

DELAWARE DEPARTMENT OF EDUCATION
SPECIAL EDUCATION DUE PROCESS HEARING PANEL

In the Matter of:)	
)	
<i>REDACTED</i>)	
)	
Complainant,)	
)	DE DP #25-26
v.)	
)	
<i>Delaware Department of Education</i>)	
<i>Adult and Prison Education Resources</i>)	
<i>("APER") and Delaware Department</i>)	
<i>of Correction ("DOC")</i>)	
)	
Respondents.)	

Hearing Panel:

Jonathan Harting, Esq., Panel Chair
Jeffrey Conrad, Ed.D., Educator Panelist
Matthew Stankis, Layperson Panelist

Attorneys:

Stephanie Ramirez Esq., counsel for Complainant
Carla Jarosz, Esq., DAG, counsel for APER
Michael Gordon, DAG, counsel for DOC

DECISION & ORDER

I. **PROCEDURAL HISTORY**

Complainant, REDACTED, ("Student") filed a due process complaint on March 25, 2025. The complaint named four respondent parties: Delaware Department of Education's Adult & Prison Education Resources Workgroup ("APER"), Delaware Department of Services for

Children, Youth, and Their Families (“DSCYF”), Delaware Department of Education (“DOE”), and Delaware Department of Correction (“DOC”). The Complaint alleges Respondents violated the Individuals with Disabilities Education Act (“IDEA”) by failing to provide Student with a free and appropriate education (“FAPE”) based upon Student’s unique needs as a special education eligible student pursuant to 20 U.S.C. § 1400(d)(1)(A) and associated regulations under 34 C.F.R. § 300.100, *et seq.*, and 14 Del. Admin. C. § 922, *et seq.* The Complaint further alleges Respondents failed to provide Student with the least restrictive environment (“LRE”) for his educational placement under his individualized education plan (“IEP”). Additionally, Student’s complaint argues that Respondents did not adequately include Student’s educational representative, his mother during educational meetings pertaining to Student’s educational placement and IEP.

As a result of these alleged violations, the Complaint requested all of the following relief: (1) a stay-put order during the pendency of the case, (2) a finding that Student’s educational representative’s right to participate was violated, (3) a finding that Respondents’ failure to involve the educational representative was a procedural violation of FAPE, (4) a finding that Respondent’s LRE should be a setting where he spends 80% of his time or more with nondisabled peers, (5) a finding that the self-study program employed by Respondents is insufficient to provide FAPE, (6) a finding that Student receive special education and related services, (7) a finding that DDOE failed to uphold its supervisory authority and responsibilities regarding students transferred from DSCYF custody into the adult prison system, (8) revisions to departmental policies regarding transfers of students with disabilities from DSCYF custody to DOC custody, (9) any further relief deemed appropriate by this panel, and (10) attorney’s fees and costs.

This Order will not go through the entirety of the procedural history of the case but only highlight the relevant dates for purposes of establishing a timeline. The Complaint was filed on

March 25, 2025. Answers from Respondents were filed. A prehearing teleconference was held on April 11, 2025, with an order being issued that same day. Hearing dates were set for May 14-15, 2025. The panel ruled on all pretrial motions on April 18, 2025, which included Student's Motion to Stay Put and Respondents APER, DOE, and DSCYF requests to be dismissed from the case. The panel denied all the pretrial motions filed by the parties.

The parties agreed to a 90-day request to stay the due process hearing on May 7, 2025, which was granted. By a joint letter on July 11, 2025, the parties agreed to another stay for 30 days followed by another joint letter on August 1, 2025, requesting another stay for 30 days, to extend the hearing deadline from August 5 to September 5, 2025. A second Motion for Stay Put was filed on August 21, 2025, which was denied by the panel on September 19, 2025.

On September 3, 2025, the panel requested the parties gather for another prehearing teleconference. The panel agreed to extend the hearing date for another 60 days based upon representations that the parties were still working to resolve the case. On November 5, 2025, another joint letter was submitted advising the parties intended to dismiss DSCYF as a party. On November 7, 2025, APER and DOE filed a Motion in Limine seeking to limit the presentation of evidence. In a Third Prehearing Order dated November 21, 2025, the panel formally dismissed DSCYF as a party and scheduled another prehearing conference to consider the Motion in Limine.

On December 4, 2025, another prehearing conference was held. The joint motion in limine filed by APER and DOE was denied. At this hearing, the panel scheduled hearing dates for January 5, 7, and 8 of 2026. Before the hearing started, Student advised they wished to remove DDOE as a party to the hearing, which was unopposed and granted by the panel. This left only APER and DOC as remaining Respondents. Because DSCYF and DDOE were excused as parties to the hearing, this panel will not make any findings pertaining to DDOE's supervisory responsibilities

or consider any revisions to departmental policies relating to interdepartmental transfers as requested in Student's Complaint.

The hearing was held over Zoom on three separate days: January 5, January 7, and January 8 of 2026. APER called the following witnesses: Director REDACTED, Director of APER; REDACTED, the coordinator of special education for APER; REDACTED, life skills instructor at REDACTED Correctional ("REDACTED"); REDACTED Adult Basic Education and GED teacher at REDACTED; REDACTED, educational diagnostician for REDACTED ("REDACTED"); REDACTED, educational associate with APER; REDACTED, teacher at REDACTED. DOC called two witnesses: REDACTED., the east wing commander at REDACTED, and REDACTED, deputy warden of treatment services at REDACTED. Student testified on his own behalf. The panel finds all the witnesses to be credible, however, to the extent necessary, this decision will highlight portions of testimony the panel finds important for it to make its findings.

The panel accepted a set of stipulated facts and stipulated exhibits. Only Exhibit 9 in the exhibits submitted was objected to, and the panel has not considered it as part of this decision. The parties closed with oral arguments at the end of the hearing. To the extent any argument advanced by either party is inconsistent with this decision, it has been rejected by the panel. This decision only considers the arguments and factual findings necessary to consider the issues presented to the panel. If testimony or evidence before the panel is not considered in this decision, the panel has determined it was not necessary in order to make its findings.

II. FINDINGS OF FACT

Prior to the hearing, the parties submitted a joint stipulation of facts, which the panel accepted.¹ The stipulated facts are as follows:

Parties

1. Student is identified as a “Child with a disability” as that term is defined in the Individuals with Disabilities Education Act (“IDEA”).

2. Student was originally found eligible under the IDEA when he was in third grade under the educational classifications of other health impairment and emotional disability.

