

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. 32629-25-26

Child's Name:

L.B.

Date of Birth:

[redacted]

Parent(s):

[redacted]

Counsel for Parent(s):

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Hearing Officer:

James Gerl, CHO

Date of Decision:

May 27, 2026

BACKGROUND

The parent filed a due process complaint alleging that the school district committed a placement violation of IDEA by assigning the student to a specific elementary school. The school district contends that it did not violate IDEA. I find in favor of the school district with regard to the issue raised by the due process complaint.

PROCEDURAL HISTORY

The lawyers in this case did an excellent job of agreeing to 53 separate stipulations of fact. Agreement to the stipulations narrowed and simplified the issues and reduced the amount of time necessary for the hearing and decisional process.

The hearing was concluded in one virtual session. Parent exhibits P-1 to P-2 were admitted into evidence, parent exhibits P-3 through P-14 were withdrawn. School district exhibits S-1 through S-29 were admitted into evidence. Six witnesses testified at the due process hearing.

After the hearing, counsel for both parties presented written closing arguments/post-hearing briefs and proposed findings of fact. 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 and proposed findings have been omitted as not relevant or not necessary to a proper determination of the material issues as presented. To the extent that the testimony of various witnesses is not in accordance with the findings as stated below, it is not credited.

To the extent possible, 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).

ISSUE PRESENTED

It should be noted that the parent's post-hearing brief addresses a number of issues that were not presented and agreed to at the prehearing conference and stated at the beginning of the due process hearing. The parent agreed for example, both at the prehearing conference and at the beginning of the hearing, that there were no substantive or procedural issues concerning a free and appropriate public education or any other issues other than the one identified below. None of the additional issues raised by the parent in the post-hearing brief, after all of the evidence had already been submitted at the due process hearing, were considered in reaching this decision.

The issue presented by the due process complaint is as follows:

Whether the parent has proven that the school district committed a placement violation of IDEA by implementing the student's IEP at a particular elementary school?

FINDINGS OF FACT

Based upon the parties' stipulations of fact, I have the following findings of fact:

1. The student's date of birth is [redacted].
2. The student and the parent are residents of the district.
3. The student's neighborhood school is an Elementary School.

4. The student is currently enrolled in the [redacted] grade at another Elementary School.

5. The student entered the district with an IEP dated December 14, 2023, from another school district.

6. According to the December 14, 2023, IEP, the student was receiving supplemental autistic support, occupational therapy, speech and language therapy and had a 1:1 adult assistant in the classroom.

7. On September 4, 2025, the district issued an Invitation to Participate in an IEP Team Meeting scheduled for September 9, 2025.

8. The IEP meeting was held on September 9, 2025.

9. The district's initial individualized education plan (IEP) offered comparable services to those contained in the December 14, 2023, IEP from the prior school district.

10. The initial IEP offered by the district states that "Data will be collected within six weeks at [the assigned elementary school] to determine if behavior is a need."

11. The initial IEP states that the student is eligible as a student with Autism and a Speech and Language Impairment.

12. The parent signed the Procedural Safeguards Notice on September 9, 2025.

13. The September 9, 2025, IEP provides for supplemental autistic support with occupational therapy, speech and language therapy and a personal care assistant (PCA).

14. The district issued a notice of recommended educational placement (NOREP) on September 11, 2025, for supplemental autistic support at [the elementary school in dispute here].

15. The parent signed the September 11, 2025, NOREP on September 12, 2025, approving the action/recommendation.

16. On October 22, 2025, an IEP revision meeting was held.

17. At the October 22, 2025, meeting, the parent requested an aide on the school bus, citing a medical treatment plan recommendation from a doctor that the student must have someone with [the student] at all times and could not be left unsupervised.

18. At that meeting, the district asked the parent about specific concerns on the bus and the parent responded that the medical treatment plan mandated constant supervision.

19. The parent did not provide documentation at the October 22, 2025, meeting that the student required an aide on the bus.

20. The student's attendance was also discussed at the meeting on October 22, 2025.

21. The district did not receive a doctor's note regarding the student's absences, and the student did not attend school.

