

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. 31979-25-26; 32005-25-26; 32009-25-26

Child's Name:
J.R.

Date of Birth:
[redacted]

Parent:
[redacted]

Counsel for Parent:
Daniel Cooper, Esq.
45 City Avenue
Bala Cynwyd, PA 19004

Local Education Agency:
Garnet Valley School District
80 Station Road
Glen Mills, PA 19342

Counsel for the LEA:
Gabrielle Sereni, Esq.
Samantha Newell Esq.
332 Regency Plaza, P.O. Box 5069
Glen Mills, PA 19342

Hearing Officer:
James Gerl, CHO

Date of Decision:
November 17, 2025

BACKGROUND

This case involves three due process complaints involving the same student and school district as well as the same underlying facts. The first complaint was filed by the parent challenging a disciplinary change of placement of the student for behavior that the parent contends was a manifestation of the student's disabilities. The second complaint was filed by the school district seeking to change the student's placement to an interim alternative educational setting for up to 45 school days because it contends that maintaining the student's prior placement is likely to result in injury to the child or others. The third complaint was filed by the parent asserting facts and issues identical to the school district's complaint.

I find in favor of the school district on both issues raised by these three complaints.

PROCEDURAL HISTORY

The parties failed to agree to any stipulations of fact, which unnecessarily elongated the hearing and decisional process in these cases.

A virtual expedited hearing session was conducted for these cases on November 5, 2025. Six witnesses testified during the hearing. Joint exhibits J-1 to J-30 were admitted into evidence. Counsel for each party submitted a hearing brief before the hearing and supplemented the brief with an oral closing argument at the end of the hearing.

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 have been omitted as not relevant or not necessary to a proper determination of the material issues as presented herein. To the extent that the testimony of various witnesses is not in accordance with the findings as stated below, it is not credited.

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 following two issues were presented by the due process complaints:

1. Whether the school district has proven that a change of placement for the student to an interim alternative educational setting for up to 45 school days is appropriate because returning the student to the previous placement is substantially likely to result in injury to the student or others?

2. Whether the parent has proven that discipline of the student was inappropriate because the student's conduct was a manifestation of the student's disabilities?

FINDINGS OF FACT

Based upon the evidence in the record compiled at the due process hearing, the hearing officer makes the following findings of fact.¹

1. The student's date of birth is [redacted]. (J-3, J-6)
2. The student is [redacted]. (NT 77-80)
3. The student is a [redacted] student in the school district, which [redacted] has attended since the 2024-2025 school year. (J-6, J-3; NT 32)
4. The student was found eligible for special education by the school district under the categories of Other Health Impairment (because of attention deficit-hyperactivity disorder) and Emotional Disturbance (because of depression and anxiety.) (J-6; NT 64)
5. The student's mother had previously disputed whether the student should be labeled by the school district as having an emotional disturbance. The mother now accepts that the student's anxiety and depression qualify within the definition of an emotional disturbance eligibility category as the term is defined by IDEA. (NT 63-64)
6. The student's IEP team developed an individualized education plan for the student on December 12, 2024 that provides that the student will receive a blend of learning support and emotional support to be provided at the itinerant level. The IEP references a functional behavioral assessment that

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

shows that the student engages in non-compliance/defiance in order to escape a task or directive. The IEP incorporates a positive behavior support plan for the student. The IEP placed the student in the regular education classroom for 93% of the school day. Accommodations, supports and specially designed instruction are provided for organizational skills, emotional regulation skills and executive functioning skills. (J-15; J-5)

7. The student was previously disciplined on approximately sixteen other occasions since the start of the 2024-2025 school year for incidents involving fighting and [redacted]; offensive, abusive, and [redacted]; cyberbullying and misusing social media; and using illness as an excuse to visit the nurse but leaving the school instead. (J-20)

8. On September 25, 2025 the student engaged in a series of social media communications with a [redacted] student in the school district over Snapchat. In the first communication, the student said to the [other student]: "redacted." In a later communication the student said to the [other student]: "[redacted]." In a later communication, the student said to the [other student]: "[redacted.]" These communications took place over a matter of minutes on that night. (J-14, J-21; NT 68-69, 162, 191-194, 206-207)

