

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 Gifted Education Due Process Hearing Officer

Final Decision and Order

Open Status Hearing

ODR No. 32205 25-26

Child's Name:

M.K.

Date of Birth:

[redacted]

Parents:

[redacted]

Local Education Agency:

Tredyffrin/Eastown School District
940 West Valley Road, Suite 1700
Wayne, PA. 19087

Counsel for LEA:

Lawrence D. Dodds Esq.
Wisler Pearlstne, LLP
Blue Bell Executive Campus
460 Norristown Road, Suite 110
Blue Bell, PA. 19422-2323

Hearing Officer:

Vicki A. McGinley, Ph.D.

Date of Decision:

February 15, 2026

¹The record closed upon receipt of written closing briefs from the parties.

INTRODUCTION AND PROCEDURAL HISTORY

The Student (“Student”), M.K., is an [redacted]-grade student residing within the District (“District”). On November 24, 2025, Parents filed a Due Process Complaint (“DPC”) on behalf of Student pursuant to Chapter 16. Parents alleged that the District violated Chapter 16 regulations in connection with the Gifted Multidisciplinary Evaluation (GME), which resulted in Student being found ineligible for gifted education. As a proposed remedy, Parents requested a re-evaluation conducted by a neutral third party.

One hearing session was held on January 16, 2026.

Procedural Issues

Admission of Parent and District Exhibits (all exhibits were admitted stipulation of both parties)

Parents Exhibits Admitted: P-1-20

District Exhibits Admitted: S-3; S-5-7; S-9; S-13-17; S-19-21; S-23-26; S-28-37

ISSUE(S):

The issue for hearing was established on the record as follows:

Did the Gifted Written Report dated 11/14/26 comply with Chapter 16 regulations correctly determining the Student’s ineligibility for gifted education.

Stipulations

1. The parties agree that Student was identified as gifted and talented in [redacted] during the 2024-25 school year from [redacted], prior to the family’s relocation to the District in August 2025 (N.T. p. 16).

FINDINGS OF FACT

1. The record reflects that Parents registered Student in the District on May 29, 2025 (P-6).
2. The Student's first day of attendance in the District was August 25, 2025 (N.T. 161).
3. The District requested Student's educational records from the prior out-of-state placement on July 3, 2025 (S-3).
4. Correspondence between Parents and the District in August 2025, prior to the start of the school year, reflects that Parents informed the District that Student had been identified as gifted in the prior out-of-state placement and inquired regarding next steps (P-8).
5. The District advised Parents of its screening procedures for giftedness (P-5).
6. During the summer prior to Student's enrollment, the District notified Parents via email that a reading-level assessment would be administered prior to the start of the school year (P-7). Parent testified that, in [redacted], Student had received advanced reading instruction (N.T. p. 30). The District administered a reading assessment on June 5, 2025, which indicated that Student was performing at grade level. Student was subsequently placed in the District's beyond-level reading class on September 12, 2025 (N.T. pp. 36, 108).
7. During the summer prior to Student's enrollment, Parents corresponded with the District expressing their desire that Student be screened for gifted education. The District testified that Parents understood the District's practice of conducting screening using the Screening Assessment for Gifted Elementary Students (SAGES)² prior to initiating a full Gifted Multidisciplinary Evaluation (GME) (N.T. pp. 20–21). Parents, however, testified that they first became aware of the screening process on September 10, 2025, through a mass email distributed to District families (N.T. p. 32).

²SAGES is a norm-referenced cognitive screening tool used as an initial screener prior to referring a Student for a full gifted multidisciplinary evaluation (GMDE).