22. The district issued a NOREP on November 3, 2025, for the October 22, 2025, IEP meeting.

23. On October 30, 2025, the district issued an Official Notice of Child's Illegal Absence, informing the parent the student was truant and providing a date for a meeting to discuss a Student Attendance Improvement Plan (SAIP).

24. On October 30, 2025, the parent responded to the Official Notice of Child's Illegal Absence stating that she felt that [the elementary school in question] was not the place for the student and could not provide the level of care the student needs.

25. On November 6, 2025, the parent participated in completing the SAIP via phone with the School Counselor and School Social Worker.

26. On November 10, 2025, an IEP revision meeting was held.

27. At the November 10, 2025, IEP meeting, the SAIP was discussed.

28. The parent signed the SAIP on November 10, 2025, agreeing with the plan, including all requirements and consequences and agreeing to comply with the terms of the plan.

29. On November 10, 2025, the parent signed an Authorization for Disclosure of Information for the district to obtain medical records and reports and authority to speak with [a doctor and a hospital].

30. The district stated that it would like to collect data through the IEP process before placing a PCA on the bus through the IEP process.

31. At this meeting, the district also stated that a bus aide is on the bus to support all the students on the bus.

32. The parent stated that she would put the student on the bus on November 11, 2025, and that she would come to school to meet the PCA.

33. The district issued a NOREP on November 14, 2025, following the November 10, 2025, IEP meeting.

34. The parent did not sign the November 10, 2025 NOREP.

35. On November 18, 2025, [a hospital] faxed a school excuse to [the elementary school in question] indicating the student was seen at their office on that date for occupational therapy.

36. On November 25, 2025, the School Social Worker faxed a request to [the doctor at the hospital] requesting medical documentation confirming the necessity of a bus aide.

37. On December 16, 2025, [the pediatrician] issued a letter that the student has not been steadily receiving speech and OT, is nonverbal, has not progressed in the least restrictive environment and would benefit from an approved private school [APS] for students with Autism.

38. On December 16, 2026, [the pediatrician] also issued a Letter of Medical Necessity requesting a 1:1 bus aide for the student and that without a 1:1 on the bus, the student could not be transported or attend school.

39. An IEP revision meeting was held on December 17, 2025 to address the parental concerns, present levels, and related services including a Personal Care Assistant for transportation.

40. The parent requested an APS at the meeting.

41. The parent also requested that the student be assigned to another district school.

42. It was discussed at the meeting that because of limited data, the school team felt supplemental autistic support at [elementary school] was appropriate.

43. The parent presented the two letters from [the pediatrician] at the December 17, 2025 IEP meeting.

44. At the December 17, 2025 IEP meeting, the school team stated that it needed a signed release to obtain the student's OT records from [the pediatrician] .

45. The district followed up with the parent about the signed release for OT records through emails with counsel.

46. The parent never signed a release for the district to obtain the student's OT records from [the pediatrician] .

47. The IEP was amended at the December 17, 2025 IEP meeting to include a PCA on the bus.

48. A NOREP was issued on December 23, 2025 following the December 17, 2025, IEP meeting.

49. The parent signed the December 23, 2025 NOREP on December 26, 2025, checking the box she did not approve the action/recommendation and checking the boxes for mediation and due process hearing.

50. On January 12, 2026, the parent emailed the district a handwritten note that the student has been absent from school from January 5, 2026, through January 12, 2026 "pending adequate transportation to be provided by the school district per the decision at [student's] last IEP meeting."

51. On January 16, 2026, the building principal emailed the parent to notify her that the student's PCA was scheduled to begin providing support to the student on the bus beginning on January 20, 2026.

52. On January 19, 2026, the parent emailed the district that the student would not be attending [the elementary school in question] because she does not feel it is a safe learning environment and requesting a transfer "to an appropriate school that is receptive and respectful to [student's] needs and safety."