3. Student is currently eligible under the IDEA with an educational classification of other health impairment.

4. Student is currently being held pre-trial at the REDACTED (“REDACTED”).

5. REDACTED (“Parent”), Student’s mother, is Student’s parent as that term is defined in the IDEA and corresponding Delaware law.

6. The Delaware Department of Education (“DDOE”) is the State Education Agency as that term is defined in the IDEA.

March 3, 2025, IEP Team Meeting

8. In August 2022, Student, then aged REDACTED, entered the custody of The Division of Youth Rehabilitative Services within the Delaware Department of Services for Children, Youth, and Their Families (“DSCYF”).

9. DSCYF held an annual IEP Team meeting for Student on March 3, 2025.

¹ See Joint Stipulation of Facts, submitted on December 29, 2025.

10. During the March 3, 2025, IEP Team meeting, Student was found to have capacity to make educational decisions.

11. The IEP Team determined that Student's Least Restrictive Environment ("LRE") continued to be a "G Setting" based on guidance from DDOE for incarcerated students. Within the explanation for the LRE, the IEP Team specified that Student would "participate with non-disabled children in the regular class greater than or equal to 80% of the day (similar to a Setting A)."

12. Student's IEP indicated his need for specially designed instruction ("SDI") in math, written expression, reading comprehension, and behavior as well as accommodations and related services including counseling and psychological services, access to fidgets, incentives-based programming, and access to audio books or text-to-speech programming.

13. The SDI was provided in a small group format. In limited instances, the SDI was provided one-on-one.

14. Documents from the meeting, including the Voluntary Grant of Authority, were provided to Parent on March 19, 2025.

15. Parent signed the Voluntary Grant of Authority on April 3, 2025.

Transfer from DSCYF to DDOC

16. Student turned 18 years old on REDACTED.

17. On February 26, 2025, the State of Delaware filed a motion in Superior Court seeking to transfer Student's custody from DSCYF to DDOC, pursuant to 31 Del. C. §5108(b) which was ordered on March 10, 2025.

18. Student's custody was transferred from DSCYF to DDOC at REDACTED on March 12, 2025.

Education at REDACTED

19. REDACTED, formerly the Teacher/Supervisor at REDACTED, met with Student on March 14, 2025 to discuss his education.

20. APER provides educational services to detained students, like Student, at REDACTED who are identified as IDEA-eligible.

21. Student was scheduled to begin attending education at REDACTED on, March 17, 2025; however, due to a no-contact order with one of the other students already attending that particular class, he was not able to start until the following day on March 18, 2025.

22. While at REDACTED, Student attended classes with students of all ages, and at all times with both disabled and non-disabled students.

23. On Wednesday, March 19, 2025, APER received Student's educational records from DSCYF.

24. On Tuesday, March 25, 2025, Student filed the complaint in this matter.

25. On April 29, 2025, APER received a signed Permission to Evaluate dated April 2, 2025, consenting to a record review and the continuation/completion of the Autism evaluation and functional behavior assessment which DSCYF had begun but not completed.

26. On May 5, 2025, APER held an IEP Team meeting and adopted the March 3, 2025 IEP. Nothing from the March 3, 2025 IEP was changed in APER's adoption on May 5, 2025. This DSCYF-developed and APER-adopted March 3, 2025 IEP has remained and is currently in place.

Transfer to REDACTED

27. On November 13, 2025, DDOC transferred Student from REDACTED to REDACTED.

28. As is common practice, APER held a meeting on December 5, 2025, with Student to discuss his educational services at REDACTED.

29. Student has not yet been convicted or sentenced.

In addition to the stipulated facts, the panel makes the following findings based upon testimony and evidence presented during the due process hearing:

APER provides academic services at both REDACTED and REDACTED for students ranging from those who cannot read to GED programming and high school diploma requirements.² APER's educational services are based on the James H. Groves Adult High School program ("James Groves").³ James Groves follows the DOE's standards for high school requirements in the courses that are offered and this coursework is tied to the common core requirements and approved educational materials to ensure alignment.⁴ REDACTED advised APER needs to be flexible in providing adult education because each student is different and comes with their own unique strengths and weaknesses.⁵ There is no time limit for the coursework under the James Groves program.⁶ James Groves is not considered a part of the K-12 system.⁷ At REDACTED, all instruction is individualized because many of the students are taking different courses within the

² Tr. 23.

³ Tr. 24.

⁴ Tr. 24-25.

⁵ Tr. 30.

⁶ Tr. 32

⁷ Tr. 34.

classroom.⁸ At REDACTED, when students arrive at the classroom, they obtain their resources and the teacher would then assist students, typically one to one, on the concept they are currently working on and then move to another student in the classroom.⁹ REDACTED has 5 to 6 classrooms, and an average classroom can accommodate between 8 to 12 students.¹⁰ In theory, if two students were working on the same coursework and concept, small group learning could occur, but REDACTED was not aware if Student had that experience while receiving education from APER.¹¹

REDACTED testified to one personal interaction with Student which occurred on August 18, 2025, in which REDACTED went to Student's housing unit to determine why he was not attending class at that time.¹² Student advised he was having trouble getting up in the morning and was having nightmares, which prompted REDACTED to encourage Student to discuss his sleep issues with his case manager.¹³ REDACTED recalls the conversation was pleasant; however, she did inform Student that because of his lack of recent attendance at class, APER would have to bring up this issue at his next IEP meeting.¹⁴ REDACTED asked for him to come to class in the afternoon and Student indicated he would; however, he ultimately did not attend that afternoon.¹⁵ In reviewing the DACS information system used by APER, REDACTED noted Student's attendance was sporadic with no discernable pattern to explain his attendance.¹⁶

⁸ Tr. 48.

⁹ Tr. 49, 57.

¹⁰ Tr. 62.

¹¹ Tr. 49-50.

¹² Tr. 43.

¹³ *Id.*

¹⁴ Tr. 44.

¹⁵ Tr. 44-45.

¹⁶ Tr. 67-68.

REDACTED served as a teacher supervisor for APER at REDACTED.¹⁷ REDACTED holds a special education certification.¹⁸ REDACTED introduced herself to Student on March 14, 2025 and met with him one on one that day. Student advised he wanted his mother to be involved in educational planning and meetings, advising she had educational rights.¹⁹ Student stated he wanted education, confirmed he was an IEP student, and indicated a willingness to proceed with his education.²⁰ The plan was for Student to attend the upcoming Monday and start with an elective class until his records came from DSCYF, which came to APER on March 19, 2025.²¹ Student's most recent IEP from March 3, 2025 was included in the records sent to APER.²² Although REDACTED did not explicitly enroll Student in any classes, she testified that students at REDACTED come down for class once a day.²³ REDACTED explained, in looking at Student's IEP for the goal of reading, that Student could work towards those reading goals in an elective course and US History, which was Student's first class.²⁴ However, REDACTED indicated there was no math class at that time and that the counseling and behavioral components of Student's IEP plan would be done through a school psychologist contracted by APER.²⁵

Regarding Student's mother, REDACTED recalled sending out an email to her on March 17, 2025, but was unsure exactly when or the specifics regarding the conversation with her.²⁶ REDACTED could not immediately recall if Student's mother was his educational representative

¹⁷ Tr. 72.

