

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

Pennsylvania Special Education Due Process Hearing Officer

Final Decision and Order

Closed Hearing

ODR No. 31243-24-25

Child's Name:

T.S.

Date of Birth:

[redacted]

Parent:

[redacted]

Local Educational Agency:

Mid Valley School District
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Throop, PA 18512

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Hearing Officer:

Michael J. McElligott, Esquire

Date of Decision:

09/15/2025

Introduction

This special education due process hearing concerns the educational rights of [redacted] (“student”), a student who attends school in the Mid Valley School District (“District”).¹ The student currently qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEA”)² as a student with an intellectual disability and speech/language (“S&L”) impairment.

The student’s parent filed the complaint which led to these proceedings. The parent claims that the District’s re-evaluation process was inappropriate. Parent also claims that the District denied the student a free, appropriate public education (“FAPE”) in the 2024-2025 school year and that the student’s program in the current 2025-2026 school year denies the student FAPE.³ The parent also brings denial-of-FAPE claims under the

¹ The generic use of “student”, and avoidance of personal pronouns, are employed to protect the confidentiality of the student.

² It is this hearing officer’s preference to cite to the pertinent federal implementing regulations of the IDEA at 34 C.F.R. §§300.1-300.818. *See also* 22 PA Code §§14.101-14.162 (“Chapter 14”).

³ The parent’s complaint included denial-of-FAPE claims for the 2023-2024 school year as well. A week before evidentiary sessions convened, counsel and the hearing officer were informed that the student’s special education teacher for the 2023-2024 school year—the key witness for claims related to that school year—would be unavailable for three months due to a medical leave. So that the instant hearing process was not delayed, where arrangements for the testimony of witnesses had already been made and especially given the fact that programming for the current school year was at issue, the hearing officer bifurcated the claims related to the 2023-2024 school year into a separate hearing process. The parent objected to the hearing officer’s procedural decision. (School District Exhibit [“S”]-22, S-23; Hearing Officer Exhibit-1; Notes of Testimony [“NT”] at 32-66).

Rehabilitation Act of 1973, particularly Section 504 of that statute (“Section 504”).⁴

The District counters that at all times it has met its obligations to the student under IDEA and Section 504.

For reasons set forth below, I largely find in favor of the District, although the order below will provide certain directives to the student’s individualized education program (“IEP”) team, and there will be a small award of compensatory education.

Issues

1. Was the District’s evaluation process and report, issued in March 2025, appropriate?
2. Was the student denied FAPE in the 2024-2025 school year?
3. Is the student’s programming in the 2025-2026 school year appropriate?

⁴ It is this hearing officer’s preference to cite to the pertinent federal implementing regulations of Section 504 at 34 C.F.R. §§104.1-104.61. See also 22 PA Code §§15.1-15.11. Parent also brings claims under the Americans with Disabilities Act of 1990 (“ADA”); special education due process in Pennsylvania, however, has no jurisdiction or authority to adjudicate claims under ADA.

Findings of Fact

All evidence of record was reviewed. The citation to any exhibit or aspect of testimony is to be viewed as the necessary and probative evidence in the mind of the hearing officer.

November 2022 Evaluation

1. In November 2022, in the student's [redacted] year, the student was evaluated by another school district where the student resided at that time. The student had enrolled in that school district from early intervention programming. (S-1 at page 1).
2. The November 2022 evaluation report ("ER") included cognitive testing which fell in the extremely low range (full-scale IQ 57). An assessment of non-verbal intelligence, with use of language in the assessment minimized, indicated a score in the low average range (full-scale index 85). (S-1 at pages 27-32, 49).
3. In the November 2022 ER, the student's academic achievement assessments were in the low range with significant weaknesses in reading, mathematics, and writing. (S-1 at pages 33, 49).
4. Assessments of social/emotional/behavioral performance in the November 2022 ER indicated mixed results, both through parent and

teacher input and through assessment instruments. (S-1 at pages 3-5, 24-25, 33-37).

