

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. 32922-25-26

Child's Name:

C.H.

Date of Birth:

[redacted]

Parent(s):

[redacted]

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Hearing Officer:

Savannah L. Murphy, Esq.

Date of Decision:

05/12/2026

Procedural Background

The present matter concerns C.H. (hereinafter referred to as “Student¹”), an [redacted]-grade student who is currently enrolled and resides within the Upper Dublin School District (hereinafter referred to as “District”). Parents brought forth claims under the Individuals with Disabilities Education Act² (IDEA), and Section 504 of the Rehabilitation Act of 1973 (Section 504)³. Student currently does not receive special education services under the IDEA. However, Student has been identified as a child with a disability entitled to the protections under Section 504.

On April 9, 2026, Parents filed a Due Process Complaint seeking an order finding, in relevant part, that Student continues to qualify for special education; and that the March 10, 2026 disciplinary incident was a manifestation of Student’s disability. Several other substantive claims were raised under the IDEA and Section 504, but were bifurcated from the expedited disciplinary issues. *This decision concerns only the expedited issues.*

District filed a Motion to Remove Matter from Expedited Track arguing that Student is not currently eligible for special education services under the IDEA, and is not entitled to an expedited hearing. The parties were provided an opportunity to further brief whether Parents were entitled to an expedited hearing on the disciplinary issue. Briefs were timely received and reviewed.

Parents, in their Brief Requesting an Expedited Hearing, challenged District’s determination that student’s behaviors leading up to the behavioral incident in question was not a manifestation of Student’s disability, and argued that Student was inappropriately exited from special education which

¹ This Decision will be made available to the public. Therefore, the final published version of this decision has been redacted for the purpose of concealing the Student’s personally identifiable information. 34 C.F.R. § 1513(d). 20 U.S.C. § 1415 (h)(4)(A); 34 C.F.R. § 300.513(d)(2).

² 20 U.S.C. §§ 1400-1482, implementing federal regulations 34 C.F.R. §§ 300.1-300.818, and applicable Pennsylvania regulations in 22 Pa. Code §§14.101-14.163.

³ 29 U.S.C § 701 *et seq.*, implementing federal regulations 34 C.F.R. §§104.1-104.61, and applicable Pennsylvania regulations in 22 Pa. Code §§ 15.1-15.11.

led to a flawed manifestation determination review. District, in their brief supporting their Motion to Remove Matter from Expedited Track, argued that there is no legal authority supporting an expedited due process hearing under Section 504, and if Student is thought to be eligible for special education, the exception under 34 C.F.R. § 300.534(c)(2) applied because District recently completed an appropriate evaluation of Student.

In a Memorandum and Order issued on April 21, 2026, this Hearing Officer determined that

It is necessary to have an opportunity to review evidence relating to Student's eligibility, and the District's December 2025 Reevaluation Report to determine whether Student is entitled to the protections and procedural safeguards under the IDEA. Should Parents' assertions be found true, and this Hearing Officer were to remove this matter from an expedited track, Parents and Student would face irreputable harm and extreme prejudice.

This Hearing officer further ordered that the instant matter would proceed under an expedited timeline, and the relevant issues to be heard included whether the Student should have been eligible for special education and whether Student's behaviors leading up to the disciplinary incident was a manifestation of Student's disability⁴. These issues were heard in a single efficient hearing session on April 28, 2026.

For the foregoing reasons, I find in favor of the District.

Issues Presented

1. Whether Student should have been eligible for special education, and entitled to the protections afforded under the IDEA.
2. Whether Student's behavior leading up to the disciplinary incident on March 10, 2026 was manifested from Student's disability.

⁴ All remaining issues raised in Parents' complaint were bifurcated and are pending in a separate case number.

Findings of Fact

I have reviewed the record in its entirety. The below Findings of Fact and subsequent Discussion and Application of Law and Fact will only address that which is relevant to the instant matter.

Background Facts

1. Student has been diagnosed with Attention-Deficit Hyperactivity Disorder (ADHD) (*passim*).
2. Student demonstrated a history of executive functioning and inattention deficits. Student's work space is often cluttered. (J-1 at 11; N.T. at 107). Student is forgetful, disorganized, requires adult prompting and check-ins to ensure tasks are completed successfully. (N.T. at 95-98). Student will often get caught in the moment, and will need prompting to move from one task to another. (N.T. at 100-01; 116-17).
3. Parents closely work with Student in the home, sometimes providing 1:1 support. Student has not demonstrated independence in maintaining a planner in the home environment. Student will complete work, and forget to submit it. (N.T. at 97, 110-111). Student strives for independence. (N.T. at 119).
4. Student was initially evaluated by District and identified as a student with a disability, eligible for special education under the disability category of Other Health Impairment (OHI) in January of 2020. (J-3 at 3; P-1 at 14). Student was subsequently evaluated in January of 2023, and [their] eligibility remained unchanged. (J-3 at 3; P-2 at 8).
5. The January 2020 Evaluation Report (2020 ER) contained Parent and Teacher Input, a record review, the Weschler's Intelligence Scale for Children- Fifth Edition (WISC-V), the Kaufman Test of Educational Achievement, Third Edition (KTEA-3), a Functional Behavior

Assessment (FBA), Behavior Assessment Scale for Children, Third Edition (BASC-3), Conners, and Behavior Inventory of Executive Function, 2nd Edition (BRIEF-2). Rating scales completed by Parent and Teacher. (P-1)