¹⁸ Tr. 74.

¹⁹ Tr. 75.

²⁰ *Id.*

²¹ Tr. 75-76.

²² *Id.*

²³ Tr. 77.

²⁴ Tr. 78.

²⁵ *Id.*

²⁶ Tr. 79-80. Ex. 3 of 3, p. 32. [Note : The exhibits were numbered sequentially; however, Ex. "3 of 3" refers to the first, second, or third packet of documents that were submitted by the parties and were referred to as such during the hearing.]

when she met with Student for the first time on March 14, 2025. Records, however, indicate Student's mother obtained educational representative status on April 3, 2025.²⁷

REDACTED recalls visiting Student to get him to come down to class when she was informed by REDACTED his teacher, that he had started to accrue absences.²⁸ Although REDACTED encouraged Student to come down to class, she noted that Student was not required to come to class, given his pre-sentence status.²⁹ REDACTED recalls Student advising her that he did not feel like coming and that he had stayed up late the night prior.³⁰

At the IEP meeting on April 29, 2025, APER adopted the IEP plan of March 3, 2025.³¹ Student's IEP set forth his unique needs, annual goals, and benchmarks. More specifically, Student's IEP plan had 5 sections pertaining to: (1) Math: Problem Solving Process, (2) Written Expression, (3) Reading Comprehension, (4) Behavior: Task Initiation, and (5) Behavior: Compliance with Program Expectations/Classroom Rules. All of the sections above, except Reading Comprehension, had quarterly benchmarks designed to track Student's progress.³² In reviewing the accommodations set forth in Student's IEP plan, there are recurring themes regarding what Student was offered in order to make progress. By way of illustration, the following supports are repeated in multiple places in Student's IEP: teacher check-ins, guided notes, graphic organizers, access to manipulatives (fidgets), extra time on assignments, small group instruction, opportunities to work with peers, opportunities to redo or submit assignments with grades less than

²⁷ Tr. 122.

²⁸ Tr. 84.

²⁹ *Id.*

³⁰ Tr. 85.

³¹ Tr. 88-89.

³² Ex. 1 of 1, pgs. 75 – 81.

70%, access to supports like calculators, laptops, dictionaries, and thesauruses, positive praise, incentives, and breaks.³³

The benchmarks in math set by the IEP team sought to increase Student's ability to do grade level math word problems to solve equations and use inverse operations to solve equations at 33% accuracy per first quarter, 38% per second quarter, 43% per third quarter, and 48% per the fourth quarter. Student's written expression established benchmarks with a final goal to take a topic and craft an argument into 3 or more body paragraphs, while scoring a 3 or better on the DOE writing rubric. For the 2 behavioral components of task initiation and compliance with the classroom rules, both benchmarks sought to reduce the amount of time Student needed to get on task (within 4 minutes, 3 minutes, etc.) and reducing the amount of occasions a teacher might need to redirect Student to follow the classroom rules (5 or less teacher prompts, 4 or less teacher prompts, etc.).³⁴

Although APER accepted the IEP and indicated it could implement it, REDACTED recalled some discussion on how adult education is set up compared to DSCYF.³⁵ REDACTED provided education in a 1-hour block but noted it had recently increased it to 1 hour and 15 minutes.³⁶ When the IEP team met for this meeting, Student's mother requested Student be enrolled in two classes, instead of one, despite reservations from Student that he did not want to come down for two classes.³⁷ Student would continue with REDACTED for U.S. History and REDACTED for Math, with both teachers having access to Student's IEP plan and the goals within them, along

³³ *Id.*

³⁴ Ex. 1 of 1, pgs. 75 – 81.

³⁵ Tr. 89.

³⁶ Tr. 89-90.

³⁷ Tr. 94-95.

with counseling from a psychologist to address his counseling and behavioral support goals.³⁸ REDACTED was a contracted psychologist to provide counseling virtually.³⁹ However, shortly after starting with REDACTED, Student advised he did not wish to engage virtually.⁴⁰ REDACTED did not produce any benchmarks for Student, advising that data would come from his teachers.⁴¹

REDACTED is a high school diploma and James Groves education teacher who taught Student from March to June of 2025.⁴² REDACTED would be responsible for documenting attendance, managing classroom behavior, assisting students when they have difficulties, and providing plans and assistance to students working towards their diploma.⁴³ Students at REDACTED are given row and column seating. Students can move freely to obtain materials for their work along with limited computer access due to DOC policy limiting internet connectivity.⁴⁴ The classrooms would have both special needs students and general education students.⁴⁵ Students with IEPs would be placed with other students to ensure a mixture of special education students and general education students.⁴⁶ Except for internet connectivity, the James Grove coursework and curriculum provided to students at REDACTED would be similar of that to what is offered in the community.⁴⁷

³⁸ Tr. 96.

³⁹ Tr. 97.

⁴⁰ Tr. 98.

⁴¹ Tr. 99.

⁴² Tr. 125.

⁴³ Tr. 127.

⁴⁴ Tr. 130-31.

⁴⁵ Tr. 131.

⁴⁶ Tr. 160.

⁴⁷ Tr. 183-84.

Student started with REDACTED with an elective class, which was quickly changed to US History B after it was determined Student had 0.75 credits and was close to completion of that class.⁴⁸ Student came to class the first 4 of the 5 days in March but did not come to class for the remainder of the month.⁴⁹ On April 7, 2025, \ REDACTED emailed REDACTED to advise her that Student had missed 6 consecutive classes.⁵⁰ At REDACTED, the DOC officers are responsible for notifying and escorting the Student inmates from their housing unit to the classroom.⁵¹ Therefore, education staff at APER do not have a direct line of communication with a Student to their housing unit.⁵² REDACTED explained that if a student decided not to attend that day, the correctional officer would note the student refused or was not attending due a particular reason.⁵³ REDACTED took attendance in his records by marking an “X” when a student had an unexcused absence or refusal and “0” for something other, and the teacher would try to follow up on the reason for the missed day.⁵⁴

REDACTED advised he utilized different teaching strategies depending on the situation with Student such as writing down the answer to question, using his own words to respond to a question, coming closer in space or moving away from Student as appropriate, and providing praise or reinforcement for completion of tasks or simply attending class.⁵⁵ REDACTED indicated that from mid-March to June, Student had, in total for all of those months, attended only nine hours of classroom time divided between his courses of US History B, his intake work, and his initial

⁴⁸ Tr. 78, 139.