5. The November 2022 ER included autism rating scales. The scales completed by the student's mother varied from the scales completed by the student's educators. (S-1 at pages 37-39, 50).
6. The assessment of the student's adaptive skills in the November 2022 ER indicated weaknesses in communication and activities of daily living, with adequate socialization skills. (S-1 at pages 39-40, 49).
7. The November 2022 ER contained the results of updated assessments in S&L, occupational therapy ("OT"), and physical therapy. (S-1 at pages 40-48).
8. The November 2022 ER identified the student was identified as a student with S&L impairment and, as a result of a previous diagnosis of anxiety and elevated assessment results for anxiety and depression, as a student with an other health impairment. (S-1 at page 48, 51-52).
9. Due to variable results on the autism assessments and input by parent and teachers, the November 2022 ER did not identify the student as a student with autism but indicated that further assessment or

consideration of potential autism “should be considered in the future if monitoring supports the need”. (S-1 at page 50).

2023-2024 School Year⁵

10. In the 2023-2024 school year, the student enrolled in the District for [redacted] grade. (Parent Exhibit [“P”]-1 at page 11).
11. In September 2023, the student’s IEP team developed the student’s IEP. (P-1).

2024-2025 School Year

12. In the 2024-2025 school year, the student attended [redacted] grade in the District, under the terms of the September 2023 IEP. (NT at 171-298).
13. In early October 2024, the student’s IEP team developed the student’s annual IEP. (P-2; S-11, S-12).⁶

⁵ Parent’s denial-of-FAPE claims related to the 2023-2024 school year are not at issue in this matter. Those claims are being heard through an evidentiary process at a different ODR file number. More precisely, the claims being heard at the other ODR file number are those related to the 2023-2024 school year and the 2024-2025 school year through the issuance of the October 2024 IEP. See Finding of Fact 13 and footnote 3.

⁶ The parties each utilized a separate party exhibit for the October 2024 IEP. Exact citation to the October 2024 IEP will be made to the parent’s exhibit, P-2.

14. The October 2024 IEP included, as a special consideration, an indication that the student has communication needs. (P-2 at page 13).
15. The October 2024 IEP included present levels of academic performance. On curriculum-based assessments in reading, the student scored at the 8th percentile in vocabulary and the 1st percentile in oral reading fluency. Reading comprehension levels could not be determined. (P-2 at pages 14-15).
16. The October 2024 IEP indicated that "(the student) needs to improve...skills in letter naming fluency and initial sound fluency in order to begin to gain phonemic awareness and improve in all other reading skill areas." (P-2 at page 15).
17. On curriculum-based assessments in mathematics, the student scored at the 14th percentile in number comparison fluency/triads, the 7th percentile in mental computation fluency, the 4th percentile in number sense fluency, and the 1st percentile in concepts and applications. (P-2 at pages 15-16).
18. The October 2024 IEP indicated that "(the student) needs to improve...skills in number naming fluency, number comparison fluency/pairs, and math fact fluency/1-digit." (P-2 at page 15-16).

19. The present levels of academic performance in the October 2024 IEP, and the testimony of the student's special education teacher, indicated that the student received curriculum, adapted for the student's needs, in oral language, mathematics, phonemic awareness, basic reading, and social skills. (P-2 at pages 16-17; NT at 171-298).
20. The October 2024 IEP contained present levels of functional performance, including relevant content from the November 2022 ER, updated performance levels for S&L, OT, and physical therapy, progress monitoring from goals in the September 2023 IEP, and teacher input. (P-2 at pages 17-25).
21. The October 2024 IEP contained parents' input and concerns. Parents sought to have the student progress academically, working closer to grade level, with more time in regular education, potentially involving the support of a paraprofessional. (P-2 at page 26).
22. The October 2024 IEP indicated that the student had needs in letter naming fluency, initial sound fluency, number naming fluency, and number comparison fluency/pairs. The IEP also indicated that the student had OT needs for handwriting, copying, and cutting. (P-2 at page 27).
23. The October 2024 IEP contained six goals, one goal in each of the areas of identified academic need in reading and mathematics

(letter naming fluency, initial sound fluency, number naming fluency, and number comparison fluency/pairs), one goal in OT (handwriting), and one goal in S&L (similarity/difference of items when presented orally). (P-2 at pages 32-34).