53. The student has not returned to school.

Based upon the evidence in the record compiled at the due process hearing, I have made the following findings of fact: ¹

54. The student is a happy child who loves to play. (NT 81 – 83)

55. The student qualifies for special education under the primary disability category of Autism and the secondary category of Speech Language Impairment. (S-22)

56. In addition to other disabilities, the student has a seizure disorder and suffered brain damage [redacted] at birth. The student is nonverbal. (NT 43 – 44)

57. At an October 22, 2025 IEP team meeting, the school district explained bus safety measures in place at the student's elementary school. The school district explained that data would be collected to identify whether the student needed an aide on the school bus. School district staff informed the parent at the meeting that there are cameras on school district busses and that the school district is able to review video footage from the cameras when needed. At the meeting, the school district staff stated that truancy procedures would be followed if the student did not attend school. (S-11; NT 103)

58. On October 30, 2025, the parent responded to a notice of illegal absences by the student stating that the student's elementary school was not the place for the student and that the elementary school in question could not

¹ (Exhibits shall hereafter be referred to as "P-1," etc. for the parents' exhibits; and "S-1," etc. for the school district's exhibits; references to page numbers of the transcript of testimony taken at the hearing is the hereafter designated as "NT____").

provide the level of care that the student needs. The parent stated on October 30, 2025 that she would be working directly with the district to ensure that the student is placed somewhere that meets the student's needs. The student had been absent approximately 26 school days prior to the October 30, 2025 email from the parent. (S-9, S-25)

59. An IEP team meeting was conducted on November 10, 2025. The parent requested at that meeting that a personal care assistant be assigned to the student for the school bus. The parent stated that she was in the process of requesting a personal care assistant for the bus through her insurance. The school district staff stated that they would need to collect data prior to the school district assigning a personal care assistant. At the meeting, the school district staff told the parent that the student would be seated near the bus attendant who rides the school bus, and the bus assistant tends to all students who ride the bus. The parent raised the issue of the length of the school bus ride at the meeting. After conducting an internet map search, the school district staff provided an approximation of six to eight minutes as to the length of the distance covered by the bus ride. (S-11; NT 102)

60. On November 11, 2025, the student rode the school bus and was not dropped off at school for approximately an hour after the student boarded the school bus. The student was picked up approximately 30 minutes late that day. The parent did not put the student on the bus again after November 11, 2025. (NT 51 – 53, 70)

61. In December 2025, the parent received a phone call from a police detective concerning a Child Line report about the student having allegedly been assaulted by a staff member. The school principal made an error concerning which student at the school was the subject of the Child Line report. The principal mistakenly gave the police the student's name and contact information when he should have given the police the name and

contact information concerning another student who was involved in the incident. The mother told the principal about the detective phone call in a telephone call with the principal on December 16, 2025. The principal told the parent during the phone call and again at the IEP team meeting on December 17, 2025 that it was his mistake. The principal shared the student's name, home address and contact information with the police. (NT 75, 95, 108 – 110; S-22)

62. On December 8, 2025, the parent noticed scratches on the student in the [upper body] after the student came home from school. The parent brought the scratches to the attention of the school district staff at the IEP team meeting on December 17, 2025. (NT 74, 105)

63. The parent did not take the student to a doctor after observing scratches on December 8, 2025. (NT 76)

64. The parent informed the police about the scratches on approximately December 19, 2025. (NT 76-77)

65. At the December 17, 2025 IEP team meeting, the school district staff told the parent that they would look into concerns about the reported scratches on the student. The school principal conducted an investigation. The student's classroom teacher did not notice the student receiving any scratches. The aides who worked with the student also did not notice any scratches. The principal and the student's teacher also reviewed security camera video footage from cameras around the school building and the outside of the building but did not see the student being scratched. The principal typed an email to the parent concerning the investigation but accidentally left the email in draft form and did not ever send it to the parent. (NT 93 – 945, 115 – 116, 106 – 107, 117 – 118)

66. At a December 17, 2025 IEP team meeting, the student's IEP team concluded that due to the student's attendance issues, there was not enough data to determine whether a more restrictive environment was needed for the student. (S-22)