9. On September 26, 2025, school district staff at the Middle School were made aware that a high school student had reported that the [other] student was being harassed by the student. The assistant principal of the middle school investigated the report. During the investigation, the victim told the assistant principal that the abusive statements were from the student and that they occurred over a matter of minutes. The victim provided screenshots of the Snapchat communications from the student to [the victim]. The victim had been emotionally injured by the messages. When interviewed by the Assistant Principal the student admitted that [student] had sent the messages, with the exception that the student denied telling the victim to

[redacted]. The student was upset that [student's] conduct may have jeopardized [student's] ability to obtain a scholarship, but the student showed no remorse. The assistant principal referred the student for a threat assessment, and it was determined that the threat was transient and that the student was not an immediate threat to commit physical harm. The assistant principal contacted the student's mother who was already aware of the incident. The student's mother provided more communications between the student and the [other] student, but the additional communications were not actionable or helpful in explaining the messages. The student was suspended for three days pending further action. The victim's parents requested that the police be contacted, and the school district staff contacted the police on their behalf. (J-14, J-21, J-26, J-27; NT 151-152, 162, 176-184, 186-192, 206-207)

10. On September 30, 2025, the student's mother sent an email to the school district staff objecting to efforts by the school district to schedule a manifestation determination meeting for this incident stating in part, "...this instance is clearly not a manifestation." (J-12, NT 197)

11. On October 1, 2025, a manifestation determination review meeting was convened for this incident. At the beginning of the meeting, the mother stated to the team that the student's behavior was not a manifestation of the student's disability. The team reviewed the student's medical and educational records and his disabilities as well as the conduct for which the student was being disciplined. The team concluded that the student's behavior was not a manifestation of the student's disability. The mother refused to sign the manifestation document. (J-14, NT 89-90, 154, 196-197)

12. Emotional injury is as important for school staff to protect against as physical injury. (NT 126, 156, 229)

13. The conduct of the student in question was not a manifestation of the student's disabilities: ADHD, anxiety and depression. (NT 90-91, 149, 201; record evidence as a whole)

14. The school district issued a Notice of Recommended Educational Placement on October 10, 2025, placing the student in an interim alternative educational setting for 45 school days for sending [redacted] threatening messages to another student in the school district. The student attends the school district's [redacted] as the interim alternative educational setting. (J-16, J-30; NT 123, 32-33)

15. The school district expelled the student on October 21, 2025 because of the student's conduct on September 25, 2025. (J-21)

16. Other students have come forward to school district staff stating that they feel threatened by the student. (NT 115-117)

17. Returning the student to the student's former placement is substantially likely to result in injury to others. (record evidence as a whole)

CONCLUSIONS OF LAW

Based upon the arguments of counsel, 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 the 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. Under the category of placement issues, IDEA provides certain protections regarding a change of placement for disciplinary reasons for students with a disability. IDEA §615(k); 34 C.F.R. § 300.530- 300.537. The reason for the special discipline protections is that before the passage of IDEA and its predecessor there was a long history of schools using student discipline to exclude students with disabilities. Honig v. Doe, (1988) 484 U.S. 305, 559 IDELR 23 (1988).

3. The special education laws provide that, in general, a student with a disability may not be punished by means of a change of educational placement for conduct that is a manifestation of his/her disability. Individuals With Disabilities Education Act (hereafter sometimes referred to as "IDEA") 20 U.S.C. § 1400, et seq., § 615(k); 34 C.F.R. § 300.530(f); 22 PA Code § 14.143. The unique circumstances of a student with a disability must be considered on a case-by-case basis in such circumstances. IDEA § 615(k)(1)(A); 34 C.F.R. § 300.530(a).

4. When a local education agency decides to change the educational placement of a child with a disability because of a violation of a code of student conduct, it generally must convene a manifestation determination review meeting within ten school days. IDEA § 615(k)(1)(E); 34 C.F.R. § 300.530(e). The manifestation determination review team is to review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine: i) If the conduct in question was caused by or had a direct or substantial relationship to the child's disability; or ii) If the conduct in question was a direct result of the local education agency's failure to implement the IEP. IDEA § 615(k)(1)(E); 34 C.F.R. § 300.530(e).