6. According to the January 2020 Evaluation Report Student's areas of identified need included inattention, lack of work completion, reading fluency, attention to tasks, and failure to follow direction. (P-1 at 1-2; N.T. at 27). Student displayed a significant amount of off-task and inattentive behaviors during testing, and in the classroom (P-2 at 5; N.T. at 27).
7. According to the FBA summary provided in the January 2020 ER, behaviors of concern observed were non-performance/ off-task behavior and calling out/ off topic verbalizations. (P-2 at 8-10). Student engaged in 6.5 behaviors per hour lasting 1 to 3 minutes in duration, and Student was engaged in tasks 63.3% of intervals. (P-1 at 10-11).
8. The January 2023 Reevaluation Report (2023 RR) contained a record review with Parent and Teacher input. Student continued to display strong academic skills but executive functioning and written expression deficits. (P-2).
9. The January 2023 RR included progress monitoring on Student's then IEP goal assessing Student's organizational skills. The goal assessed Student's ability to gather materials needed for a task, sorting materials, placing materials in designated locations, sorting and filing materials needed for the future, and disposing of any unneeded materials. (P-2 at 7). Nowhere else does this goal appear in the record.
10. Student last functioning IEP was dated January 15, 2025 (2025 IEP). Student received Itinerant Learning Support services, support in

the general education setting, and attended an academic resource period four days in an eight-day educational cycle. (J-1 at 7, 27).

11. Areas of need identified in the January 2025 IEP were focus and attention, organization, and written expression. (J-1 at 12; N.T. at 29).
12. No behavioral concerns were reported from Student's [redacted] grade teachers other than occasional distraction when using the Chromebook. Student was respectful, had an internal drive to be successful, and turned in assignments as needed. (J-1 at 7-8).
13. An observation was conducted in January of 2025 to determine whether Student continued to require the support of a formalized Positive Behavior Support Plan (PBSP). In that observation, Student displayed zero problem behaviors and was on-task 100% of the time. It was determined that a formal PBSP was not warranted at that time. (J-1 at 10; J-3 at 2; N.T. at 71). A formal FBA was not completed. (J-3 at 2; N.T. at 89).
14. Student's last functioning PBSP was dated December 10, 2023, which directly contained information from the 2020 FBA. (P-4). Replacement behaviors in the PBSP included teaching Student to problem solve or use strategies to manage a task. (P-4 at 4).
15. Student was monitored using one annual IEP goal measuring Student's written expression needs. The goal assessed Student's ability to structure ideas into written paragraphs using cohesive sentences, three supporting details, and concluding statement that aligns with the topic or theme with 90% accuracy in content and 85% accuracy in writing mechanics using grade-level multi-paragraph writing assignments and organizers. Student's baseline was 81% accuracy in content and 90% in writing mechanics. (J-1 at 20).

16. The January 2025 IEP contained several SDIs including access to a visual checklist for assignments; direct instruction in reinforcement, quiz/test preparation, organizational skills, homework completion, and extended time opportunities during the academic resource period; check-ins with special education teacher; preferential seating close to source of instruction; chunking assessments given in a small group setting with extended time and directions read aloud; discrete cues to help initiate tasks; check-ins for writing assignments and graphic organizers; support in ELA classroom for prompts, task behavior, and review of directions and writing. (J-1 at 22-23).
17. Student had better focus in the morning, but difficulties with inattention increased as they day unfolded. (N.T. at 83). Student's doctor was consulted, and [their] medication was increased with the intent that it would last throughout the school day. (J-2 at 3).
18. During the 2025-2026 school year, Student did not participate in the academic resource period assigned to provide executive functioning support. Student's participation in this class conflicted with Student's participation in an extra-curricular activity. (N.T. at 48-49). Therefore, Student was not participating in any special education instruction. (N.T. at 64, 106-07).

December 30, 2025 Reevaluation Report (2025 RR)

19. District completed Student's triennial evaluation on December 30, 2025. (J-3 at 1; N.T. at 23). The 2025 RR concluded that Student had a disability but no longer qualified for special education services. (J-3 at 14).
20. The 2025 RR specifically noted that Student was diagnosed with ADHD, Inattentive Type (J-3 at 2). Individuals with ADHD, Inattentive Type are often forgetful on daily activities, have a short attention

span, are easily distracted, and they have issues maintaining attention for long periods of time. (N.T. at 25).

21. Parent input advocated for continued special education services to support Student's executive functioning, organizational, attention, and written expression deficits. Student continued to require support managing tasks, and assignments. Further, Parents expressed concerns regarding Student's transition to high school. (J-3 at 3; N.T. at 35, 47, 50).
22. The 2025 RR contained a record review of prior testing. This included Students cognitive ability, that was last tested in January of 2020, using the WISC-V. Student obtained a Full-Scale IQ of 121, a Verbal Comprehension Index of 127, Visual Spatial Index of 126, Fluid Reasoning Index of 112, Working Memory Index of 115, and Processing Speed of 100. All scores were in the average to very high range. (J-3 at 3; N.T. at 24).
23. Student's academic achievement was last measured in January of 2020 using the KTEA-3. Student received average to above average scores in all areas except for Silent Reading Fluency and Letter Naming Fluency, which scored in the below average range. (J-3 at 3).
24. Student's demonstrates strong grades, historically in the A to B range. (J-3 at 4). Similarly, Student consistently performed in the proficient to advanced ranged in local and state assessments. (J-3 at 4-5; J-13; N.T. at 40).
25. The 2025 RR contained progress monitoring for Student's annual written expression goal, which indicated that Student met the goal on the most recent writing probe. (J-3 at 5).
26. Teacher input was provided by all four of Student's core academic teachers. Overall, Teachers noted that student has a strong work ethic, is primarily attentive, and maintains proficient grades.

However, Student needs to improve [their] writing skills, executive functioning, and attention-to task. (J-3 at 6; N.T. at 39).