⁴⁹ Tr. 134.

⁵⁰ Ex. 3 of 3, pg. 33.

⁵¹ Tr. 135.

⁵² *Id.*

⁵³ Tr. 136.

⁵⁴ Tr. 136, 150.

⁵⁵ Tr. 161-62.

elective class of essential career skills.⁵⁶ REDACTED was not asked to conduct any benchmarks for Student's IEP goals.⁵⁷ REDACTED was open to giving Student breaks or allowing for Student to meet with REDACTED.⁵⁸ When asked if an incentive plan was implemented for Student, REDACTED opined that he did not feel he saw Student enough to consider it.⁵⁹

During the April 29, 2025 IEP meeting, it was determined that Student would start algebra coursework with REDACTED to obtain math credits.⁶⁰ On April 28, 2025, Student began the Algebra 2 class with REDACTED.⁶¹ REDACTED classroom had a mixture of special education and general education students within it.⁶² Like REDACTED class, REDACTED class was comprised of students working on different classes and coursework.⁶³ REDACTED stated she begins every class with a check-in with each student.⁶⁴ REDACTED would be responsible for taking attendance of each student.⁶⁵ REDACTED was provided and reviewed Student's IEP when she learned Student would be working with her.⁶⁶ REDACTED testified to his benchmarks for math word problem solving.⁶⁷ REDACTED advised when Student was with her would do targeted instruction with him one on one.⁶⁸ REDACTED was never able to instruct Student in small group work because there were no other students in the class taking the same course as Student.⁶⁹ Student was able to take the final for Algebra 2 and successfully completed the course on August 6, 2025,

⁵⁶ Tr. 139, 155.

⁵⁷ Tr. 175.

⁵⁸ Tr. 163.

⁵⁹ *Id.*

⁶⁰ Tr. 143-44.

⁶¹ Tr. 153-54.

⁶² Tr. 191.

⁶³ Tr. 192.

⁶⁴ Tr. 193.

⁶⁵ Tr. 195.

⁶⁶ Tr. 196-97.

⁶⁷ Tr. 198-99.

⁶⁸ Tr. 232-33.

⁶⁹ Tr. 237.

with an 88% grade.⁷⁰ On September 3, 2025, Student completed US History B with a passing grade of a 78%.⁷¹ Student was able to use a laptop to type out answers for his history final.⁷²

REDACTED testified that Student did not attend class very often.⁷³ Student's attendance for Algebra 2 for the month of May was 2.25 hours and for the month of June it was 3 hours.⁷⁴ She advised her supervisor, REDACTED of Student's attendance issues.⁷⁵ In the month of September or October of 2025, Student was involved in a 4-inmate fight, which caused DOC to amend their policy regarding transportation of inmates from the east and west wing of the correctional facility.⁷⁶ Over the summer, REDACTED attempted to work on benchmarks with Student, but Student expressed an unwillingness to do so, telling REDACTED "that that was something his mother wanted and he was not interested in doing any of them and he refused to do them."⁷⁷

Student was transferred from REDACTED to REDACTED on November 12, 2025. REDACTED met with Student on November 17, 2025, to conduct an initial intake with Student after Student had been transferred from REDACTED to REDACTED correctional.⁷⁸ REDACTED had taught Student for week in the month of August while he was REDACTED.⁷⁹ REDACTED was aware Student had an educational representative assigned to him but asked if he was willing to speak with her one on one in order to get Student in class as soon as possible.⁸⁰ REDACTED communicated with REDACTED from REDACTED and his assigned educational diagnostician

⁷⁰ Tr. 200.

⁷¹ Tr. 209.

⁷² Tr. 211-12.

⁷³ Tr. 207.

⁷⁴ Tr. 216, Ex. 2 of 3, pg. 129.

⁷⁵ Tr. 207.

⁷⁶ Tr. 223.

⁷⁷ Tr. 227.

⁷⁸ Tr. 262-63.

⁷⁹ Tr. 262, 275.

⁸⁰ Tr. 264.

to determine his coursework at REDACTED.⁸¹ It was determined that Student would continue with Communications A, which he had started at REDACTED.⁸² His teacher at REDACTED is REDACTED.⁸³ At an IEP meeting held on December 5, 2025, the IEP team determined that Student would continue to have 12.5 hours of coursework per week, which is what he was receiving at REDACTED.⁸⁴ At REDACTED, he could attend two classes, for 2.5 hours a piece, for a total of 5 hours per day.⁸⁵ REDACTED advised that Student was placed in a classroom with general education students and students with disabilities for 100% of Student's class time.⁸⁶

. REDACTED testified REDACTED received his educational records electronically before Student transferred at REDACTED.⁸⁷ Student waived a notice of meeting with REDACTED when he had a one on one with her.⁸⁸ Student told REDACTED his mother was highly involved with his educational planning.⁸⁹ In a meeting between REDACTED, REDACTED, and Student, there was some discussion over a fidget in his IEP plan and that DOC policy would not allow the specific fidget in his plan.⁹⁰ With regard to writing through a device, APER cleared use of laptop for him to type out written responses.⁹¹ Under DOC custody, Student was residing at the REDACTED, the highest security housing unit at REDACTED, and REDACTED advised students coming from the REDACTED do not have the ability to obtain flexible seating.⁹² REDACTED noted that Student had missed significant time while at REDACTED due to a medical issue; however, she noted

⁸¹ Tr. 265.

⁸² *Id.*

⁸³ Tr. 266.

⁸⁴ Tr. 267.

⁸⁵ Tr. 268.

⁸⁶ Tr. 269.

⁸⁷ Tr. 279.

⁸⁸ Tr. 281.

⁸⁹ Tr. 282.

⁹⁰ Tr. 285.

⁹¹ Tr. 286-87.

⁹² Tr. 287-88.

