

**Individuals with Disabilities in Education Improvement Act
Before the Local Hearing Officer**

G.J. (Parent) on behalf of Z.B.	)	
(Student),	)	
	)	
Petitioner,	)	
	)	
vs.	)	Final Order – GJ XII
	)	
Florence County School Dist. One,	)	
	)	
District/Respondent.	)	

I. Introduction and Summary

This is an Individuals with Disabilities Education Act (IDEA) manifestation determination review (MDR) case, resulting from an incident on February 11, 2026. I conducted a hearing on March 23 and March 25, 2026. Parent submitted a written post-hearing argument on March 27, 2027. District declined the opportunity to provide a written argument.

Based on the evidence submitted at the hearing and the post-hearing submission of Parent, I find that Parent has not sustained her burden of proving that the IEP team erred when it determined that Student's conduct on February 11, 2026, was not a manifestation of Student's disabilities.

II. Factual Background

A. Background on Student

Student is a high school sophomore,¹ educated in regular classes with special education services through a resource service delivery model (study skills class).

Student is identified with a specific learning disability (SLD) as his primary category of disability with a secondary classification of other health impairment (OHI). He has underlying medical diagnoses of idiopathic hypersomnia and attention deficit hyperactivity disorder (ADHD). Throughout this proceeding, Parent asserted that Student has been diagnosed with both anxiety and depression, but she has offered no evidence of any such diagnoses. More importantly, Parent did not provide any diagnosis of either depression or anxiety to the individualized education program (IEP) team.²

¹ This case involves the parties' ninth due process hearing in about five years. Parent submitted at least eleven previous DPRs on behalf of Student since the fall of 2020: January 2, 2026 (*GJ XI*); October 2, 2025 (*GJ X*); October 1, 2024 (*GJ IX*); April 26, 2024 (*GJ VIII*); September 1, 2023 (*GV VII*); March 1, 2023 (*GJ VI*); June 17, 2022 (*GJ V*); March 20, 2022 (*GJ IV*); Feb. 10, 2022 (*GJ III*), June 17, 2021 (*GJ II*), and October 6, 2020 (*GJ I*). Parent has filed eleven DPRs. Parent withdrew *GJ III*, *GJ X*, and two other DPRs submitted during the 2023-24 school.

² Parent has had little to no communication with the IEP team. [See Parent Exh. 21 at 3 (noting that Parent left IEP meeting after seeing the Secondary Exceptional Education Supervisor (SES) present)]. Since at least December 2025, Parent has declined to attend IEP meetings, even when given the opportunity to do so virtually. [See Parent Exh. 14 at 3 (noting that Parent "was offered alternate ways to participate"). I dismissed *GJ XI* because Parent refused to participate in a resolution meeting. [*GJ XI*, Final Order dated January 20, 2026]. I also rejected Parent's first request to hold a partially virtual hearing based on Parent's assertion that the presence of District's SES was anxiety-provoking. [*GJ XII* Order of March 16]. Parent's request was unfounded and severely undercut by both her inaccurate recounting of recorded meetings, my own observation of SES at numerous hearings, and the fact that Parent attends meetings and due process hearings with the SES on behalf of other children.

Parent has refused to consent to a reevaluation of Student because she does not trust District.³

B. The 2025-26 school year

This academic year has been difficult, with serious academic and behavioral issues. Teachers have documented behavioral issues with Student twenty-four times, including violations related to theft, phone usage, cheating, defiance, horseplay, tardiness, disrespect, playing dice, and cutting class. [Parent Exhs. 15-16]. The vice principal has noted that staff have not written up Student for every violation, and the incidents on file “are just the major referrals.” [Parent Exh. 17 at 4].

The worst of Student’s behavior this year has been aimed at his special education teacher and case manager. Student has become increasingly belligerent with her since an incident on September 30, 2025, when she disciplined Student for stealing snacks. [Parent Exh. 16 at 9]. Since then, Student has become increasingly disrespectful and defiant towards the special education teacher, who has documented behavior issues for cutting class [*Id.* at 8 (Oct 17), *id.* at 6 (Dec.

³ Parent’s conduct is not the issue in this proceeding. The IDEA places obligations on LEAs, but few enforceable obligations on Parents. At the same time, the IEP team cannot be faulted for information it did not have. Several witnesses noted that they could not answer Parent’s questions because Parent either precluded them from evaluating Student (counselor and school based therapist) or she demanded that they not participate in Student’s education .