24. The baselines for the goals in the October 2024 IEP were drawn from the present levels of academic and functional performance. (P-2 at pages 14-25, 32-34; NT at 171-298, 310-342, 346-371).
25. The October 2024 IEP included program modifications and specially-designed instruction. (P-2 at pages 35-36).
26. Under the terms of the October 2024 IEP, the student received small group S&L intervention and small group OT intervention averaging 30 minutes per week. (P-2 at page 36).
27. The October 2024 IEP indicated that the student would qualify for extended school year ("ESY") programming in the summer of 2025. (P-2 at pages 37-39).
28. The October 2024 IEP indicated that the student would participate in the regular education environment for homeroom, lunch, recess, specials (art, music, computers, library), physical education, and STEM class. The student would receive all academic instruction in reading and mathematics in a life skills classroom and related services

(S&L and OT) in those support rooms. (P-2 at page 40; NT at 171-298, 310-342, 346-371, 375-444).

29. Placement considerations in the October 2024 IEP indicated that the student would spend 21% of the school day in regular education and 79% of the school day in special education. (P-2 at pages 40-42).

30. The District special education administrator who testified at the hearing indicated that the [redacted] elementary grades do not include separate periods or classroom time dedicated to science or social studies instruction. Instead, science and social studies curriculum is included in activities covered in students' homeroom period. The student received the delivery of this curriculum in the regular education homeroom. (NT at 375-444).

31. By late October 2024, when the IEP had been in place for approximately one month, the student was showing progress across all goal areas. (S-13).

March 2025 Re-Evaluation

32. In approximately January 2025, at a meeting between the student's mother and educators, the parent shared that the student had been medically diagnosed with autism. This information led to a District re-evaluation process. (S-14 at page 11; NT at 102-154).

33. In early March 2025, the District issued its re-evaluation report ("RR"). (S-14).⁷
34. The March 2025 RR contained parent input, which reiterated parents' concerns regarding the student's academic achievement and social skills. Parents sought for the student "to be challenged a bit more", with more access to regular education and the inclusion of an aide. (S-14 at page 2).
35. The March 2025 RR included content from the November 2022 ER at the former school district. (S-14 at pages 2-5).
36. The March 2025 RR included content from the October 2024 IEP. (S-14 at pages 5-8).
37. The March 2025 RR included input from the student's special education teacher and S&L therapist, and a classroom observation by the District evaluator. (S-14 at page 9).
38. The March 2025 RR included updated cognitive testing, yielding a full-scale IQ of 69. (S-14 at pages 12-16).
39. The March 2025 RR included updated academic achievement testing, with all sub-test and composite scores significantly below

⁷ The parties each utilized a separate party exhibit for the March 2025 RR. Exact citation to the March 2025 RR will be made to the SD exhibit, S-14.

average, most at the <1st percentile and some at the 1st or 2nd percentiles. (S-14 at pages 16-20).

40. The March 2025 RR included behavior rating scales completed by the student's mother and special education teacher. (S-14 at pages 20-28).
41. The mother's behavior ratings were largely at the average level with at-risk ratings in certain sub-scales and the internalizing problems and behavioral symptoms composites. The mother rated the student as clinically significant in the atypicality sub-scale. (S-14 at pages 20-28).
42. The teacher's behavior ratings were solidly in the average range across all sub-scales and composites except for at-risk ratings in the somatization, learning problems, and study skills sub-scales. (S-14 at pages 20-28).
43. The March 2025 RR included adaptive behavior rating scales completed by the student's mother and special education teacher. (S-14 at pages 28-30).
44. The adaptive scales completed by the two raters were highly consistent. (S-14 at pages 28-30).