Student would be eligible for compensatory education time.⁹³ REDACTED had not reached out to Student's educational representative until last week and a few weeks back via email; she had not yet received a response from Student's mother.⁹⁴

REDACTED is employed with APER as an educational associate.⁹⁵ For APER, he supports level 5 facilities with vocational programming, academic programming and GED testing and management throughout the state.⁹⁶ REDACTED was pulled into Student's REDACTED classroom during the summer months when APER was training new employees and short staffed.⁹⁷ During that 5-week period, REDACTED, REDACTED, and another teacher filled in to provide instruction for Student.⁹⁸

As part of Student's IEP, he was supposed to receive 30 minutes of counseling 3 times per month.⁹⁹ APER contracted for REDACTED, who was able to provide Student with virtual counseling.¹⁰⁰ REDACTED advised there were some gaps in the counseling, due to scheduling conflicts and several occasions where Student opted not to participate in the virtual counseling.¹⁰¹ Between the month of May and June, REDACTED was scheduled to meet with Student, but Student ended up opting out of the sessions.¹⁰²

⁹³ Tr. 298.

⁹⁴ Tr. 299.

⁹⁵ Tr. 304.

⁹⁶ Tr. 306-07.

⁹⁷ Tr. 316.

⁹⁸ Tr. 317-18.

⁹⁹ Tr. 319-20.

¹⁰⁰ Tr. 321.

¹⁰¹ Tr. 324.

¹⁰² *Id.*

REDACTED is a teacher at REDACTED, with certifications in secondary mathematics and special education.¹⁰³ Her classroom can accommodate 10 students.¹⁰⁴ REDACTED described her teaching style as “hands on” meaning that she will typically check in with her students, trying to be as personal as possible.¹⁰⁵ At REDACTED, the curriculum is based upon James Groves programming.¹⁰⁶ Student’s current class schedule consists of 15 hours of time per week.¹⁰⁷ REDACTED emails staff at DOC for them to gather her students who may be housed on different sites at REDACTED.¹⁰⁸ REDACTED reviewed Student’s IEP and was aware of his need for special instruction but opined she had not had the ability to work with Student enough to implement it given Student had only been with her for 4 to 5 classes since his transfer to REDACTED.¹⁰⁹ Even when Student was in attendance with REDACTED she noted Student as unwilling to engage.¹¹⁰ For a period of time, Student was in the infirmary unit and was unable to attend education.¹¹¹ After discharge from the infirmary on December 22, 2025, Student has been refusing education.¹¹²

REDACTED recalled an occasion where Student attended class was given the ability to use a laptop; however, Student found the setup with the laptop, his classwork, and the restraints utilized by DOC to be unworkable.¹¹³ Students at REDACTED are cuffed at their feet and hands and secured by DOC officers to their desks with a padlock.¹¹⁴ REDACTED advised Students have

¹⁰³ Tr. 361-62.

¹⁰⁴ Tr. 365.

¹⁰⁵ Tr. 369.

¹⁰⁶ Tr. 371.

¹⁰⁷ Tr. 372.

¹⁰⁸ Tr. 373-74.

¹⁰⁹ Tr. 376-77.

¹¹⁰ Tr. 377-78.

¹¹¹ Tr. 382.

¹¹² Tr. 383-85.

¹¹³ Tr. 388-90.

¹¹⁴ Tr. 392-94.

some mobility to stand up, but not enough mobility to walk around.¹¹⁵ Likewise, the Students have some mobility with their hands to blow their nose or waive down an officer, but they are still secured with a waist chain such that they do not have the capability to fully extend their arms.¹¹⁶

REDACTED. is a unit commander employed with DOC as a wing unit commander at REDACTED.¹¹⁷ REDACTED explained the difference between when an inmate who has been sentenced compared to an inmate who has not been sentenced to purpose of attendance.¹¹⁸ Student, as a pre-sentenced detentioner, has the ability to refuse education when a DOC officer arrives at his housing unit to escort him to class.¹¹⁹ A student refusal to DOC is communicated to the teacher so it is recorded by APER.¹²⁰ Pre-sentenced populations have access to educational programming, drug treatment programing, or mental health groups, but they are not required to do so because they are not sentenced.¹²¹ At REDACTED, inmates and detentioners are not shackled at their desks.¹²²

Student was involved in fight outside of his education classroom at REDACTED that involved at least two other offenders that led DOC to write up Student which resulted in Student being placed in administrative segregation.¹²³ Detentioners placed on administrative segregation are placed in a higher level of security, which is more restrictive.¹²⁴ While placed on administrative

¹¹⁵ Tr. 394.

¹¹⁶ Tr. 393-95.

¹¹⁷ Tr. 413-14.

¹¹⁸ Tr. 418-19.

¹¹⁹ Tr. 419-20.

¹²⁰ Tr. 419.

¹²¹ Tr. 420.

¹²² Tr. 426.

¹²³ Tr. 421-23.

¹²⁴ Tr. 424.

segregation, students can be educated if the educational representative goes up to the administrative housing section.¹²⁵

REDACTED is a deputy warden at REDACTED.¹²⁶ As part of his responsibilities he oversees the medical, mental health, educational department, and treatment services at the facility.¹²⁷ The REDACTED facility has multiple housing units and multiple educational classrooms to service the housed inmates and detentioners.¹²⁸ At the “REDACTED” otherwise known as the REDACTED, the housing is more community based and for individuals deemed to be a lower security risk.¹²⁹ Detentioners on the REDACTED do not need to be shackled or restrained when receiving education services.¹³⁰ The “REDACTED” is a housing unit at REDACTED that houses inmates that DOC determines are a higher security risk.¹³¹ A detentioner or inmate can, however, exhibit good behaviors to flow out of the REDACTED, hopefully lasting no more than a year, and into a less restrictive environment.¹³² Student is currently housed in the REDACTED, or REDACTED, which is minimum/medium offenders housing unit. REDACTED is also a specialized unit in that it only houses detentioners who are not yet sentenced.¹³³ REDACTED explained that Student receives his education at the REDACTED, where students are required to have restraints on their hands and legs when out of their cells.¹³⁴ Additionally, the students educated in the REDACTED are secured in restraint chairs.¹³⁵ DOC administratively

¹²⁵ Tr. 429.

¹²⁶ Tr. 433.

¹²⁷ Tr. 434.

¹²⁸ Tr. 437.

¹²⁹ Tr. 437-38.

¹³⁰ Tr. 438.

¹³¹ Tr. 438-39.

¹³² Tr. 439-40.

¹³³ Tr. 441.

¹³⁴ Tr. 442.