8. In an email/letter to the Student's principal on September 10, 2025 (P-10) Parents indicated the need for Student to be "screened" for gifted education (P-10).
9. Parents objected to the administration of the SAGES screening instrument (N.T. p. 33), testifying that they understood an IQ test was needed to be part of the standard process for determining gifted eligibility (N.T. p. 33; P-16; P-17; P-18). Correspondence between Parents and the District dated September 9–10, 2025, reflects confusion regarding the distinction between screening and a

- full Gifted Multidisciplinary Evaluation (GME), resulting in exchanges between Parents and multiple District professionals prior to the District initiating a GME (S-9; S-12, p. 1; P-9; P-10).
10. Following Parents' request for a full gifted evaluation, the District issued a Permission to Evaluate (PTE) on September 11, 2025. Parents signed the PTE on September 16, 2025 (S-13).
 11. On September 11, 2025, the District issued a Notice of Recommended Assignment (NORA) to Parents indicating that a Permission to Evaluate (PTE) had been issued to determine Student's need for gifted support (P-14).
 12. At Parents' request, a meeting was held with the District on September 12, 2025 (N.T. pp. 36, 43). Parents testified that they experienced confusion regarding screening, evaluation procedures, and Student's math and reading placements. The record reflects that this confusion contributed to the District's understanding of Parents' request at that time (P-11). Student was placed in the District's beyond-level reading class on September 12, 2025 (N.T. pp. 36, 108; P-11; P-12; P-15–P-18).
-
13. The District conducted a Gifted Multidisciplinary Evaluation (GME) during October and November 2025, which resulted in the issuance of a Gifted Written Report (GWR) (P-1). The GWR reflects consideration of multiple data sources, including parental input (P-2), teacher input addressing acquisition and retention skills reported within the average to above-average range, nationally normed cognitive and achievement measures (WISC-V³

and Woodcock-Johnson⁴) (P-1; S-21), reading and math screening data, writing samples obtained through the Woodcock-Johnson (N.T. p. 46), i-Ready⁵ scores (S-21), and a review of Student's educational records (N.T. p. 22; P-4). Academic achievement was reported between the 86th and 94th percentiles in reading and between the 81st and 91st percentiles in math (P-24). On the WISC-V, Student's performance fell primarily within the high-average to very-high range. Student obtained a Full-Scale IQ (FSIQ) of 126 (N.T. p. 22; P-1) and a General Ability Index (GAI) score within the 97th percentile (P-1, p. 4).

14. The School Psychologist testified that, at the time of the Gifted Multidisciplinary Evaluation (GME), records received from Student's prior school in [redacted] included [redacted]-grade report cards and documentation reflecting parental consent for gifted services (N.T. p. 56; P-3). Additional records were received in December 2025, including CogAT⁶ and GATES evaluation results demonstrating that Student had qualified for gifted and talented services in [redacted] (P-5).
15. The District's Gifted Written Report (GWR) dated November 14, 2-25 concluded that Student did not meet Chapter 16 criteria for gifted education (P-1, p. 12).

³The WISC-V is an intelligence test used to measure cognitive abilities. It provides a FSIQ and multiple index scores, one of which being the GAI which reflects higher-level reasoning skills without the influence of working memory and processing speed.

⁴The Woodcock Johnson (WJ) is a standardized assessment which measures academic skills and abilities, in reading, mathematics, and written language.

⁵The i-Ready Diagnostic is an assessment that measures student's current instructional skills in Reading and Mathematics, to identify specific skill gaps and proficiencies.

⁶The CogAT is a standardized assessment designed to measure a student's reasoning and problem-solving abilities in three major domains: Verbal, Quantitative, and Nonverbal. It evaluates the cognitive processes that support learning, such as pattern recognition, analogical reasoning, and problem-solving flexibility

16. On November 18, 2025, the District issued a Notice of Recommended Assignment (NORA) to Parents indicating that Student was not in need of gifted education and would continue in the regular education program. The District simultaneously provided Parents with the Notice of Parental Rights for Gifted Students (S-25; S-26).

17. The School Psychologist testified that Student was evaluated in a manner consistent with the District's standard evaluation practices, including those applied to students transferring from out of state (N.T. pp. 87–88).
18. On November 14, 2025, Parents notified the District of their intent to challenge the conclusions of the Gifted Written Report (GWR) (P-1) and requested a due process hearing (S-28). The District subsequently responded via email proposing a meeting to review the GWR results (S-23; P-19).
19. On November 24, 2025, Parents filed a Due Process Complaint. In the Complaint, Parents alleged that the District failed to satisfy Chapter 16 notice requirements, excluded relevant educational records, and did not conduct the Gifted Multidisciplinary Evaluation (GME) with sufficient scope and depth to assess Student's suspected giftedness. Parents further asserted that the District's actions and omissions created procedural barriers inconsistent with Chapter 16 and that the Gifted Written Report (GWR) contained inaccurate statements of fact (S-28).