45. In the conceptual domain, the raters both rated the student at the extremely-low range for functional academics sub-domain and the below-average range for self-direction sub-domain. The student's mother rated the student in the below-average range, and the student's teacher rated the student in the low range, in the communication sub-domain. Overall, in the conceptual domain, the mother's ratings were in the low range, and the teacher's ratings were in the extremely-low range. (S-14 at pages 28-30).
46. In the social domain, the ratings by both raters were identical, in the average range for the leisure and social sub-domains. Overall, in the social domain, both raters placed the student in the average range. (S-14 at pages 28-30).
47. In the practical domain, the raters had more variability in the sub-domain ratings. The student's mother rated the student in the below-average range, and the student's teacher rated the student in the extremely-low range, in the community use sub-domain. The student's mother rated the student in the extremely-low range, and the student's teacher rated the student in the average range, in the home/school living sub-domain. The student's mother rated the student in the extremely-low range, and the student's teacher rated the student in the average range, in the self-care sub-domain. In the

health & safety sub-domain, the ratings by both raters were identical, in the average range. Overall in the practical domain, however, the ratings by both raters were in the low range. (S-14 at pages 28-30).

48. The general adaptive composite by both raters was in the low range. (S-14 at pages 28-30).

49. The March 2025 RR included autism rating scales completed by the student's mother and special education teacher. (S-14 at pages 30-33).

50. The mother's ratings were largely in the average or slightly-elevated range, with elevated ratings in unusual behavior, peer socialization, behavior rigidity, sensory sensitivity and attention/self-regulation. The mother rated the student in the very-elevated range in atypical language. (S-14 at pages 30-33).

51. The teacher's ratings were entirely in the average range. (S-14 at pages 30-33).

52. The March 2025 RR included OT and S&L evaluations. (S-14 at pages 33-38).

53. The OT evaluator recommended that the student receive direct OT services for handwriting and copying. The S&L evaluator

recommended that the student receive services in receptive and expressive language. (S-14 at pages 37, 38).

54. The March 2025 RR identified the student with an intellectual disability and S&L impairment, with needs in functional reading, mathematics, and writing, communication skills, and handwriting. (S-14 at page 38).
55. In the March 2025 RR, the evaluator opined that the student qualified for an identification as a student with an intellectual disability as a result of the student's full-scale IQ and a range of low or extremely-low adaptive skills (including functional academics). (S-14 at pages 39-41).
56. In the March 2025 RR, the evaluator ruled out an identification as a student with an other health impairment, opining that "although (the student) is diagnosed with anxiety, input, observations, and rating scales do not indicate clinically significant data that (the anxiety) is impacting...education". (S-14 at page 41).
57. In the March 2025 RR, the evaluator ruled out an identification as a student with autism, as the autism ratings by the student's mother and teacher were, in general, not highly elevated. In addition, the evaluator noted that on the OT evaluation, the student did not

exhibit sensory deficits that impact the student's education. (S-14 at page 41).

March 2025 IEP

58. The March 2025 RR contained program recommendations for consideration by the student's IEP team. (S-14 at pages 42-44).

59. Following the issuance of the March 2025 RR, the student's IEP team met to revise the student's IEP. (P-4; S-16, S-17).⁸

60. The March 2025 IEP continued to include, as a special consideration, an indication that the student has communication needs. (P-4 at page 14).

61. The March 2025 IEP included present levels of academic performance. On curriculum-based assessments in reading, updated from the fall with a winter administration, the student's performance improved to the 20th percentile in vocabulary and remained at the 1st percentile in oral reading fluency. Reading comprehension levels again could not be determined. (P-4 at pages 15-16).

62. The March 2025 IEP continued to indicate that "(the student) needs to improve...skills in letter naming fluency and initial sound

⁸ The parties each utilized a separate party exhibit for the March 2025 IEP. Exact citation to the March 2025 IEP will be made to the parent exhibit, P-4.

fluency in order to begin to gain phonemic awareness and improve in all other reading skill areas.” (P-4 at page 16).