3, 12, 15)], phone and computer use violations [*id.* at 3 (Feb. 11); *id.* at 4 (Feb. 4); *id.* at 5 (Jan. 7); Parent Exh. 15 at 4 (Oct. 23); *id.* at 5 (Sept 11); *id.* at 6 (Aug. 5)], disrespect [*id.* at 3 (Jan 14)], cheating [*id.* at 5], and dishonesty [Parent Exh. 16 at 5 (Jan. 21)].

When the special education teacher approaches Student, he tells her to “get out of my face,” that “I don’t need your help,” and that he is “a man.” He also questions her as to why she is in his area. The teacher’s reports are consistent with those of other teachers, although the number of incidents with the special education is far higher than in other classes.

The vice principal has characterized Student as being “selective of how he interacts with others.” [Parent Exh. 17 at 4 (LEA/Administrator Input)]. One likely reason for this is Student’s objection to being in special education. Student has told the special education teacher that he should not be in special education and that he does not have any disabilities.

Student’s English teacher provided testimony that supports the vice principal’s observation that Student is selective when engaging in violative behavior. The English teacher also has disciplined Student on several occasions this year. [Parent Exh. 16 at 4 (inappropriate materials), 6 (phone); Parent Exh. 15 at 3 (violation of class rules)]. The English teacher testified that Student participates in class when there are oral discussions. When, however, he is expected to perform written tasks, he will engage in his typical shutdown behavior of putting his head down (but not sleeping). After she confiscated

Student's phone, he became more compliant, and he does not speak to the English teacher as he does to the special education teacher.

At the same time, however, Student has not completed written work for English class. Student's academic performance has suffered in all areas. At one point in time, Student was failing all four core courses.

C Incident giving rise to MDR

The incident giving rise to this MDR occurred on February 11, 2026. Although the DPR frames this as a phone-use incident, which is true to a point, the reported issue is more serious. The special education teacher provided Student with an "if/then" list, which laid out three things he needed to accomplish before he was entitled to a reward (snack and free time). She testified that the if/then list is itself an accommodation of sorts because Student does not like her telling him what to do.

But rather than doing the tasks on his "if/then" list, Student watched music videos on his Chromebook. The special education teacher instructed Student to stop and gave him five minutes to comply. Student refused, so she locked out his computer. [Parent Exh. 20].

That did not work either. Student propped his phone behind the screen and continued to watch or listen to non-school work. As a result, the special education teacher referred Student for a disciplinary infraction. The vice principal issued the referral letter to Parent. [Parent Exh. 18].

D. District's policy

District adopted a Device Guidelines policy. [Parent Exh. 5].⁴ Students may use phones and wireless headphones only before or after school. The policy forbids their use during class or lunch, during transitions, and in the restroom. [*Id.* at 1]. Students are required to secure them in a backpack or other non-visible location. [*Id.*]

D. District's MDR

District held an MDR on February 27. Parent did not attend, but she sent an email that was read aloud to the IEP team. [Parent Exh. 22 beginning at 9:41; Parent Exh. at 2-3].

⁴ District witnesses made repeated references to a state-law ban on cell phones in schools. The statute enacted does not go that far. It merely requires that districts “adopt a policy that addresses student’s possession of” cell phones, that such policy be included in written student conduct standards, and that the policy provide for the return of any confiscated device. S.C. Code 59-63-280(B). The testimony of District witnesses raises some concern because they seem to believe that the use of personal devices or phones cannot be an accommodation given the state law. Not only does the statute not prohibit either the use or possession of cell phones, but District policy vests discretion in the building principal to allow “limited and specific exceptions.” [Parent Exh. 5 at 2 (last bullet)].

But my concern as to the testimony does not affect the outcome here. Whether the state law forbids the use of phones is not the issue. District has a policy, which generally forbids cell phone usage during and between classes. [Parent Exh. 5]. And the issue here is not whether the policy is wise or too restrictive. The issue here is whether Student’s conduct is related to his disability or a failure-to-implement his IEP.

The IEP team determined that Student's conduct was not a manifestation of his disability and that his conduct did not result from any failure by District to implement Student's IEP. [Parent Exh. 1 (MDR PWN); Parent Exh. 17 (MDR)].