DISCUSSION AND CONCLUSIONS OF LAW

Burden of Proof:

The burden of proof consists of two distinct components: the burden of production, which determines which party must present its evidence first, and the burden of persuasion, which determines which party must ultimately convince the fact finder—in this case, the hearing officer—that its position is correct. Although Chapter 16 of the Pennsylvania Code does not expressly address the allocation of the burden of proof in gifted education due process proceedings, Pennsylvania precedent has clearly established that the burden rests with the party initiating the request for due process. *See E.N. v. M. Sch. Dist.*, 928 A.2d 453 (Pa. Commw. Ct. 2007); *see also D.Z. v. Bethlehem Area Sch. Dist.*, 2 A.3d 712 (Pa. Commw. Ct. 2010); *D.V. v. Conrad Weiser Sch. Dist.*, ODR No. 20107-17-18 at *7 (Apr. 10, 2018) (*holding that the moving party bears the burden of proof*); *J.S. v. Mt. Lebanon Sch. Dist.*, ODR No. 17229-15-16 at *5 (May 13, 2016) (*citing E.N. and D.Z.*). Accordingly, in this matter, both the burden of persuasion and the burden of production rest with the Parents, as they are the party that initiated these proceedings.

Credibility Determinations:

As fact finder, the Hearing Officer is charged with resolving conflicts in testimony and determining the weight and credibility to be accorded to each witness's statements. Credibility determinations are based upon a witness's demeanor, internal consistency, plausibility considering the entire record, and the presence or absence of corroborating evidence. See, e.g., *In re A.J.R.-H.*, 188 A.3d 1157, 1167 (Pa. 2018) (fact finder entitled to believe all, part, or none of a witness's testimony); *Commonwealth v. Johnson*, 180 A.3d 474, 479 (Pa. Super. Ct. 2018) (credibility determinations within province of fact finder).

Where conflicts existed, this Hearing Officer considered the totality of the evidence presented. The witnesses appeared to testify to the best of their ability. The Hearing Officer finds the District's witnesses credible with respect to their knowledge of gifted education procedures and evaluation practices. As the issues presented in this proceeding primarily concern the appropriateness of the evaluation and related processes, greater evidentiary weight is accorded to testimony offered by District personnel in those areas.

Chapter 16:

Gifted education in Pennsylvania is governed by 22 Pa. Code §16.1–16.65 (“Chapter 16”). The purpose of Chapter 16 is to ensure that each identified gifted student receives an education based on the student's unique needs. Such education may include acceleration, enrichment or both, beyond what is available in the general education program. *22 Pa. Code §16.41(b)(3)*. While a school district must provide an appropriate placement and plan with specially designed instruction reasonably calculated to confer meaningful—not merely trivial—educational benefit and progress, it is not required to “maximize” the student's potential. *Id.*; see also *22 Pa. Code §§ 16.1(vii), 16.41(b)(2)*.

Under Chapter 16, a “gifted student” is:

- (i) A student who is exceptional under §1371 of the Pennsylvania School Code, 24 P.S. § 13-1371) because the student meets the definition of “mentally gifted” and requires specially designed instruction beyond that provided under Chapter 4 (relating to academic standards and

assessment); and

(ii) A student who is of “school age” as defined in 22 Pa. Code §11.12.

“Mentally gifted” is defined as outstanding intellectual and creative ability, the development of which requires specially designed programs or support services, or both, not ordinarily provided in the regular education program. 22 Pa. Code §16.1. Thus, eligibility for gifted education requires (1) identification as mentally gifted and (2) a determination that the student requires specially designed instruction.