¹³⁵ *Id.*

classified Student for the REDACTED educational setting due to negative behaviors exhibited by Student while incarcerated at REDACTED.¹³⁶

When transporting Student from REDACTED to the classroom in the REDACTED, a DOC employee will go to the Student's cell and transport them to class.¹³⁷ Student would then need to have their hands restrained at the door, once they are brought downstairs, their legs are restrained.¹³⁸ Student would then be escorted to the educational classroom at the REDACTED.¹³⁹ REDACTED explained that hand restraints, also called side restraints, is a chain that goes around the offender's waistline, which has an additional chain of approximately 6 to 8 inches that is hooked to the offender's handcuffs.¹⁴⁰ This gives the detentioner an ability to write and have access to their desk.¹⁴¹ Shackles on an offender's legs go around the offender's ankles with a chain connecting the shackles.¹⁴² That chain can then go through an eye which is padlocked to secure them to their desk, preventing them the ability to lunge at someone else in the classroom but giving them enough mobility to be able to partially stand.¹⁴³ REDACTED advised these restraints are only utilized in the REDACTED setting and that this chair restraint system has been used since the REDACTED educational classroom was created.¹⁴⁴ DOC would not favor a system in which one detentioner in the REDACTED classroom would be unshackled while the remaining detentioners would be shackled due to fairness and safety for all the detentioners.¹⁴⁵

¹³⁶ Tr. 443.

¹³⁷ Tr. 444.

¹³⁸ *Id.*

¹³⁹ Tr. 444-45.

¹⁴⁰ Tr. 445.

¹⁴¹ Tr. 445-46, 453-54.

¹⁴² Tr. 446.

¹⁴³ Tr. 446, 455.

¹⁴⁴ Tr. 446.

¹⁴⁵ Tr. 448.

Detentioners at REDACTED, who are not yet criminally sentenced, may refuse to come to class.¹⁴⁶ If Student refuses to attend, the teacher is responsible for recording it.¹⁴⁷ Detentioners at REDACTED do not have access to the internet.¹⁴⁸ Detentioners at the REDACTED would not have access to a fidget based upon concern for contraband and DOC concern for limiting the amount of things within the classroom environment.¹⁴⁹

Student testified on his own behalf. He identified his mother as being the person involved in his education.¹⁵⁰ When he was in DSCYF custody, his day lasted from 8:30 in the morning to 2:30 in the afternoon, switching rooms for classes, and having classrooms of approximately 10 to 12 other students.¹⁵¹ When in DSCYF custody, he would have class five days a week, learning about 5 to 6 subjects.¹⁵² He would be able to take breaks, have access to fidgets, and earn good behavior time to stay up longer or play a game.¹⁵³ Student had access to a laptop.¹⁵⁴ He could be pulled out of the classroom for additional support if needed and recalled receiving counseling with a counselor approximately twice a week.¹⁵⁵

Student remembered meeting with REDACTED one on one when he was transferred from DSCYF to REDACTED.¹⁵⁶ He remembers advising REDACTED about his mother being his educational representative.¹⁵⁷ Student recalls going into class shortly after talking with his mother

¹⁴⁶ Tr. 445.

¹⁴⁷ *Id.*

¹⁴⁸ Tr. 449.

¹⁴⁹ Tr. 459.

¹⁵⁰ Tr. 467.

¹⁵¹ Tr. 468.

¹⁵² Tr. 469.

¹⁵³ Tr. 475-76.

¹⁵⁴ Tr. 476.

¹⁵⁵ Tr. 476-77.

¹⁵⁶ Tr. 480-81,

¹⁵⁷ Tr. 481.

and beginning work in US History.¹⁵⁸ At REDACTED, he was not shackled.¹⁵⁹ Student recalls being with about 7 other students in the classroom with REDACTED¹⁶⁰ Student did not know if he could receive breaks for this class because he did not recall knowing if he could do so.¹⁶¹ There was no access to fidgets or incentive based programming.¹⁶² Student recalls being given a book and doing the lesson plan and activities.¹⁶³ He recalled getting some counseling with a female counselor and having 2 sessions virtually.¹⁶⁴ Student eventually opted out of the counseling service because it was not in person.¹⁶⁵ Student preferred therapy to be given in person, not virtually.¹⁶⁶ Student acknowledged there were times he did not go to class because he refused.¹⁶⁷ Student believes he missed time because another new correctional officer was transferred to his unit and he would not be called for education.¹⁶⁸ He admitted at times he might be watching tv, or asleep, on the phone, or making food when he declined going to class.¹⁶⁹

Student remembered REDACTED, REDACTED and another lady all coming up to his housing cell to discuss attendance with him.¹⁷⁰ He recalled sometimes going to class in the morning, but not in the afternoon and vice versa.¹⁷¹ Student was quickly transitioned to education when he was transferred from REDACTED to REDACTED.¹⁷² He had a one-on-one meeting with

¹⁵⁸ Tr. 481-82.

¹⁵⁹ Tr. 482.

¹⁶⁰ *Id.*

¹⁶¹ Tr. 483.

¹⁶² Tr. 484.

¹⁶³ Tr. 484-85.

¹⁶⁴ Tr. 485.

¹⁶⁵ Tr. 485-86.

¹⁶⁶ Tr. 486.

¹⁶⁷ Tr. 487.

¹⁶⁸ Tr. 488.

¹⁶⁹ Tr. 488.

¹⁷⁰ Tr. 490.

¹⁷¹ *Id.*

¹⁷² Tr. 491.

REDACTED, like he had with REDACTED to talk about his IEP.¹⁷³ Student lives in the REDACTED, as a pretrial detainee, and needs to be shackled when transported from his housing unit to the educational classroom in the REDACTED.¹⁷⁴ Student is currently attending class with 10 or 11 other students.¹⁷⁵ Student stated difficulty being able to work with a laptop and his textbook at the same time given the desk space.¹⁷⁶

III. ISSUES PRESENTED

The issues presented in the due process hearing are:

1. Whether APER has been providing FAPE by ensuring Student's IEP is being appropriately implemented by APER.
2. Whether Student's placement is in the least restrictive environment pursuant to the IDEA.
3. Whether APER failed to appropriately engage Student's designated educational representative and, if so, whether such a failure constitutes a procedural violation of FAPE.
4. Whether Student, due to any violations cited above, is entitled to compensatory education or any other appropriate relief.

IV. DISCUSSION

¹⁷³ Tr. 491-92.

¹⁷⁴ Tr. 492.

¹⁷⁵ Tr. 493.

¹⁷⁶ Tr. 494.

The parties have stipulated Student is an IDEA eligible student with a disability and APER is responsible for providing FAPE. APER does not dispute IDEA applies to Student and that it is responsible for providing him an education designed with Student's IEP. The parties also agree that the March 3, 2025 IEP plan was appropriate because it adopted by APER at the April 29, IEP meeting.