27. Student had no disciplinary history and there was no indication that Student's behaviors impeded [their] learning or that of others. (N.T. at 65, 68).
28. No classroom observations were completed. (N.T. at 36). The only observational information was taken from testing observations that occurred over three testing sessions. (N.T. at 41, 77).
29. The KTEA-3 was utilized to assess Student's academic achievement. Student scored in the average to high range in all areas with scores ranging from 103-121. Student was not tested in the area of Mathematics. (J-3 at 8-9).
30. In addition, the Wechsler Individual Achievement Test, 4th Edition (WIAT-4) was used to assess Students academic achievement in written expression. Student obtained an average score, demonstrating expected ability to write a single paragraph with an introductory statement, and three reasons to support a position. (J-3 at 9; N.T. at 65).
31. BRIEF-2 was used to assess Student's executive functioning deficits. (J-3 at 9-12). The BRIEF rating scales were completed by Parent, Student, and 3 core academic teachers. (J-3 at 10-12). The school psychologist consulted with Student's case manager to determine which teachers had the best knowledge on Student's needs. (N.T. at 45). The rating scales were considered valid (N.T. at 42).
32. Parent rated Student in the elevated range in the areas of Inhibit, Initiate, Working Memory, Plan/Organize, and Organization of Materials. Overall, Parent's BRIEF rating scales indicate that Student has difficulty planning ahead, organizing assignments, and underestimates the time it takes to finish the task. (J-3 at 10).

33. Student's Teachers primarily rated Student in the average range for all tested areas. However, Student's Math teacher rated student in the elevated range for Shift, Working Memory, and Organization of Materials. (J-3 at 10-11; N.T. at 44).
34. Student rated [themselves] in the elevated range for Inhibit, Task Completion, Working Memory, and Plan/Organize. This demonstrates Students own awareness that [their] disability impacts impulsivity, task completion, finishing long term projects, initiating tasks, organization, and prioritizing tasks. (J-3 at 11-12).
35. An FBA was not completed as part of the 2025 RR. (N.T. at 89).
36. The 2025 RR concluded that whereas Student continues to display executive functioning and attentive deficits, Student performs well in class, and has grown independent of learning support services. Therefore, Student was determined to have a disability, but no longer qualified to receive specially designed instruction. (J-3 at 14; N.T. at 48, 75-76). Student did not demonstrate a need for goal-directed replacement instruction. (N.T. at 67, 75-76).
37. It was also determined that Student was eligible as a disabled student under Chapter 15 by virtue of Student's ADHD, which limited a major life activity in focus and learning. The 2025 RR recommended Student receive a Section 504 Plan that provides accommodations considering the SDIs listed in Student's 2025 IEP, teacher feedback, and current rating scales. (J-3 at 14).
38. An IEP meeting convened on January 15, 2026 to review the 2025 RR and to discuss Student's formal exit from special education. (N.T. at 71-72). In attendance was Parents, school counselor, school psychologist, supervisor of Special Education, two of Student's teachers, and Student's learning support teacher. (N.T. at 49-50).

39. At the January 2026 IEP Meeting, Parents expressed concern for Student's exit from special education, in light of an upcoming transition to a new school building. (N.T. at 121-22). However, District informed Parents that Student would receive support from as Section 504 Plan. (N.T. at 52, 121-22).
40. District issued a Notice of Recommended Educational Placement / Prior Written Notice (NOREP/PWN) on January 15, 2026, which proposed that Student be exited from special education and that Student would participate in general education with a Section 504 Plan. (J-5; N.T. at 52).
41. Parents signed the NOREP approving of District's recommendation on January 15, 2026. (J-5 at 5; N.T. at 71-72).

March 10, 2026 Behavioral Incident

42. On March 9, 2026, Student was in the practice room at the District and experimented with [flammable objects]. (J-7 at 1). Multiple students observed Student with the [flammable objects], some expressing concern, and another expressing interest. (J-7 at 1; J-12 at 1; S-1; S-2; S-3; S-4; N.T. at 164-65, 171-72).
43. Student purchased a [redacted] for a peer and gifted it to the peer at lunch on March 9, 2026. (J-7 at 1; J-12 at 1; S-4).
44. After [redacted] rehearsal, Student went to [sports] practice, and used a knife to adjust the netting on [sports equipment] in the home. (N.T. at 127-28). Student also uses the knife for fishing, whittling and crafting. (*Id.*). Student is required to keep the knife in Student's bedroom when it is not in use. (N.T. at 128).
45. On March 10, 2026, Student was getting ready for school and engaged in a typical routine. (N.T. at 129). As Student put on shoes, Student noticed that the knife was left in the playroom. Student put

the knife in Student's pocket with the intention to put it back in its designated spot in the bedroom. (J-7 at 1; N.T. at 130, 168).

46. Student waited for the bus at the bus stop. As the bus was approaching, Student realized that the knife was still in the pocket. In a panic, Student put the knife in Student's backpack, and entered the bus. (J-7 at 1).
47. At the start of the school day, Principal received an email from a concerned parent notifying principal that Student brought [flammable objects] to school and purchased a [flammable object] for another student. (J-12 at 1). Two of the students who witnessed Student's use of the [flammable object] were interviewed. (J-12 at 1; N.T. at 164-65).
48. Principal asked the School Safety Officer (SSO) to remove Student from class due to the reports of use and possession of the lighter the day before. On the way to the office with the SSO, Student threw the [flammable object] into the trashcan outside of the main office. (J-8 at 1; J-12 at 1; N.T. at 131, 165, 186).
49. Student admitted to possessing the [flammable object] and purchasing the other [flammable object] for a peer. (J-8 at 1; J-12 at 1; N.T. at 166). The investigation prompted a search of Student's locker and bookbag. (J-8 at 1). While the principal finished searching Student's locker, SSO and Student walked back to the office with Student's bookbag. At that time, Student admitted to the SSO that Student possessed a knife in the bookbag and asked for help. (J-8 at 1; J-12 at 1; N.T. at 131, 166-67).
50. Principal and SSO conducted a search of Student's person and bookbag. (J-8 at 1). Student's knife was discovered and confiscated. In addition, the [flammable object] Student threw in the trashcan outside the office was recovered and confiscated. (J-12 at 2; N.T. at

167-68). Student was visibly upset during this entire interaction. (N.T. at 167, 188-89).