63. On the winter administration of curriculum-based assessments in mathematics, the student’s scores generally declined from the fall administration: from the 14th percentile in number comparison fluency/triads to the 10th percentile, from the 7th percentile in mental computation fluency to the 5th percentile, and from the 4th percentile in number sense fluency to the 2nd percentile. The student’s score in concepts and applications remained at the 1st percentile. (P-4 at pages 16-17).
64. The March 2025 IEP indicated that “(the student) needs to improve...skills in number naming fluency, number comparison fluency/pairs, and math fact fluency/1-digit.” (P-4 at page 17).
65. The student continued to receive curriculum, adapted for the student’s needs, in oral language, mathematics, phonemic awareness, basic reading, and social skills. (P-4 at pages 18-19; NT at 171-298).
66. The March 2025 IEP contained present levels of functional performance, including relevant content from the District’s March 2025 RR. (P-4 at pages 19-25).

67. The March 2025 IEP included comprehensive progress monitoring on the goals from the October 2024 IEP. (P-4 at pages 25-26).
68. The March 2025 IEP included input from the student's teachers. (P-4 at 26-27).
69. The March 2025 IEP contained parents' input and concerns. Parents continued to seek more time for the student in regular education, potentially involving the support of a paraprofessional (from input in December 2024). Parents' "biggest concern (was) meeting (the student's) social emotional needs due to (the) autism diagnosis". Parents also indicated they were undecided about whether or not the student would participate in eSY programming for the summer of 2025. (P-4 at pages 27-28).
70. The March 2025 IEP indicated that the student continued to have needs in letter naming fluency, initial sound fluency, number naming fluency, and number comparison fluency/pairs. The IEP also indicated that the student had OT needs for handwriting, copying, and cutting. There was no mention of the student's needs in expressive or receptive language. (P-4 at page 29).
71. The March 2025 IEP contained seven goals, one goal in each of the areas of identified academic need in reading and mathematics

(letter naming fluency, initial sound fluency, number naming fluency, and number comparison fluency/pairs), one goal in OT (legibility of letters and numbers), and two goals in S&L (similarity/difference of items when presented orally, antonyms for words presented orally). (P-4 at pages 35-38).

72. The baselines for the goals in the March 2025 IEP were drawn from the progress monitoring included in the present levels of academic and functional performance. (P-4 at pages 21-26, 35-38; NT at 171-298, 310-342, 346-371).
73. The letter-naming fluency academic goal was written for performance at the 11th percentile at the kindergarten level. (P-4 at page 35).
74. The initial-sound academic goal was written for performance at the 70th percentile at the kindergarten level. (P-4 at page 35).
75. The number comparison fluency/pairs academic goal was written for performance at the 11th percentile at the first grade level. (P-4 at page 36).
76. The number naming fluency academic goal was written for performance at the 15th percentile at the kindergarten level. (P-4 at page 37).

77. The March 2025 IEP included program modifications and specially-designed instruction. (P-4 at pages 39-42).
78. Under the terms of the March 2025 IEP, the student continued to receive small group S&L intervention and small group OT intervention averaging 30 minutes per week. (P-4 at page 42; NT at 310-342, 346-371).
79. The March 2025 IEP continued to indicate that the student would qualify for ESY programming in the summer of 2025. ESY programming at the District would include work on all of the student's IEP goals. (P-4 at pages 43-46).
80. The March 2025 IEP continued to indicate that the student would participate in the regular education environment for homeroom, lunch, recess, specials (art, music, computers, library), physical education, and STEM class. The student would continue to receive all academic instruction in reading and mathematics in a life skills classroom and related services (S&L and OT) in those support rooms. (P-4 at pages 47-49; NT at 171-298, 310-342, 346-371, 375-444).
81. Placement considerations in the March 2025 IEP continued to indicate that the student would spend 21% of the school day in regular education and 79% of the school day in special education. (P-4 at pages 49).

