

This is a redacted version of the original decision. Select details have been removed from the decision to preserve anonymity of the student. The redactions do not affect the substance of the document.

Pennsylvania

Gifted Education Hearing Officer

DECISION

Child's Name: C.C.

Date of Birth: [redacted]

Date of Hearing:

February 18, 2016

OPEN HEARING

ODR Case # 17252-1516KE

Parties to the Hearing:

Parent[s]

Representative:

Pro Se

Solanco School District
121 South Hess Street
Quarryville, PA 17566

Mark Cheramie Walz, Esquire
Sweet Stevens
331 East Butler Avenue
New Britain, PA 18601

Date Record Closed:

February 18, 2016

Date of Decision:

February 29, 2016

Hearing Officer:

Jake McElligott, Esquire

INTRODUCTION AND PROCEDURAL HISTORY

[The student]¹ is a [middle-teenaged] student who has been identified as a gifted student under Pennsylvania gifted education regulations.² The student resides in, and has received gifted education through, the Solanco School District (“District”).

The student is deeply gifted in mathematics. As part of the student’s acceleration in mathematics, the student took 9th grade algebra as an 8th grade student and was awarded high school credit for the grade earned in the class. That credit, and the grade earned, factors into the student’s cumulative high school grade point average.

Parents filed a complaint alleging that, when discussing the 8th grade acceleration in mathematics, they were not informed of the potential impact on the student’s high school grade point average and consequent class rank. Parents ask that the District be directed to recalculate the student’s cumulative high school grade point average as it impacts [the student’s] class rank³.

¹ Because parents have selected an open hearing, the student’s name and gender-specific pronouns will be used in this decision. [Those details were redacted for publication, however.]

² 22 PA Code §§16.1-16.65.

³ In clarifying the issues at the outset of the hearing, the parties indicated that grade point average and class rank were somehow disconnected and that the student’s class rank (the focus of parents’ request) should be considered as separate, somehow, from the calculation of grade point average (that is, in the hearing officer’s words, the award of a numeric value based on an earned letter grade that is part of a cumulative calculation that results in a number reflective of the cumulative quality of the student’s high school work). (See Notes of Testimony at pages 15-17). Having heard all of the evidence presented by the parties, the distinction is unclear on this record. The broad discussion of class rank by necessity devolved into evidence of earned letter grades,

The District counters that its decisions as to awarding credit, assigning numeric equivalents to earned letter grades, factoring those numeric equivalents into a cumulative grade point calculation, and ultimately determining class rank are within its control and should not be disturbed.

Before the hearing convened, the hearing officer requested that the parents and District counsel participate in a conference call to discuss the hearing process, to provide an opportunity for anyone to ask questions, and to provide certain directives to the parties. As part of that conference call, and as expected, District counsel shared that he had jurisdictional concerns as to whether a gifted education hearing officer had authority to grant the relief requested by parents. The hearing officer instructed District counsel to provide to the hearing officer and the parents by a certain deadline any legal authority he felt supported his client's position. With that authority in hand, the parents were then provided with a deadline to provide any legal authority they felt countered the District's authority or provided a different view. The District submitted such authority; parents did not.

Regardless of the potential effect of the District's legal argument, the parties were informed that the hearing officer did not intend to act on

numeric equivalents, quality-point adjustments to reflect advanced levels of work, and, ultimately, a cumulative calculation based on those factors.

any such authority without an evidentiary hearing. In that way, parents would have the opportunity to be heard.

For the reasons set forth below, I find in favor of the District. Particularly, the legal authority cited by the District in light of the evidence then developed at the hearing session leads this hearing officer to conclude that he does not have the authority to instruct the District in the way parents request as remedy.

ISSUES

Does the hearing officer have the authority to grant the remedy requested by parents?

If so, should the District be directed to re-calculate the student's cumulative high school grade point average with potential consequent effects on the student's class rank?

FINDINGS OF FACT

1. [The student] is gifted, particularly, in mathematics. (School District Exhibit ["S"]-2).
2. As part of [the student's] gifted education program in 8th grade, [the student] took 9th grade algebra. (S-2).
3. Pursuant to District policy, [the student] was awarded high school credit for the 9th grade algebra class. As high school credit, that credit is still part of the student's cumulative grade point average

calculation and has consequent effects on class rank. (Parents' Exhibit ["P"]-1; S-7, S-13).