51. Student originally indicated that he possessed the knife to go fishing after school, but later admitted Student had the knife the day before to fix the [sports equipment], and forgot it in Student's pocket that morning. (J-8 at 1-2; J-12 at 2; N.T. at 168).
52. Student was secluded in the conference room in the main office while the principal contacted District administration, the local police, and eventually Parents. (J-8 at 2; N.T. at 169, 188).
53. A Threat Assessment was completed after Student was found in possession of the knife and [flammable object]. (J-10 at 1; J-12 at 2; N.T. at 182). The Threat Assessment concluded that Student did not have any intent or motivation for violence. (J-10 at 1,5; J-7 at 1; J-8 at 2; N.T. at 183). The Threat Assessment confirmed that contact was made to Parents, Pupil Services, Superintendent, School Counselor, and Law Enforcement. However, no other resources to help Student were offered. (J-10 at 6; J-12 at 2).
54. District called Parent after the investigation was completed, law enforcement was involved, and all students were interviewed, which was not until the early afternoon. (N.T. at 130-31, 185). Parent was informed that the local police confiscated the knife, that a threat assessment was completed, and that the District believed that Student had no ill-intent. (N.T. at 133).
55. Parents advised the principal that they recently observed an increase in impulsive behaviors from Student, which prompted them to seek therapy for Student. (N.T. at 102-03; 134, 192).
56. Parent arrived to pick up Student, and Student was not permitted to return to class. (J-8 at 2; J-12 at 2; N.T. at 169-70).

57. The knife contained a blade measured at 3.5 inches. (J-9 at 1,5-6; J-12 at 2; N.T. at 181).
58. Student's [flammable object] and the [flammable object] Student purchased for peer was recovered and confiscated. (J-9 at 3,7).
59. The day of the incident, a letter was sent to Parents notifying them of Student's suspension for a minimum of 10 school days, and that an informal hearing would be conducted on March 16, 2026. A referral was made to the Superintendent for possible expulsion. Procedural Safeguards for the informal hearing and expulsion were provided in this letter. (J-9 at 2; N.T. at 134).
60. District's Weapons Policy prohibits students from possessing and bringing weapons and replicas of weapons into any District buildings, onto school property, to any school-sponsored activities, and onto any public vehicle providing transportation to or from school or a school sponsored activity. (J-14 at 1).

March 16, 2026 Informal Hearing

61. On March 16, 2026, District held an informal hearing regarding Student's behavioral disciplinary incident for possession of the knife. (J-11 at 1; J-12 at 1). Attendees included Parents, Student, the school psychologist, school counselor, and principal. (N.T at 55-56)
62. The Informal Hearing proceeded in three phases: a review of the disciplinary incident, wherein Student and Parents had an opportunity to correct facts presented; a manifestation determination review; and discussion regarding expulsion proceedings. (J-12; N.T. at 80, 135, 173-75).
63. Parents did not receive formal notice that the manifestation determination would occur at the informal meeting. District administration added the manifestation determination to the agenda

because Student was protected under Section 504. (N.T. at 179, 195, 212).

64. District determined that Student's behavior of possession of the knife on school property was not a manifestation of [student's] disability because Student's disability is ADHD-inattentive type, which does not typically manifest impulsive behavior. Student's act of taking the knife out of his pocket and into [student's] backpack at the bus stop and admission to the SSO was factored into the decision that Student was aware of [their] actions and consequences therefrom. (J-12 at 2; N.T. at 57-60, 176).

65. Parents expressed disagreement with District's conclusion citing Students impulsivity and object permanence deficits that directly resulted from Student's ADHD. (J-12 at 2; N.T. at 136).

66. Parents received a copy of Student's Draft Section 504 Plan on during the Informal Hearing for the first time. (J-12 at 2-3; N.T. at 136, 139-40, 175, 202-03). Student's Section 504 Plan stated the date of services began on March 3, 2026 and identified Student's disability as ADHD-Inattentive type. (J-4 at 1). The Draft 504 was unsigned, and a Section 504 meeting had not yet been held. (J-4 at 2).

67. Student's Draft Section 504 Plan included the following accommodations: preferential seating in the classroom; extended time on larger assessments; graphic organizer and checklist to help organize assignments; small group testing; prompts or cues to direct student to stay on task. (J-4 at 1).

68. Similarly, the first time Parents received Student's Draft Section 504 Evaluation during the informal hearing. (N.T. at 136, 139-40, 202-03). The Date of Report and Date of Meeting listed was February 27, 2026. (J-6 at 1).

69. The Section 504 Evaluation concluded that Student's ADHD impacts his ability to focus and learning in the classroom. Student has difficulty focusing, remaining on task, checking work for accuracy, and completing assignments on time. Therefore, the Section 504 Evaluation concluded that Student had a disability and is entitled to protections under Section 504. (J-6 at 1).
70. Parents were informed District would peruse expulsion and were presented with three options strict options on how to proceed. (J-12 at 3; N.T. at 136).