III. Analysis

When conducting an MDR, the IEP Team must review all relevant information in the student's file, including any relevant information provided by the parents to determine: (i) if the conduct was caused by, or had a direct and substantial relationship to, the child's disability; or (ii) if the conduct was the direct result of the LEA's failure to implement the IEP. 20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)(1). The information to be considered is not limited to the contents of a student's file. 20 U.S.C. § 1415(k)(1)(A) ("School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement . . . is appropriate for a child with a disability who violates a code of student conduct."); 34 C.F.R. § 300.530(a) (same).

Parent bears the burden of proving that the IEP erred in its conclusions. *Schaefer v. Weast*, 546 U.S. 49 (2005); *Fitzgerald v. Fairfax Cnty. Sch. Bd.*, 556 E. Supp. 2d 543, 550 (E.D. Va. 2008) (applying *Weast* to MDR case).

The first prong of the manifestation test itself asks two questions: (a) was the conduct "caused by" the disability; or (2) does the conduct have "a direct and substantial relationship" to the disability.

Parent has offered no credible evidence that Student's disabilities of record "caused" the February 11 incident or that there is a "direct and substantial

relationship” between the conduct and any disabilities of record. Parent’s challenge is based on: (1) what she claims Student has said about why he engaged in the conduct; and (2) her argument that such conduct is explained by his disabilities, including those for which there is no evidence (e.g., anxiety and depression).

Student’s explanations for why he engaged in conduct would carry little weight, even if he offered such explanations under oath. Perhaps Student could explain circumstances or context, but Parent’s statements about what he said are unavailing, and I do not accord them any weight. District witnesses credibly testified that Student has not claimed that he is “overwhelmed,” or “targeted” and his claim that he has been singled when he violates a rule proves nothing. The only issue here is the relationship between such violations and Student’s disabilities. Again, this is not a discrimination case. It is an MDR.

Parent’s second basis for challenging the IEP team’s determination is equally misguided. As she has in other cases, Parent again bases her argument on her frequent complaints and allegations against District employees that Parent characterizes as “retaliation” and “discrimination.”⁵

⁵ Nobody questions that Parent has alleged that Student’s conduct is related to disabilities. She has done that many times over the years whenever Student has faced consequences. [GJ IV Final Order at 29-30 (5th and 6th grade); GJ VI Final Order at 30-31 (7th grade); GJ VII Final Order at 17-18 (8th grade); GJ IX at 23 n.13, 37, 47 n.32 (9th grade)]. But Parent saying it repeatedly does not make it so. If anything, the assertion that every act of misconduct

That Parent has complained and filed grievances, however, is also irrelevant. Complaints about school personnel do not prove a connection between Student's conduct and a disability. Parent responded to District's Motion to Dismiss by stating that she was not pursuing allegations of retaliation and discrimination as claims. [Parent email March 12 at 10:57 a.m.]. But even after I explained further that allegations of discrimination or retaliation do not relate to the issues in an MDR, Parent persisted in testifying about and seeking to introduce exhibits that proved the mere fact that she has complained many times whenever a teacher angers Student. [See GJ IX Final Order at 51].⁶

resulting in discipline since the fifth grade is related to asserted disabilities (which have changed over the years) undercuts the argument.

⁶ Parent has made the same allegations against the many faculty and staff members who have served Student over the years. [*Supra* n.5]. And many of her allegations have been triggered by some form of disciplinary action. For years, LHOs and SROs have advised Parent to show a common front with District staff and to let Student learn about consequences before it's too late. Both Student's conduct and his lack of academic achievement are far more serious now than they were when he was in fourth grade. But the underlying issues are the same. Student believes if he does not want to do something, he doesn't need to do it. And he'll bully anyone, like the special education teacher, who tries to tell him otherwise.

Parent cannot expect that District will allow this. And Parent's refusal to support efforts to correct behavior is a huge disservice to Student. Three years ago, I commented:

I have a serious concern that District is simply taking the "path of least resistance," by declining to discipline Student so that Parent will stop complaining. If my concerns are valid, then both District and Parent are failing Student, and we will see the tragic, yet predictable, results in just a few years.