4. [The student] earned an A in the 9th grade algebra class, equivalent to a numeric value of 4.0. (S-10 at page 31).
5. For advanced placement classes, there is a quality adjustment on the numeric value assigned as the result of the earned letter grade. Specifically, an A in an advanced placement class is assigned a numeric value of 5.0. (S-7, S-10 at page 32).
6. The 9th grade algebra class was not an advanced placement class. (P-1; S-13, S-11 at page 40).
7. Upon subsequently enrolling in high school, [the student] has taken only both regular mathematics classes and advanced placement mathematics classes, earning an A grade in all classes. (S-1, S-13).
8. As of the date of the hearing, [the student's] cumulative high school grade point average was 4.0. The student's class rank was #2 in a class of 279 students. (S-13).
9. On January 15, 2016, [the student's] parents filed a gifted education complaint, seeking to have the District directed to recalculate the student's cumulative high school grade point average, or otherwise adjust the student's class rank. (S-12).
10. On February 3, 2016, the hearing officer held a prehearing conference call.

11. As part of that call, District counsel shared his view that the District felt there were jurisdictional issues related to whether the hearing officer had the authority to award the remedy sought by parents.
12. The hearing officer gave the District a deadline of February 9th to provide to the hearing officer and the parents any legal authority it felt supported its position that the hearing officer lacks the authority to grant the remedy requested by parents. The District provided this authority on February 4, 2016. (Hearing Officer Exhibit-1).
13. Parents were given until February 16th to provide any authority any legal authority they felt countered the District's authority or provided a different view. Parents did not provide any authority in that regard.
14. The hearing was held in one session, where both parties had the opportunity to present evidence. A District administrator and the student's father both testified.

DISCUSSION AND CONCLUSION OF LAW

The family of a gifted student may request a gifted education due process hearing where a dispute exists as to “the identification, evaluation or educational placement of, or the provision of a gifted

education to, a student who is gifted.” (22 PA Code §16.63(a)). On its face, the dispute which parents bring through their complaint does not involve [the student’s] identification, evaluation, placement, and/or programming as a gifted student.

More specifically, [the student’s] parents are asking the hearing officer to direct the District’s board of school directors in terms of how credit is awarded to students for work within the District, as well as how it should structure the nexus of earned letter grades, their numeric value for grade-point calculation, and how those matters ultimately impact the District’s understanding of ranking its students within each graduating class. These are matters firmly within the sole control of the District’s board of school directors, and the gifted education due process system cannot intrude on those matters.

The court opinions cited by the District are not exactly on point with the case in the instant matter but are persuasive for holding that how a local school district structures matters such as grading, credit-bestowal, grade point average calculation, and class ranks are not matters for gifted education due process. (*See generally* Saucon Valley School District v. Robert and Darlene O., 785 A.2d 1069 (Pa. Commonw. 2001); Woodland Hills School District v. S.F., 747 A.2d 433 (Pa. Commonw. 2000)).

More directly binding, however, are the provisions of Pennsylvania academic requirement regulations which vest in a local school district,

like the District in this matter, the requirement that students be prepared to attain academic standards in mathematics (among other curricular subjects): “(Local school districts) shall prepare students to attain academic standards in mathematics....” and “are responsible...for assessing individual student attainment of academic standards.” (22 PA Code §§4.12(a)(9), 4.12(c), 4.12(h)). In doing so, local school districts are given sole authority to design their curricula “with the greatest possible flexibility in curriculum planning consistent with providing quality education.” (22 PA Code §§4.4(a)-(b)).

Importantly, in these curricular and assessment provisions entrusted to local school districts, assessment includes “measurement of student performance on a set of academic standards in a subject area” and curriculum includes “a series of planned instruction aligned with the academic standards in each subject...designed to result in the achievement at the proficient level by all students”. (22 PA Code §§4.3).

In sum, in Pennsylvania local school districts are given a tremendous degree of flexibility in meeting academic standards (in mathematics among a number of academic areas) through the delivery of a curriculum of its choosing and structuring, as well as the assessment of student performance within that curriculum. All of this is explicitly and solely in the control of local school districts, as ultimately promulgated by a school district’s board of school directors. In the instant case, the District’s board of school directors has promulgated

specific policies as to how numeric values are aligned with earned letter grades and how class rank is determined. (S-7, S-8). It is beyond the authority of this hearing officer to instruct the District's board of school directors in how these policies should be written or implemented.

Accordingly, parents' claim for remedy is outside the authority of the gifted education due process system.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, the remedy sought by parents is beyond the authority of the gifted education due process system in Pennsylvania. The District's board of school directors cannot be instructed as to how earned grades are assigned numeric value and/or how the cumulative grade point average reflected in consequent calculations factor into the District's determination of class rank.

Any claim not specifically addressed in this decision and order is denied.

s/Jake McElligott, Esquire

Jake McElligott, Esquire
Gifted Education Hearing Officer

February 29, 2016