5. The exceptions to the general rule that a student with a disability may not have his/her educational placement changed because of conduct that is a manifestation of the disability are that, regardless of manifestation, a local education agency may remove a student to an interim alternative educational setting for not more than 45 school days, if the child possesses a weapon at school, or knowingly possesses or uses illegal drugs or sells drugs at school, or has inflicted serious bodily injury upon another person while at school or where the local education agency convinces a hearing officer that maintaining the current placement is substantially likely to result in injury to the student or others. IDEA §615(k); 34 C.F.R. § 300.530(g), 300.532(b)(2)(ii).

6. In cases involving a disciplinary change of placement, an expedited due process hearing must be scheduled within twenty school days of the filing of a complaint, and a decision must be issued within ten school days of the hearing. 34 C.F.R. § 300.532(c)(2); Letter to Gerl, 51 IDELR 166 (OSEP 2008)

7. The school district has proven that a change of the student's placement to an interim alternative educational setting for up to 45 school days is appropriate because returning the student to the previous placement is substantially likely to result in injury to the student or others.

8. The parent has not proven that the discipline of the student was inappropriate because the student's conduct was a manifestation of the student's disabilities.

DISCUSSION

1. Whether the school district has proven that a change of placement for the student to an interim alternative educational setting for up to 45 school days is appropriate

because returning the student to the previous placement is substantially likely to result in injury to the student or others?

The school district has proven that keeping the student in the student's former placement at the Middle School is substantially likely to result in injury to others.

On September 26, 2025, the student sent a series of social media messages over a period of minutes to [another] student. The Snapchat communications included calling the [other student] "[redacted]." In the Snapchat messages the student also called the [other student] "[redacted]." A number of minutes later, the student told the [other student] to [redacted]. And in a later message, the student offered to throw a party after the [other student] [redacted]. Importantly, the student showed no remorse after making these abusive statements. The statements were calculated, premeditated and targeted and were not an impulsive outburst.

The parent contends that the student's conduct does not suggest that the student would be likely to cause injury if returned to the student's former placement. It is, however, clear from the abusive and calculated attacks by the student that [the student] is likely to cause injury to other students if returned to the middle school. Moreover, it was the unrebutted testimony of the school district's school psychologist and the vice principal who investigated the incident that the female student who received these messages suffered emotional injury. The parent's argument is rejected.

It should be noted that in the prehearing brief and oral closing argument of the parent that the parent is applying the wrong legal standard. The parent argues that the student would not cause physical harm or serious injury if

returned. IDEA does not require physical harm or serious injury to justify an IAES placement for up to 45 school days. Instead, the standard is whether continuing the former placement is substantially likely to cause injury to the student or others.

Emotional injury constitutes real injury. The student's conduct as aforesaid, coupled with the student's lack of remorse, requires a conclusion that the student will likely cause emotional harm to others if returned to the student's former placement. It is concluded that the school district's placement of the student in an IAES is appropriate and consistent with requirements of IDEA.

The testimony of the school district staff was more persuasive and credible than the testimony of the student's mother concerning this issue. This conclusion is based upon the demeanor of the witnesses, as well as the following factors: the mother was very evasive on cross examination. See also, the credibility discussion in the next section of this decision.

2. Whether the parent has proven that the discipline of the student was inappropriate because the student's conduct was a manifestation of the student's disabilities?

The parent contends that the school district erred in concluding that the conduct in question was not a manifestation of the student's disability. The school district argues that the manifestation determination review team correctly decided that the conduct was not a manifestation.

It should be noted that it is not necessary to reach this issue because it has already been concluded that placement in an IAES is appropriate because continuing the former placement is substantially likely to result in injury. In such circumstances, a manifestation determination is not required. Accordingly, the parent's argument is rejected. However, even assuming *arguendo* that it were necessary to reach this issue, the record evidence clearly shows that the student's conduct was not a manifestation of the student's disability.

It was the unrebutted testimony of the school district's school psychologist and assistant principal that the student's conduct was not a manifestation of the student's disabilities. The targeted and calculated behaviors exhibited by the student over a period of minutes on September 2025 were not impulsive or otherwise attributable to the student's disabilities.