Discussion and Application of Law

Burden of Proof and Witness Credibility

In an administrative due process hearing, the burden of proof encompasses the burden of production and the burden of persuasion. The party seeking relief bears the burden of persuasion. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Bd. of Educ*, 435 F.3d, 384, 392 (3rd Cir. 2006). Accordingly, the burden of persuasion rests with the filing party, in this case the Parents. For reasons set forth below, I find that Parents have not met their burden of persuasion, because the 2025 RR is appropriate, and Student's behavior leading to the March 10, 2026 disciplinary incident was not a manifestation of Student's disability.

Special education hearing officers must also make credibility determinations of witnesses called to testify before them. I find that all witnesses called to testify did so credibly. All witnesses clearly elaborated on questions posed, and demonstrated more than a fundamental knowledge in their area of expertise. I find that all witnesses testified truthfully. The facts of the Student and the events leading up to and on the March 10, 2026 behavior incident were not in dispute, and consistent amongst the witnesses.

Evaluation Requirements

A School District must reevaluate a student with a disability at least every three years or "if the conditions warrant a reevaluation." 20 U.S.C. § 1414(a)(2). To be appropriate, the evaluation must assess the student in "all areas of suspected disability." §1414(b)(1)(3)(C). In assessing the student's areas of suspected need, the evaluation report must contain

- (A) a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent that may assist in determining (i) whether the child is a child with a disability, and (ii) the content of the child's [IEP], including information related to enabling the child to be involved and progress in the general education curriculum...
- (B) not a single procedure 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
- (C) use of technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors." § 1414(b)(2).

The assessments and evaluation materials must be administered by trained and knowledgeable personnel who administer the materials in accordance with instructions provided, must address all areas of suspected disability in a student, and must provide relevant information that directly contributes to the determination of the student's educational need. § 1414(b)(3).

A reevaluation report must also include existing data of the student, present levels of academic performance, identify additional data, if needed, and must assess whether the student continues to qualify for special education services, and whether the student's special education services require additions or modifications. §1414(c)(1). In cases where additional

data is not required, the reevaluation must identify the reason and the right of the parent to request an assessment. §1414(c)(4).

Manifestation Determination under the IDEA

Under the IDEA, A School District may remove a student with a disability from their current placement when the student violates a code of conduct for not more than 10 school days. 20. U.S.C. §1415(k)(1)(B); 34 C.F.R. §300.530(b). When the change in placement exceeds 10 school days, a manifestation determination must occur. §1415(k)(1)(E); §300.530(e). The manifestation determination meeting must include the LEA, Parent, relevant members of the IEP Team, who shall “review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by” parents to determine (1) whether the “conduct in question was caused by or had a direct and substantial relationship to the child’s disability” or (2) whether the “conduct in question was the direct result of the [LEA’s] failure to implement the IEP”. §1415(K)(1)(E)(i); §300.530(e)(1).

If the student’s conduct is determined to be a manifestation of their disability, the IEP team must conduct an FBA and implement a behavior plan, if a behavior plan previously existed, it must be modified, as necessary, and the student must be returned to their prior placement unless parent and LEA agree to a change in placement. §1415(k)(1)(F); §300.530(f). If the student’s conduct is not determined to be a manifestation of their disability, then disciplinary procedures applicable to students without disabilities may be applied. §1415(K)(1)(C); §300.530(c). However, a student subject to removal from their educational placement is still entitled to receive a FAPE and an appropriate FBA with a behavioral plan to address the behavior. §1415(k)(1)(D); §300.530(d).

Exceptions to this general rule allow an LEA to remove a student to an interim alternative educational setting for no more than 45 school days,

regardless as to the result of a manifestation determination, when the student (1) possesses a weapon; (2) knowingly possesses or sells a controlled substance; or (3) inflicts serious bodily injury upon another person at school. §1415(k)(1)(G); §300.530(g).

Fundamental Section 504 Principles and Manifestation Determination

Section 504 does not codify guidelines mandating a manifestation determination when a student with a disability engages in a behavior that could result in removal from student's education for more than 10 school days. However, the LEA must provide education for each student with a disability in the same jurisdiction of those without a disability "to the maximum extent appropriate" to meet the needs of the student with a disability. 34 C.F.R §104.34. The student shall be educated in the regular education environment with appropriate use of supplementary aids and services. *Id.* Students who qualify under Section 504 must be provided FAPE. 34 C.F.R §104.33.

To ensure a student is provided FAPE under Section 504, the LEA must provide to a student in general or special education related services that are "designed to meet the individual educational needs" of the student. §104.33(b)(1). The LEA has a duty to conduct an evaluation of any student who is "believed to need special education or related services" before determining the initial placement of the student. 34 C.F.R. §104.35(a).

Section 504 demands that no student, on the basis of their disability, shall be "excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance." 34 C.F.R. §104.4(a). The U.S. Department of Education Office of Civil Rights has provided additional guidance regarding supporting students under Section 504 in disciplinary

driven change in placements⁵. A manifestation determination under Section 504 operates similarly to that under the IDEA⁶. This includes a manifestation determination review prior to the tenth day of a Student's suspension; including relevant members of the Section 504 team to determine whether the student's conduct had a direct and substantial relationship to student's disability⁷.