Issue 1: Did APER provide FAPE to Student by appropriately implementing Student's IEP?

APER is required to provide a free and appropriate public education for Student as an identified special education student. Student and APER agree his March 3, 2025 IEP is appropriate and, therefore, the area of inquiry for the panel is whether APER provided and implemented the educational programming to Student to allow for Student "to produce progress, not regression or trivial educational advancement."¹⁷⁷ Student's IEP identified five areas where Student needed support with his math, reading, writing, and two behavioral support domains.

Student was transferred from DSCYF custody to REDACTED on March 12, 2025, and started classes on March 18, 2025. However, APER's typical offering for students at REDACTED consisted of only one class period lasting a 1 hour and 15 minutes. This was the typical amount of educational programming offered by APER. The panel finds this to be problematic given that, on its face, Student's IEP had 3 goals for him to obtain in math, writing, and reading, with 2 other goals regarding his behavior. The panel finds that 1 hour and 15 minutes of special education per day falls short of what was needed for Student to make meaningful progress on his IEP goals. By

¹⁷⁷ *K.D. v. Downingtown Area Sch. Dist.*, 904 F.3d 248, 254.

comparison, while under DSCYF custody, Student's typical instructional day lasted from 8:30 in the morning until 2:30 in the afternoon. The panel finds APER's ability to only offer 1 hour and 15 minutes as insufficient from a quantitative perspective and a violation of FAPE. The panel also notes that from a qualitative perspective, APER was not even offering Student a pathway to work on his math goal, as APER indicated it did not have a math class to enroll Student when he came to REDACTED. Until April 28, 2025, when Student was enrolled in Algebra 2, the panel finds it was impossible for Student to make progress with his math goal. Accordingly, the panel finds that from March 18, 2025 through April 28, 2025, APER was not implementing Student's math goal and therefore denying Student FAPE.

However, after the April 29, 2025 IEP meeting and once APER began to offer both US History and Algebra 2, it allowed for Student to engage in educational programming that could meet all of his IEP goals and benchmarks. Furthermore, it doubled the amount of educational time offered to Student. Student's Algebra 2 teacher, REDACTED reviewed Student's IEP and was able to engage in targeted one on one time and offer specialized instruction. At the same time, Student was able to move forward with his history class, providing Student a pathway to work and progress on all of his IEP of math, writing, reading, and the remaining behavioral goals.

APER, throughout the course of the hearing, has consistently asserted that Student's lack of attendance and unwillingness to engage must be assessed when considering APER's responsibility to provide FAPE to Student. In reviewing the exhibits and considering all the testimony, the panel agrees that Student's absences and, at times, clear refusals to engage in class complicates and disrupts the importance of continuity that is necessary to achieve academic success and consistency. Continuity allows educators and students to build upon prior learning but also identify Student's needs and fully implement an IEP.

Here, the record is clear that Student did not fully engage in the class time provided to him after the April IEP meeting. This pattern of attendance frustrated any ability for APER's staff to fully engage with Student and, in turn, obtain data on how Student was doing in the form of benchmarks or testing. Of note, the only strong data from Student's time in his two classes of Algebra 2 and US History were his final grades of 88% and 78% respectively. These marks suggest that Student was able to meet some of his IEP goals, especially his math goal which had originally set Student's ability to answer math word problems or inverse operation problems at only 48%.

Furthermore, while Student has had even less time with APER staff at REDACTED, Student's attendance patterns appear to persist. REDACTED advised that when Student has been present, he has not engaged in learning.. REDACTED, when asked to assess Student, candidly remarked on her inability to do so, citing lack of time to be able to assess Student and his IEP.

Furthermore, the panel credits APER staff attempts to engage Student and encourage him to attend class. Both REDACTED and REDACTED, in April and August of 2025 respectively, went to see Student when reporting from teachers indicated consistent absences. Both witnesses advised Student's reluctance and resistance to class. REDACTED recalled Student's reluctance to engage or be argumentative, almost on purpose. When attempting to do benchmark work with Student, Student advised that work was "his mom's thing". When asked to explain his attendance issues in the summer, Student remarked to REDACTED with casual disregard, that he doesn't get himself up when needing to get ready for class. Student admitted the same when testifying, noting that he might miss class because he was watching tv, on the phone, or making food.

In making this finding, the panel rejects any suggestion from Student that APER could have done more or was responsible for Student to attend, regardless of Student's lack of motivation to attend. APER teachers provided notice to their supervisors when Student's attendance dropped and

APER staff encouraged Student to attend, but also sufficiently explained that neither DOC nor APER could fully compel Student or even write up Student due to his pre-sentencing status as a detainee. As part of this finding, the panel believes APER staff attempted to implement as many of the accommodations available to the Student as possible, to the extent that such a finding can be made when considering Student's absences.

For these reasons, the panel finds that APER met its burden of attempting to provide FAPE but that Student's lack of attendance and willingness to engage frustrated efforts and goals set out in the IEP. This finding is being made with Student's IEP plan from April 29, 2025 to the date of these hearings.

Issue 2: Did APER provide FAPE to Student in his least restrictive environment?

Under the IDEA, students with disabilities are required to be educated with nondisabled peers "to the greatest extent possible."¹⁷⁸ Educational placements, therefore, must strive to educate children with disabilities in an environment with non-disabled peers to the maximum extent possible, while special classes, schooling, other forms of removal of a disabled child only occurs when the child's disability dictates such removal is appropriate.¹⁷⁹ A student with a disability who is incarcerated retains their right to education in the least restrictive environment.¹⁸⁰ A student convicted as an adult under state law and incarcerated in an adult prison may have their IEP modified if the State can show a bona fide security interest or penological concern.¹⁸¹

¹⁷⁸ 34 C.F.R. § 300.114(a)(2).

¹⁷⁹ 20 U.S.C. § 1412(a)(5).

¹⁸⁰ 20 U.S.C. § 1414.

¹⁸¹ 20 U.S.C. § 1414(d)(7)(B).

In this case, the exception does not apply to Student because he has not been convicted under Delaware law and has been held as a pre-sentence detainee since his entry in DSCYF custody. Student turned 18 on REDACTED. On March 12, Student was transferred from DSCYF custody to DOC custody at REDACTED. On November 13, 2025, Student was transferred by DOC from REDACTED to REDACTED.