Importantly, the student's mother conceded that this conduct by the student was not a manifestation of the student's disabilities. In a strongly worded email to school district staff, the mother objected to repeated attempts by the school district staff to schedule the manifestation determination review meeting because "this instance is clearly not a manifestation." Moreover, at the beginning of the manifestation meeting, the mother repeated to the team that the student's conduct in question was not a manifestation.

The mother was right. The targeted harassment, [redacted] and suggestions that the [other] student [redacted], committed over a period of minutes, were not the type of improper behaviors that may be associated with impulsivity, depression or anxiety. These behaviors were not caused by, and did not have a direct or substantial relationship to, the student's ADHD, depression or anxiety. Clearly, these behaviors were not a manifestation of the student's disabilities.

The parent argues that the school district mistook the time stamps on the Snapchat communications to conclude that the aggressive negative statements took place over seventeen minutes. It seems that the time stamps reflect when the screenshots were taken and not the time that the messages were sent. Nonetheless, the communications were not instantaneous; the victim told the assistant principal that the communications took place over a matter of minutes. Accordingly, these communications occurred over time and were not an impulsive instantaneous event or outburst. The student's behavior was clearly calculated and targeted the victim. The behavior was not impulsive. The parent's argument is rejected.

The parent argues further that the school district's manifestation determination conclusion ignores the student's challenges with emotional regulation. The student's emotional regulation issues, however, are not the cause of the behaviors. The behaviors at issue in this case were not a single racial epithet or [redacted] gender insult or the placing of a hand over another student's mouth because of a reaction to a frustrating incident or an escape behavior to avoid a task. The Snapchat communications were a series of acts over time that were premeditated, required planning and targeted the victim. The actions were calculated and deliberate. Even if the student's emotional regulation challenges might have explained one offensive comment, it would not explain the invitation to the victim to [redacted] and the follow-up offer to [redacted]. These behaviors were most certainly not a manifestation of the student's disabilities.

However, one point in the school district's legal argument needs to be addressed. Although it does not affect the outcome of this case because the parent has not prevailed, the district argues that a special education hearing officer does not have jurisdiction over school board expulsion decisions, citing

certain state law provisions. This statement is not completely accurate. Where a school district expels a student, clearly a disciplinary change of placement, and that expulsion violates the requirements of IDEA, a federal law, or if the discipline of a student with a disability is so extremely excessive as to constitute a denial of a free and appropriate public education, which is a requirement under federal law, a special education hearing officer clearly does have jurisdiction over the matter. IDEA § 615(k); 34 C.F.R. §§ 300.530-300.537; 22 PA Code § 14.143; District of Columbia v. Doe ex rel Doe, 611 F.3d 888, 54 IDELR 275 (DC Cir 2010). In any event, this case does not involve such an expulsion, so further analysis of this argument is not necessary.

The testimony of the school district staff was more persuasive and credible than the testimony of the student's mother concerning this issue. This conclusion is based upon the demeanor of the witnesses, as well as the following factor: the testimony of the mother is impaired by prior inconsistent statements as to this very point. Specifically, the mother stated in an email to school district staff concerning the scheduling of the manifestation meeting that the behavior in question was not a manifestation of the student's disabilities, and the mother later repeated at the manifestation review determination team meeting that the behavior in question was not a manifestation of the student's disabilities. When confronted with the prior inconsistent statements on cross examination, the mother could provide no coherent or persuasive explanation for her dramatic change of opinion. See also, the credibility discussion in the previous section of this decision.

It is concluded that if it were necessary to reach this question, the parent has not demonstrated that the conduct for which the student was disciplined was a manifestation of the student's disabilities.

ORDER

Based upon the foregoing, it is HEREBY ORDERED:

1. That the school district's change of the student's placement to the interim alternative educational setting for up to 45 school days is appropriate; and
2. That all of the relief requested by the parent's due process complaints is hereby denied.

IT IS SO ORDERED.

ENTERED: November 17, 2025

James Gerl
James Gerl, CHO
Hearing Officer