An appropriate manifestation determination review is an essential procedural safeguard afforded to a student subject to a change in placement, entitled to FAPE and to be free from discrimination on the basis of the student's disability. §§ 104.4(a); 104.33. Similarly, under the IDEA, if the student's behavior was a manifestation of their disability, the LEA has a responsibility to assess and address those behaviors to provide FAPE. See §§ 104.33; 104.35. If the student's behavior was not a manifestation of student's disability, then the student may be subject to the same disciplinary procedures as students without disabilities.⁸

Application of Law and Fact

District has contended that Parents are not entitled to an expedited hearing on any issue set forth in the instant matter, because Student is only eligible for services under Section 504, and the IDEA does not apply to the discipline issue. In addition, neither the IDEA or Section 504 provides any basis for an expedited hearing as to the appropriateness of a school district's reevaluation. See *generally* 34 C.F.R § 300.532. However, the basis of Parents' complaint and argument is that 2025 RR was legally insufficient, inappropriately exited Student from special education, and directly impacted Student's rights to a proper manifestation determination review under the

⁵ See *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973* (July 2022), <https://www.ed.gov/media/document/504-discipline-guidance-2022-21258.pdf>.

⁶ *Id.* at 14-21.

⁷ *Id.* at 16-17.

⁸ See *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973* at 21.

IDEA. Whereas the IDEA does not provide any procedural safeguard allowing an expedited hearing to determine the appropriateness of a District's evaluation, disposition of this issue is necessary to resolve the disciplinary expedited matter. Therefore, each question will be individually addressed below.

The 2025 Reevaluation Report is legally sufficient and appropriately exited Student from special education.

Parent contends that the 2025 RR is inappropriate because it failed to comprehensively evaluate Student's needs, failed to include updated intellectual assessments, failed to include math assessments, failed to contain a direct classroom observation, and failed to gain input Student's afternoon teachers for the BRIEF-2 rating scale. Parents failed to meet their burden of proof that these alleged deficits resulted in a legally insufficient and inappropriate reevaluation report.

The law does not provide a specific check-list with exact assessments that must be completed for every student's evaluation. However, to be appropriate, the evaluation must assess the student in "all areas of suspected disability." §1414(b)(1)(3)(C). Student's areas of identified need included focus/attention, organization, and written expression. (J-1 at 12). In addition to collecting Parent input, input from all four of Student's core academic teachers, a review of state/local assessments, progress monitoring, report cards, and previous reevaluation reports, the school psychologist completed the KTEA-3, WIAT-4 and BRIEF-2 to further assess Student's executive functioning and written expression needs. (J-3).

Nowhere in the record does any member of the IEP team, including Parents question Student's cognitive ability. To the contrary, Student is an exceptionally intelligent young individual. Student received a Full-Scale IQ of 121, with strong verbal comprehension, visual spatial, fluid reasoning and working memory skills. (J-3 at 24). Parents contend that between 2020 and

2025, the last time Student's cognitive ability was tested, Student began taking medication, which can have an impact on intellectual functioning. Nothing in the record substantiates that contention as it applies to Student.

On the contrary, since 2020, Student has advanced in various skills, and demonstrates a higher level of intelligence. Student's grades are in the solid A to B range, and local and state assessment scores are all proficient to advanced. (J-3 at 4-5; J-13; N.T. at 40). Student's cognitive ability was not an area of suspected need. This same analysis applies lack of math assessments in the 2025 RR. The school psychologist administered the KTEA-3, testing Student in the areas of Reading and Written Language. Further, the WIAT-4 was utilized to further assess Student's essay composition skills in light of his written expression deficits. (J-3 at 8-9).

Student's strongest academic area is in math. Student demonstrates extraordinary math skills, evidenced by Student's readiness and ability to take and pass the Algebra I Keystones by [redacted] grade. (N.T. at 40). The school psychologist, in reviewing Student's educational history noted previous deficits in reading and written expression, and followed up using a variety of assessments to assess Student's current needs. (J-3 at 8-9; N.T. at 65). Student received scores in the average to high range, and has demonstrated progress in these areas. (*Id*). In addition, the IEP team, including Parents, noted no academic concerns. (N.T. at 122; 149).

On its face, the lack of a direct classroom observation is concerning. However, the data and information gathered in the 2025 RR, including input from all four academic teachers, and three observations completed during testing, the school psychologist was able to obtain and dictate a clear picture of Student's day to day educational skills and deficits. During testing observations, Student put forth consist effort, was attentive, and engaged. (J-3 at 8). Further, Student's core academic teachers largely noted attentive and compliant behavior in class. Student generally completes and turns in

assignments, is on-task with discrete check-ins, has no issues contributing to large and small group activities. (*Id.*). Teachers did note some inattention and task-incompletion concerns, particularly if Student had access to a Chromebook or if Student missed class due to extra curriculars. (*Id.*). However, these deficits were managed by Student's SDIs in his IEP, later to be integrated into a Section 504 Plan.

Finally, there was no substantive or procedural error to only include Student's morning teachers in the BRIEF-3 rating scale. The 2025 RR considered Student's attention and organizational deficits, and assessed Student's executive functioning using the BRIEF-3. (J-3 at 9-12). Five individuals completed the rating scales including Parent, Student, and three academic teachers. The school psychologist testified to consulting with Student's case manager when selecting which teachers should complete the BRIEF-3. (N.T. at 45). These teachers were considered to have the strongest comprehensive knowledge on Student's needs. (*Id.*).

Parent, Student, and one teacher noted mild to moderately elevated scores in inhibit, initiate, working memory, organization, and plan/ organize (J-3 at 10-12). Otherwise, Student received average ratings. (*Id.*). These rating scales were not wholly ignored, but rather incorporated into the decision that Student has a disability, and requires a Section 504 Plan. (J-3 at 13-14).