67. On December 17, 2025, the parent refused to sign an authorization for school officials to receive the student's occupational therapy records from the outside occupational therapy provider because the parent had concluded that the student would not be returning to that elementary school. (NT 70)

68. From September 24, 2025 through March 23, 2026, the student had approximately 98 unexcused absences. The last day that the student attended school in the school district was December 23, 2025. (S-25, S-9)

CONCLUSIONS OF LAW

Based upon the arguments of the parties, 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 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 (hereafter sometimes referred to as "FAPE"). IDEA §615(b)(6)(A); 34 C.F.R. § 300.507(a); 22 Pa. Code § 14.162.

2. Educational placement refers to the student's educational program and not the bricks and mortar of a particular school; the location, or specific school need not be identified in an IEP and need not involve parent

participation. Deer Valley United School District v. LP, 61 IDELR 48 (D. Ariz. 2013); JL and JL ex rel. CL v. City Sch. Dist., City of NY, 60 IDELR 223 (S.D. NY 2013); Aikens v. District of Columbia, 71 IDELR 132 (D.D.C. 2013); see DM and LM ex rel. EM v. New York Dept. of Ed., 801 F. 3d 205, 66 IDELR 93 (3d Cir. 2015). Each local education agency must ensure that the continuum of alternative educational placements is available to meet the needs of children with disabilities for special education and related services. 34 C.F.R. § 300.115.

3. A parent cannot compel a local education agency to provide services at a specific school or location. A local education agency is generally afforded the discretion to select the location at which at which a student's IEP is implemented. RB v Mastery Charter School, 762 F. Supp. 2d 745, 55 IDELR 282 (E.D. Pa 2012); See, A.W. v. Fairfax County School Board, 372 F.3d 674, 41 IDELR 119 (4th Cir. 2004); JL & JF ex rel CC v NYC Dept of Educ, 65 IDELR 137 (SDNY 2015); MA v Jersey City Bd of Educ, 63 IDELR 9 (DNJ 2014); KB by Brown v Dist of Columbia, 66 IDELR 63 (DDC 2015); See, DM and LM ex rel. EM v. New Jersey Dept. of Ed., 801 F. 3d 205, 66 IDELR 93 (3d Cir. 2015).

4. The parent has not proven that the school district committed an IDEA placement violation by assigning the student to a specific elementary school.

DISCUSSION

Whether the parent has proven that the school district committed a placement violation of IDEA by implementing the student's IEP at a particular elementary school?

The parent claims that the school district violated IDEA by implementing the student's IEP at a particular elementary school. The school district contends that it did not commit a placement violation.

The case law is clear that educational placement, as defined by IDEA, involves the student's educational program or level of services along the continuum of alternative placements. Placement specifically does not include the location, or specific school, at which an IEP is implemented. School district officials retain wide discretion to select an appropriate school for the student.

The parent's argument is without any support in legal authority. A parent may not dictate the school at which the student receives educational services provided by the student's IEP. The parent's argument is rejected.

It should be noted, however, that the issue in this case is not, as stated in the parent's brief, whether a special education hearing officer can order a change of placement for a special education student. It is beyond doubt that the special education hearing officer can order a change of placement after a violation of IDEA. This case is not about a remedy for a placement violation; it is about whether a parent can veto a particular location or school to which the student has been assigned.

In support of the parent's contention, the parent argues that the student is not safe at the elementary school assigned by the school district. The parent's argument is based upon scratches that the parent found near the student's [upper body]. The record evidence reveals, however, that the parent never took the student to a medical provider and did not alert the police concerning the scratches until eleven days after the mother noticed the scratches. If the parent were truly concerned about the student's safety, the

parent would certainly have obtained medical care for the student would have contacted the authorities immediately after seeing the scratches.

