT at 559-609).
26. Parent was formally informed of the suspension by letter dated August 27th, including a regular-education informal hearing the next day, August 28th, to discuss the incident. (LCTI-4, LCTI-10; NT at 559-609).
27. The informal hearing took place with the student in attendance (although the student did not speak), the parent, LCTI administrators, the student's LCTI special education teacher, the student's LCTI school counselor, the student's aide, and Allentown School District administrators. (NT at 559-609).
28. The student returned to LCTI following the 3-day suspension and, as of the date of the evidentiary session where LCTI witnesses testified, had not been involved in any incidents resulting in discipline, and was doing well in the LCTI program. (NT at 559-609).

## Legal Framework

Educational agencies that receive federal funding, have certain obligations to students with disabilities, including provision of appropriate education services and treating students in a non-discriminatory way in light of those disabilities. (*See generally* 34 C.F.R. §§104.1-104.61; 22 PA Code §§15.1).

To establish a *prima facie* case of disability discrimination under Section 504, an individual must prove that (1) he/she is disabled or has a handicap as defined by Section 504; (2) he/she is “otherwise qualified” to participate in school activities; (3) the school entity received federal financial assistance; (4) he/she was excluded from participation in, denied the benefits of, or subject to discrimination at the school; and (5) the school entity knew or should be reasonably expected to know of the disability. (Ridgewood Board of Education v. N.E., 172 F.3d 238 (3rd Cir. 1999); W.B. v. Matula, 67 F.3d 484, 492 (3d Cir. 1995)). For a finding of Section 504 disability-based discrimination, a school entity must have treated the student with deliberate indifference on the basis of the student’s disability. (S.H. v. Lower Merion Sch. Dist., 729 F.3d 248 (2013)).

## **Discussion & Conclusions**

In this matter, there is no dispute that student has a qualifying disability, that LCTI knew about that disability, or that the student is otherwise qualified to participate in the programming and activities of LCTI. Likewise, it is admitted that LCTI receives federal funding for its programming. (NT at 605). In light of Section 504, then, the only question is whether the student was wrongfully denied participation in the programming and activities at LCTI, was denied the benefits of that programming or those activities, or was subject to discrimination by LCTI on the basis of the student's disability. Regarding the disciplinary incident of August 2025, none of these occurrences took place—the student was not wrongfully denied participation programming or activities and was not denied the benefits of programming or activities, nor did LCTI discriminate against the student based on disability. With no discriminatory acts or omissions on this record, the inquiry does not reach the question of deliberate-indifference.

Specifically, in the handling of its investigation of the August 27th incident, LCTI followed the procedures it would employ for any student involved in a similar incident, including its procedures where that student has a disability and/or an IEP. Evidence developed through the course of that investigation supports the conclusions and actions which LCTI undertook. The parent was timely informed of the incident, and LCTI followed its procedures to provide full information to both parent and the

Allentown School District. The student's suspension from school was in accord with LCTI's discipline code and guidelines, and was in collaboration with administrators from Allentown School District. Regular-education procedures to convene an informal hearing were utilized, and, ultimately, the student served the suspension, returned to LCTI, and, on this record, has participated successfully in LCTI programming.

Accordingly, LCTI has fully met its obligations to the student under Section 504.

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## **ORDER**

In accord with the findings of fact and conclusions of law as set forth above, the Lehigh County Technical Institute ("LCTI") did not fail in its obligations to the student under Section 504. LCTI did not discriminate against the student on the basis of disability.

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

03/31/2026