In 2020, when Student was initially identified, Student displayed significant difficulty in focusing, failed to complete tasks, was disruptive, called out in class, and sometimes would move from Student's assigned area. (J-1). Comparing the data in the 2025 RR with the data contained in the 2020 ER and 2023 RR, evidences that Student has made substantial progress in inattention, task completion, impulse control, and written expression deficits. Student is intelligent, academically sufficient,

behaviorally complaint, but continues to display organizational and inattentive deficits.

Further, by December of 2025, Student had gone nearly a semester without special education supports and services. (N.T. at 48-49; N.T. at 106-07). Student participated in extra-curricular activity instead of the academic resource period. (*Id*). Whether this scheduling change denied Student FAPE, or whether District should have supplied this academic resource period otherwise is not yet ripe for discussion. However, for the purposes of whether the 2025 RR and its conclusion was appropriate, Student demonstrated progress in skills and academics in spite of not receiving special education supports. The data correctly concludes that Student's needs can be met via an appropriate Section 504 Plan.

District's 2025 RR completed a variety of assessments designed to assess Student's unique needs in all areas of suspected disability. Given the information provided to District at the time of the 2025 RR, District's conclusion and the 2025 RR itself was appropriate and legally sufficient. Student has a disability, but is not currently eligible for special education under the IDEA. Student is entitled to the procedural safeguards and protections under Section 504.

Student's behavior leading up to the March 10, 2026 disciplinary incident was not a manifestation of Student's disability.

The facts regarding the March 10, 2026 behavioral incident and the March 16, 2026 informal hearing and manifestation determination are largely not in dispute. As determined above, Student was not eligible for special education services during the behavioral incident. However, Student is protected under Section 504, which requires completion of a manifestation determination review. The District concluded that Student's behavior did not manifest from Student's disability because Student's ADHD is inattentive type; Student knowingly placed the knife into the backpack at the bus stop;

Student knew possessing a knife on school property was wrong, evidenced by asking for help from the SSO; Student had ample opportunity to seek help or call parent prior to the knife being discovered; Student had possession of [flammable objects] prior to possession of the knife; and Student told multiple stories explaining the possession of the knife. (J-12 at 2; N.T. at 57-60, 176).

Parents contend that Student's behavior was a direct manifestation of Student's ADHD because student has a long history of focus, attention, and organizational deficits; ADHD impacts object permanence; and Student had recently displayed an increase of impulsive behavior. (J-12 at 2; N.T. at 136). Parents also contend that District did not afford Student an appropriate manifestation determination meeting, and alleges various procedural violations including failure to notify Parents of the manifestation determination meeting; no teachers were present at the manifestation determination meeting; and District's failure to timely implement Student's 504 Plan.

The first pertinent question at issue is whether Student's behavior leading up to the March 10, 2026 disciplinary incident had a direct and substantial relationship to Student's ADHD. On March 9, 2026, Student was observed by peers using and gifting a lighter on school property. (J-7 at 1; J-12 at 1; S-1; S-2; S-3; S-4; N.T. at 164-65, 171-72). This resulted in an email from a concerned parent to the principal, and prompted an investigation of Student's possessions. (J-12 at 1; N.T. at 164-65).

Student has a knife kept at home used for fixing the net on a [sports equipment], fishing, whittling, and crafting (N.T. at 127-28). The activities in which Student uses the knife are wholly independent from Student's morning school routine. However, as Student was getting ready for school on March 10, 2026, Student noticed the knife was not in its designated spot. Student placed the knife in a pocket with the intention to put it back in its designated

area. However, Student failed to do so. (J-7 at 1; N.T. at 130, 168). Student realized the knife was still in Student's pocket moments later at the bus stop. In the heat of the moment, as the bus approached, Student made the decision to place the knife in the backpack, and entered the bus. (J-7 at 1). There is no reason to doubt Student's narrative, and it has been accepted as true by the parties.

The moment relevant for review is the moment Student transferred the knife from a pocket to the backpack, and entered the school bus. District attempts to further support their assertion that Student's behavior was not a manifestation of Student's ADHD by discussing Student's request for help to the SSO, Student's alleged opportunity to call [their] parents or go to a trusted adult to report the possession of the knife, or Student's attempt to lie about why the knife was in Student's possession. (J-12 at 2; N.T. at 57-60, 176). This is irrelevant to the manifestation determination discussion because Student was in violation of District's Weapons Policy the moment Student stepped on the bus with the knife. (See J-14 at 1).

The behavior in question is not that Student forgot about the possession of the knife, but rather Student's act of placing the knife from Student's pocket to the backpack at the bus stop. The evidence does not support that Student's ADHD manifested such behavior. Parents attempt to argue that Student's medication was not yet in effect at the time of the incident, that Student has a history of attentive and organizational deficits, and that Student forgot the knife was in Student's possession. This argument fails because Student did not forget the knife was in Student's pocket. Moments after Student placed the knife in Student's pocket with the intention to put it back in its designated spot, Student remembered the knife was still in possession.

Instead of choosing to remove the knife from Student's possession, and potentially miss the bus, Student chose to remove the knife from the

pocket, place it into the backpack, and enter the bus, which is school property. This choice was not a manifestation of Student's ADHD, but rather a product of flawed decision making. Student may have been faced with a difficult and quick decision, but Student made that choice nevertheless. This is a choice that could have been made by anyone, disability or not. Unfortunately, Student chose to violate a serious school policy, which carries significant disciplinary procedures.

Further Student has no history of disciplinary infractions, Student did not display behaviors that impeded [their] learning or that of others, and Student was generally considered a good student with proficient grades. (See J-1 and J-3). Nothing in the record supports that Student struggled with understanding rules or procedures, or had a history of possessing inappropriate materials prior to the March 10, 2026 incident. To the extent that Student began to display impulsive behaviors and possessed prohibited materials in school, District was unaware of these behaviors until the day in question. To the extent that Student now displays behaviors, nothing in this decision eliminates District's requirements to further assess and address Student's changing needs under Section 504 and the IDEA.