Relevant screening and evaluation for gifted education are set forth at 22 Pa. Code § 16.21(c)–(d). An IQ score cannot serve as the sole basis for determining giftedness. “Multiple criteria” may be considered for students with IQ scores below 130. A student with an IQ below 130 may still be admitted to gifted programs if other educational criteria strongly indicate gifted ability. Determination of mentally gifted must include an assessment by a certified school psychologist. 22 Pa. Code § 16.21(d). *In E.N. v. M. Sch. Dist.*, 928 A.2d 453 (Pa. Commw. Ct. 2007), the Commonwealth Court interpreted §16.21(d) as using permissive (“may be admitted”) rather than mandatory (“shall”) language for students with IQ scores below 130, leaving admission in such cases to district discretion, even when multiple criteria of giftedness are present. By contrast, students with IQ scores of 130 or above who meet multiple criteria must be admitted. Under §16.21, multiple criteria indicatives of gifted ability include:

1. Achievement a year or more above grade level in one or more subjects, as measured by nationally normed, validated tests yielding instructional levels for all academic areas.
2. An observed or measured rate of acquisition and retention of new academic content or skills that reflects gifted ability.
3. Demonstrated achievement, performance, or expertise in one or more academic areas, evidenced by excellence of products, portfolios, or research, and supported by criterion-referenced team judgment.
4. Early and measured use of high-level thinking skills, academic creativity, leadership, intense academic interest areas, advanced communication skills, foreign language aptitude, or technology expertise.
5. Documented, observed, validated, or assessed evidence that intervening factors (e.g., English

as a second language, disability, gender or race bias, or socio-cultural deprivation) are masking gifted abilities.

Chapter 16 prescribes a detailed screening and evaluation process to ensure all eligible and potentially eligible gifted students are identified and served. The Gifted Multidisciplinary Evaluation (GMDE) must be sufficiently broad and deep to assess suspected giftedness, including academic functioning, learning strengths, and educational needs, and must include parental input. See 22 Pa. Code §16.1, 16.22(e)–(f). The GMDE must be:

1. Free from racial, cultural, or disability bias;
2. Administered to yield valid measures of aptitude, achievement, or other relevant factors;
3. Professionally validated for the purposes used;
4. Administered by certified school psychologists under standardized conditions; and
5. Designed to assess specific educational needs and abilities, not merely a general IQ score. 22 Pa. Code §16.22(3)(i)–(v).

Following the GMDE, the district must issue a Gifted Written Report (GWR) containing a determination of gifted status, the basis for the determination, programming recommendations, and the names of the multidisciplinary team members. The GWR must be provided to parents within 60 calendar days of receiving consent for evaluation.

Response to Parent's Complaint:

With respect to the Gifted Multidisciplinary Evaluation (GME), 22 Pa. Code § 16.31(b) provides that when a student previously identified as gifted in another state enrolls in a Pennsylvania school district, the district may conduct a GME. Where information obtained from another state satisfies Chapter 16 criteria, such information must be reviewed by appropriate personnel and documented within a Gifted Written Report (GWR). Here, the District credibly testified that more comprehensive educational records from [redacted] were not received until December 2025 and therefore were not available for review at the time of the November 14, 2025, GWR. The record reflects that the District requested the Student's educational records in July. Prior to the start of the school year, and during the initial weeks of enrollment, the District administered reading and math assessments to determine instructional levels and course placement. The Student was initially placed in on-level reading and mathematics, with

subsequent i-Ready assessments indicating performance within grade-level expectations. However, as of September 12, 2025, the District placed the Student in a beyond-level reading class.

Chapter 16 requires that a school district complete a gifted evaluation and issue a GWR within sixty (60) calendar days of receiving written parental consent to evaluate, excluding the period between the conclusion of the spring term and the commencement of the subsequent fall term. 22 Pa. Code § 16.22(j). While parents may request an evaluation at any time, the evaluation timeline is not triggered until written consent is obtained. Here, Parents signed the Permission to Evaluate (PTE) on September 16, 2025. Accordingly, the District's procedural obligations were triggered on that date, and the evaluation timeline properly commenced upon receipt of written consent. Although Parents engaged in frequent communications with District personnel during this period, and while such interactions may have contributed to a perception of delay, the evidence does not establish procedural noncompliance or support a finding of intentional obstruction or bad faith. Rather, the record reflects confusion surrounding the distinction between screening and evaluation processes. Once the District understood that Parents were seeking an immediate GME and were not approving the screening process, a PTE was issued and the full GME commenced.