In a prior due process decision with similar issues regarding LRE in a correctional facility, another Delaware panel noted:

“the DOC has the authority to determine where a resident is housed and a student’s IEP team cannot override that decision. However, unless a student is confined to their cell for punitive or other reasons, a student’s residence and learning environment are not necessarily one in the same – and the onus remains on the agency to ensure a student’s learning environment is least restrictive to meet their educational needs whenever possible. Said another way, the agency is not divested of its duty to uphold the least restrictive environment mandate solely because the DOC holds the authority to decide Student’s housing arrangement.”¹⁸²

Student’s education under APER’s care has been conducted at both REDACTED and REDACTED. At REDACTED, Student received education in a classroom setting that could accommodate 8 to 12 students and education was provided to him without the use of shackles or restraints. APER staff testified that Student was placed in a classroom setting with both general education and special education peers. Additionally, the coursework was administered through the James Groves model, which has been determined by DOE as an appropriate model for Student to work towards his diploma. APER advised Student was taught amongst other peers of both general education and special education students. He had access to a laptop for typing out answers. The panel finds this setting to be appropriate and not violative of LRE.

¹⁸² DE DP #23-04 at p. 32.

When Student was transferred to REDACTED in mid-November, DOC determined that Student should be housed at the REDACTED, a housing unit facility that only contained presentence detainees at REDACTED. This decision was determined by DOC based on their guidelines and policies. It is a housing decision this panel cannot disturb. However, since Student has not been convicted, APER still holds the responsibility to provide Student education in his LRE.

Although housed at the REDACTED, Student attended school in the REDACTED classroom. The REDACTED is the highest security level housing at REDACTED and the classroom at the REDACTED utilizes a shackle and padlock restraint system that limits a student's mobility. While there is little doubt the restraining system in REDACTED classroom, by definition, is physically more restrictive than what Student experienced at REDACTED, his educational environment did not significantly change. The REDACTED classroom accommodated a similar amount of students in general and special education. REDACTED clarified that teaching would and could look very similar to the teaching implemented at REDACTED. The REDACTED classroom allowed for "Do Now" activities with the entire group of students and allowed students to learn in an environment with others, despite the reality that students were working on their own specific coursework. Nor was technology restricted, as Student was given a laptop when he requested it.

Student objects to the REDACTED classroom setting because it is more restrictive by comparison to his classroom setting at REDACTED. However, the panel finds that the physical restraints used by DOC for security purposes do not inherently render the educational environment a violation of LRE. While Student highlights a single occurrence where he was unable to use his laptop and textbook at the same time given his desk and restraints, the panel views this more as a

logistical hurdle that could be overcome if Student, APER, and the IEP team work to address the issue. The REDACTED classroom does not prevent Student to take breaks, nor would it prevent teachers from providing positive feedback and encouragement to students regardless of whether they are restrained or not. The panel finds that the REDACTED classroom still provides peer interaction and specialized instruction for Student if Student is willing to engage and attend consistently. As a result, the panel finds that APER has shown by a preponderance of the evidence that Student's education is occurring within an appropriate, least restrictive setting since April 29, 2025.

Issue 3: Whether APER failed to appropriately engage Student's designated educational representative and, if so, whether such a failure constitutes a procedural violation of FAPE?

A child with a disability with capacity may authorize an agent to exercise rights through a voluntary grant of authority.¹⁸³ Although Student thought his mother was his educational representative when he transferred from DSCYF to REDACTED, the parties have stipulated that during the March 3, 2025 IEP meeting it was determined Student had capacity.¹⁸⁴ Student's mother signed a grant of authority to become his educational representative on April 3, 2025. As such, any complaints regarding failing to engage the educational representative during the month of March 2025 necessarily fail.

Regardless of this, the meeting between REDACTED and Student when Student first arrived on March 14, 2025 at REDACTED was short and was more akin to a guidance counselor speaking with a student to select courses. The purpose was to place Student as quickly as possible into the most appropriate educational setting. The panel does not necessarily find this constitutes

¹⁸³ 14 Del. C. § 3132(b)(2). 14 Del. Admin. C. 926.20.1.2

¹⁸⁴ 14 Del. C. § 3132(b)(3).

an IEP meeting. By that same logic, the panel does not find a similar intake meeting that occurred between REDACTED and Student when he transferred to REDACTED an IEP meeting.

Finally, even if the panel found the meeting between Student and REDACTED constituted a violation, it would be merely procedural in nature. This meeting did not cause substantive harm to Student and does not constitute a procedural denial of FAPE.¹⁸⁵ The panel finds the purpose of the meeting was to get Student into educational programming as soon as possible.

Issue 4: Whether Student, due to any violations cited above, is entitled to compensatory education or any other appropriate relief.

Based upon the determination that APER failed to provide Student with a FAPE, the panel may issue an award of compensatory education as a remedy.¹⁸⁶ The remedy is determined on a case-by-case basis and is available to a panel in order provide relief to a student to be compensated for an agency's failure to provide what is required under the IDEA.

The panel determined that from March 18, 2025, through April 28, 2025 APER did not implement Student's math goal and was quantitatively denying Student FAPE by providing only 1 hour and 15 minutes' worth of instructional time. This period of time is approximately 1.3 months, which at 86 hours of education per month, equals approximately 112 hours of time.¹⁸⁷ Taking the prevailing rate of \$75 per hour, this equates to \$8,400.

¹⁸⁵ *C.H. v. Cape Henlopen Sch. Dist.*, 606 F.3d 59 (3rd Cir. 2010).

¹⁸⁶ *Heather D. v. Northampton Area School Dis.*, 511 F. Supp.2d 549, 560 (E.D. Pa. 2007).

¹⁸⁷ See 10 *Del. C.* § 1049(a)(1) which prior due process panels have relied on to determine that one month of instructional time is 86 hours per month.

V. ORDER

Based on the foregoing, the panel awards the following:

1. Establishment of a special education fund through the Delaware Department of Education for the benefit of Student in the amount of \$8,400. These funds must be used for Student solely for educational or vocational purposes and are accessible to Student during Student's period of incarceration and for no greater than 5 years past the date of this Order.
2. All other relief requested in Student's Complaint is DENIED.

VI. NOTICE OF RIGHT TO APPEAL

The decision of the hearing panel is a final order unless a party seeks judicial review. Any party aggrieved by this decision has the right to seek judicial review in the U.S. District Court or the Delaware Family Court within ninety (90) days of this date of this written decision, as provided in 20 U.S.C. § 1415(i)(2) and 14 *Del. C.* § 3142.

/s/ Jonathan Harting, Esq.
PANEL CHAIR

/s/ Jeffrey Conrad, Ed.D.
EDUCATOR PANELIST

/s/ Matthew Stankis
LAYPERSON PANELIST

Date: January 23, 2026