Plaintiff's third approach is to assert that Student's conduct are "avoidance" behaviors and that avoidance behaviors somehow prove a relationship to Student's disabilities. Everyone agrees that Student engages in avoidance behaviors, in that he often avoids doing what he is told if he does not want to do it. The issue is whether Parent proved that such behaviors are a manifestation of his disability. Parent based her claims on purported diagnoses of anxiety or depression that are unsupported by any evidence. But even if Parent offered sufficient proof on this point, the fact that students with a certain disability also engage in similar behaviors is not proof that Student's conduct at issue is a manifestation of a yet unproven affliction.

For the same reasons applicable to the causation standard, Parent has not carried her burden of proving that Student's identified disabilities bear a direct and substantial relationship to his conduct.

As to the second prong of the MDR test, the IEP team concluded that Student's conduct did not result from a failure to implement his IEP. Parent has not proven otherwise. Parent has not pointed to any provision of the IEP in effect

[GJ VI Final Order at 31]. As Student's conduct and academic achievement appear to have declined further, I am gravely concerned that we are starting to see the "tragic, yet predictable, results" about which I was worried *six due process complaints ago*. The misbehavior is becoming more serious, as are the academic issues.

on February 11 that District failed to implement.⁷ She did not even offer that IEP as evidence. Parent introduced the behavioral intervention plan (BIP) in effect in February, as well as the PWN for the IEP amendment the IEP team also issued last December. [Parent Exh. 19 (BIP), 21 (PWN/Amendment)]. But she has identified no provision in either document that District failed to implement.

Although District need not prove that the IEP team engaged in a proper analysis, the Record shows that it did. District documented the information considered, which included Student's IEP, his BIP, disciplinary records, evaluation reports, a written submission from Parent, information shared by the teachers, including their observations and insights, as well as the special education teacher's incident reports. [Parent Exh. 17 at 2-4; Parent Exh. 22].

All members of the IEP team were provided an opportunity to provide input regarding their experiences and observations of Student. This included the observations of the vice principal and English teacher, who confirmed that Student can – and has – regulated his conduct. The IEP team members discussed Student's conduct and the context in which he violates school rules. In other words, in addition to information in Student's file, the IEP team considered Student's "unique circumstances: as required by 20 U.S.C. § 1415(k)(1)(A).

⁷ Notwithstanding Parent's suggestion, neither Student's IEP nor his BIP permitted Student to listen to music on any device at any time of his choosing. Nor does either permit him to access his phone during instructional time. The BIP provided only that Student could use his headphones to listen to

the information in Student's file, the IEP team considered Student's "unique circumstances" as required by 20 U.S.C. § 1415(k)(1)(A).

The IEP team also properly considered context in determining whether and how Student displays the subject behavior in different situations. Conference Report, Individuals with Disabilities Education Improvement Act of 2004, H.R. Rep. No. 108-779, at 224-25 (Nov. 17, 2004) ("[I]f a change in placement is proposed, the manifestation determination will analyze the child's behavior as demonstrated across settings and across time when determining whether the conduct in question is a direct result of the disability.).

Further, the IEP had just discussed Student and his needs in an IEP meeting that occurred just four days before the MDR. On February 23, the IEP team created a new IEP and BIP to take effect in March. [Parent Exh. 13 (IEP); Parent Exh.4 (BIP); Parent Exh. 14 (PWN)].

Because Parent has not proven that District failed to implement Student's IEP (or BIP), she cannot prove that Student's conduct is related to any failure to implement. Thus, Parent also has not proven that the IEP team's erred in its determination as to the second prong of the MDR test.

IV. Conclusion

For these reasons, I find that Parent has failed to carry her burden of proof of showing that the IEP team erred when it determined that Student's conduct on February 11 was not a manifestation of any disability known to the team.



Brian P. Murphy
Local Due Process Hearing Officer

Dated March 30, 2026

Notice of Appeal Process⁸

Any party may appeal this ruling. A party seeking to appeal this ruling must do so **in writing** and **within ten (10) days** of receipt of this Order. The written appeal must be addressed to:

The South Carolina Department of Education
Office of General Counsel
849 Learning Lane
West Columbia, SC 29172

⁸ I will not accept, read, or consider further argument about the merits, unless this matter is remanded the SRO or the District Court. No email, letter, or other written communication will be construed or considered as either a Motion to Reconsider or as a Motion to Alter or amend this Order. No such communication may toll or extend the time limit set forth above for filing an appeal.