Consistent with the Commonwealth Court's guidance in *Montour School District v. S.T.*, 805 A.2d 29 (Pa. Cmwlth. 2002) procedural compliance must be evaluated considering whether any alleged deviation resulted in substantive harm to the student or deprived the student of educational benefit. Even assuming that additional procedural measures could have been undertaken, the record does not establish that the Student was denied educational access, improperly excluded from gifted consideration, or otherwise deprived of benefit under Chapter 16. Any perceived procedural imperfection, therefore, would constitute harmless error and does not warrant relief.

The main dispute of this due process was the appropriateness and conclusion of the November 14, 2025, Gifted Written Report. The record reflects that the District conducted a legally sufficient and substantively appropriate gifted evaluation in compliance with Chapter 16. Consistent with 22 Pa. Code §§ 16.21–16.22, the District employed a multidisciplinary

evaluation process and considered multiple relevant data sources, including cognitive assessments, academic achievement measures, classroom performance, observational data, and parental input. The evaluations did not rely upon any single measure or isolated score but instead reflected a reasoned and holistic review of Student's abilities and educational performance.

As recognized by the Commonwealth Court, Chapter 16 does not require evaluative perfection, but rather a reasoned determination grounded in professional judgment and supported by the record (*Montour School District v. S.T.*, *supra*). Similarly, where an evaluation process is thorough, data-driven, and procedurally sound, a hearing officer may properly accord weight to the informed judgment of educational professionals (*Carlynton School District v. A.P.*, 2010 WL 143455 (Pa. Cmwlth.)).

The record supports a finding that the District complied with applicable Chapter 16 requirements in conducting the evaluation at issue. No procedural or substantive violations have been established.

As relief, Parents requested that Student be evaluated by a neutral third party. Although articulated using different terminology, this request is functionally equivalent to a request for an Independent Educational Evaluation (IEE). Chapter 16 contains no provision establishing a parental entitlement to an Independent Educational Evaluation (IEE) at public expense, nor does it authorize a Hearing Officer to award such relief. Unlike IDEA and Chapter 14, which expressly address IEEs and associated funding obligations, Chapter 16 is silent on this issue. That silence is legally determinative.

While Parents retain the right to obtain a privately funded evaluation by an evaluator of their choosing, the District is not obligated under Chapter 16 to finance such an evaluation. The District's responsibilities instead concern the conduct of an appropriate gifted multidisciplinary evaluation and the consideration of relevant evaluative data.

Accordingly, the relief requested by Parents is not available under the governing regulatory framework.

Gifted determinations are necessarily dependent upon student presentation and evaluative data at a given point in time. Chapter 16 contemplates that students may be reevaluated where appropriate. Additionally, standardized assessment measures commonly utilized in gifted evaluations must be administered in accordance with professional testing protocols, including timing considerations necessary to ensure validity and reliability. Recognizing this Student's chronological age, the developmental nature of student performance and the importance of valid assessment data, a future reevaluation conducted at a time consistent with applicable testing standards represents a reasonable and educationally sound measure. This determination does not reflect any deficiency in the District's prior evaluation but rather acknowledges the evolving nature of student data and the regulatory emphasis on valid assessment practices.

ORDER

AND NOW, this 15th day of February 2026, upon consideration of the evidence of record and for the reasons set forth in the foregoing Decision, it is hereby ORDERED as follows:

1. Parents' claims are DENIED.
2. The District is found to have conducted a legally sufficient and substantively appropriate Gifted Multidisciplinary Evaluation (GME) in compliance with Chapter 16.
3. Parents' request for a re-evaluation conducted by a neutral third party is DENIED.
4. Nothing in this Order shall preclude Parents from obtaining, at their own expense, an independent evaluation by an evaluator of their choosing. The District shall consider any such evaluation in accordance with applicable Chapter 16 regulations.

/s/ Vicki A. McGinley, Ph.D.

HEARING OFFICER