Moreover, the school district conducted a thorough investigation of the scratches that the student received after the student's mother finally reported the incident to the principal nine days after the scratches were detected. The principal conducted an investigation and questioned the student's teacher, as well as classroom aides, concerning whether or not the student had suffered any scratches. The principal also reviewed the videotape footage of the school hallways and the exterior of the building and found no evidence of the student suffering any injuries. The parent asserts, at footnote 2 on unnumbered page number five in the parent's post-hearing brief, that the student's teacher was not involved in the investigation; however, the parent mischaracterizes the testimony of the witness. The teacher clearly testified that she was present when the principal discussed the scratches on the student as a part of the investigation. The school district investigated the scratches, and the conclusion of the investigation was that there was no evidence that the student suffered the scratches while the student was at school. The evidence in the record does not support the parent's argument that the student was unsafe at the elementary school.

The parent also argues that the school district did not provide adequate transportation for the student. The parent claims that at the November 10, 2025 IEP team meeting that the parent was guaranteed that the school bus ride for the student would take no more than eight minutes. The record evidence reveals that the school district officials at the IEP team meeting did do an internet maps search to determine the approximate length of the distance covered by the bus ride and provided that information to the parent. This clearly was not a guarantee that the student's bus ride would take that

amount of time. Moreover, the parent only permitted the student to ride the bus one day. It is true that the bus was excessively late, both in picking the student and dropping the student off, but the parent did not give the school district a chance to correct the problem before refusing to let the student ride the bus or attend school thereafter.

The parent also points to an unfortunate incident where the parent received a telephone call from a police detective concerning a Child Line complaint that occurred at the school. The principal had inadvertently given the police the wrong student's name and contact information. The principal gave the police the name of the student, instead of the other student who was actually involved in the incident. Although the principal's action in providing incorrect student information to the police about a Child Line complaint was extremely careless, and possibly even reckless, there is no evidence in the record that the inexcusable mistake by the principal adversely affected the student's education in any way. The parent's posthearing brief refers to a loss of trust, but the principal's negligent error did not prevent the parent from continuing to actively participate in the IEP process. The principal's serious mistake does not render the elementary school in question to be unacceptable.

More importantly, the evidence shows that the parent had already determined that the student would not be educated at the elementary school in question before any of the justifications she raises in this case had occurred. Specifically, the parent emailed the school district on October 30, 2025 stating that the parent did not believe that the student's elementary school was appropriate and that the parent had been working to change the location of the student's education. The October 30, 2025 email from the parent predates the scratches that the student suffered, as well as the incident where the principal provided the wrong information to the Child Line authorities and the

student's extremely long ride on the school bus. Thus, it is clear beyond doubt that the parent had already determined the student would not attend the assigned elementary school in question long before the scratches and other factors cited by the parent in this case had even happened. The parent had already determined that this school was unacceptable by the time of the October 30, 2025 email.

The parent has not proven any violation of IDEA. The parent's argument that the school district must be compelled to educate the student at the elementary school preferred by the parent is rejected.

The testimony of the school district staff was more credible and persuasive than the testimony of the student's mother concerning this issue. This conclusion is made because of the demeanor of the witnesses, as well as the following factors: the parent testified that the student suffered serious scratches, but the parent conceded on cross-examination that she did not contact a medical provider and did not notify the police for eleven days after the scratches happened. This diminishes the parent's credibility. In addition, the testimony of the student's mother contradicted the stipulations of fact agreed to by the parties with regard to whether there was medical documentation for the student to receive a personal care aide prior to December 17, 2025. Moreover, given that the reasons for wanting another elementary school offered in the parent's testimony (scratches, long bus rides, and the mistake concerning the Child Line incident) all happened after the parent had already decided that the elementary school in question was not acceptable and after the parent notified the school district of that decision, the parent's testimony is not credible or persuasive.

It is concluded that no legal authority supports the parent's position that the parent should be permitted to dictate the elementary school at which the

student's IEP is implemented. The parent has not proven that the school district committed a placement violation of IDEA by having the student attend a particular elementary school.

ORDER

Based upon the foregoing, it is **HEREBY ORDERED** that all relief requested by the due process complaint is hereby denied. The complaint is dismissed.

IT IS SO ORDERED.

ENTERED: May 27, 2026

James Gerl

James Gerl, CHO
Hearing Officer