Therefore, the record and evidence supports that Student's behavior leading up to the March 10, 2026 disciplinary incident was not a manifestation of Student's disability.

Second, it must be determined whether Student's behavior leading up to the March 10, 2026 incident was a direct result of District's failure to implement Student's 504 Plan. There is no dispute that Student's 504 Plan was not in place at the time of the March 16, 2026 informal hearing. (J-12 at 2-3; N.T. at 136, 139-40, 175, 202-03). In fact, Student had not received any formal supports or services in the form of an IEP or Section 504 Plan since January of 2026. (J-3, J-4; J-5; J-6; J-12 at 2-3; N.T. at 136, 139-40, 175, 202-03).

At this time, however, the only question before me is whether this error directly impacted Student's behavior. Nothing in the Section 504 Plan, as drafted, provided supports or services to address Student's alleged behavior of possessing prohibited materials on school property. (See J-4). The same conclusion would be made if Student's Section 504 Plan obtained all of the SDIs contained in Student's January 2025 IEP. (J-1 at 22-23). Student's SDIs in the January 2025 IEP and the accommodations in the Draft 504 Plan address Student's inattention, work completion, and written expression deficits. (J-1 at 22-23; J-4). If the District failed to check in with student regarding organization, failed to provide Student with visual check-lists for assignments, failed to chunk assignments, or failed to prompt student to stay on task, Student would still have taken the knife out of Student's pocket and voluntarily placed it in Student's backpack.

Parents cite *Bristol Twp. Sch. Dist. v. ZB* to argue that the manifestation determination analysis by District was flawed. 2016 WL 161600 (E.D.Pa., Jan. 14, 2016). This case is distinguishable from the instant matter because in *ZB*, the court found that the district's manifestation determination review considered a "typical" ADHD student rather than "specific consideration" to student's ADHD. *Id.* at *9. In the instant matter, District considered Student's ADHD and Student's attention and organizational deficits. The principal and school psychologist reviewed Student's educational record including the Draft 504 Plan, and 2025 RR prior to the manifestation determination meeting. Further, the specific incident was carefully reviewed with the participants at the Informal Hearing.

Finally, Parent challenges various procedural deficits regarding the Informal Hearing and manifestation determination including District's failure to notify parents ahead of time of the manifestation determination, and the lack of teachers or other educators present at the manifestation determination.

However, Parents did receive notice of the informal hearing on March 10, 2026 with procedural safeguards attached. (J-11). This notice made it clear that Student was suspended from school and facing expulsion. (J-11 at 1). Further, Parents were notified of their right to cross examine any witness presented by the principal, and the right to speak and produce their own witnesses. Parents were also provided procedural safeguards for a formal expulsion hearing. (J-11 at 2).

Further, the absence of teachers does not alone invalidate the manifestation determination review. In attendance at the March 16, 2026 Informal Meeting was the principal, school psychologist, counselor, parents, and student. (N.T. at 55-56). These individuals reviewed Student's record including the 2025 RR, which obtained teacher input, and a review relevant information. (J-3). Section 504 does not hold the same procedural safeguards for manifestation determinations as the IDEA, and therefore Student was not entitled to IDEA protections. District, nevertheless, engaged in a comprehensive review of Student's needs, a detailed review of March 10, 2026 disciplinary incident, and a discussion analyzing whether Student's behavior was a manifestation of Student's ADHD.

For the foregoing reasons, Student's behavior of placing the knife from Student's pocket to the backpack prior to entering the school bus was not a manifestation of Student's ADHD and District's failure to implement Student's Section 504 Plan did not directly result in Student's behavior.

Conclusion

For the reasons set forth in the above Discussion and Application of Law and Fact, District's 2025 RR, fully complied with the IDEA's procedural and substantive requirements. Further, Student's behavior leading up to the March 10, 2026 behavioral incident was not a manifestation of Student's disability. District's failure to implement Student's 504 Plan did not have a

direct impact on Student's decision to transfer a knife from Student's pocket to Student's backpack before entering the school bus.

This Decision, its conclusion, and Order, should not be interpreted to reach any conclusions regarding the provision of FAPE to Student under the IDEA or Section 504. Such issues have been bifurcated from Parent's Complaint and have yet to be heard. Further, regardless of the outcome of Student's disciplinary incident, nothing in this decision terminates District's ongoing obligation under the IDEA's or Section 504's evaluation or FAPE requirements, nor the Parents right to request evaluations in response to Student's changing needs. See 20 U.S.C. § 1414.

An appropriate Order follows.

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Order

AND NOW, this 12th day of May, 2026 in accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** as follows:

1. The 2025 Reevaluation report was procedurally and substantively appropriate when it was issued;
2. Student's behavior and actions leading to the March 10, 2026 disciplinary incident was not a manifestation of Student's disability;
3. District's failure to implement Student's Section 504 plan did not directly impact Student's behavior on March 10, 2026 and;
4. Parent's requests for relief as they relate to the appropriateness of District's 2025 Reevaluation and the Manifestation Determination regarding the March 10, 2026 disciplinary incident are **DENIED**.

It is FURTHER ORDERED that any claim not specifically addressed in this Order is **DENIED** and **DISMISSED**. With issuance of this final decision, jurisdiction over this matter is hereby **RELINQUISHED**.



Savannah L. Murphy, Esquire.
Special Education Hearing Officer
ODR File Number 32922-25-26