82. By March 2025, the student was showing progress across all goal areas in the October 2024 IEP. (P-4 at pages 21-25; NT at 171-298, 310-342, 346-371).
83. In May 2025, the parents filed the complaint which led to these proceedings. (S-22).
84. Over the period March – June 2025, the student showed consistent progress across all four academic goals and the OT goal. There is no S&L progress monitoring or goal-assessment data in the record over this period. (S-18; NT at 310-342).
85. In the summer of 2025, the parents arranged for private programming, and the student did not attend the District's ESY program. (S-21; NT at 79-97).

Credibility of Witnesses

All witnesses testified credibly. The witness whose testimony was accorded the most weight was the student's special education teacher, who taught the student in the 2024-2025 school year and who teaches the student in the current 2025-2026 school year. (NT at 171-298).

Legal Framework

A special education evaluation of a student must include a review of existing data, including parents' input, classroom-based assessments and observations, and observations by the student's educators. (34 C.F.R. 300.305(a); 22 PA Code §14.102(a)(2)(xxv)). The evaluation must "use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining" an understanding of the student's disability and the content of the student's individualized education program. (34 C.F.R. 300.304(b)(1); 22 PA Code §14.102(a)(2)(xxv)). Furthermore, the school district may not use "any single measure or assessment as the sole criterion for...determining an appropriate educational program for the child". (34 C.F.R. 300.304(b)(2); 22 PA Code §14.102(a)(2)(xxv)).

To assure that a child eligible under IDEA receives a FAPE (34 C.F.R. §300.17; 22 PA Code §14.102(a)(2)(iv)), the child's special education programming must be reasonably calculated to yield meaningful educational benefit to the student. (Board of Education v. Rowley, 458 U.S. 176, 187-204 (1982)). 'Meaningful benefit' means that a student's program affords the student the opportunity for significant learning in light of his or her individual needs, not simply *de minimis*, or minimal, or 'some', education progress. The child's education programming must be appropriately

ambitious in light of the child's strengths and needs, current levels of programming, and goals. (Endrew F. ex rel. Joseph F. v. Douglas County School District, 580 U.S. , 137 S. Ct. 988, 197 L. Ed. 2d 335, (2017); Dunn v. Downingtown Area School District, 904 F.3d 208 (3d Cir. 2018)).

A necessary aspect of the provision of FAPE requires that the placement of a student with a disability take into account the least restrictive environment ("LRE") for a student. Educating a student in the LRE requires that the placement of a student with disabilities be supported, to the maximum extent appropriate, in an educational setting as close as possible to regular education, especially affording exposure to non-disabled peers. (34 C.F.R. §300.114(a)(2); 22 PA Code §14.102(a)(2)(xii); Oberti v. Board of Education, 995 F.2d 1204 (3d Cir. 1993)).

Discussion & Conclusions

March 2025 RR. Here, as an initial matter, the District's March 2025 RR is appropriate. The March 2025 RR contains all the requisite elements for a comprehensive evaluation to place the student's multi-disciplinary team, and the IEP team, in a position to understand the student's strengths and needs, and to guide programming decisions. The evaluator synthesized the various aspects of content (input, observation, and assessments) to provide

those teams, and anyone generally reading the RR, in a position to understand the basis of the conclusions and recommendations of the RR.

Especially nuanced is the explanation in the March 2025 RR of the evaluator's views as to why the student was not identified as a student with an other health impairment or autism. The evaluator did not discount the medical diagnoses of anxiety or autism. Instead, the evaluator did exactly what the evaluation process requires—taking into account the mosaic of data available about the student to accurately determine the student's special education identifications in gauging where and how the student should receive support and programming.

This is especially important given the parents' concerns about the impact of the recent medical diagnosis of autism. Such diagnoses should not automatically drive special education identification and, here, the input and testimony from the educators about the student's social affect in school, the results of the behavior scales and the autism scales, and lack of sensory deficits gauged by the OT evaluation all support the conclusion that the student does not support a formal identification of the student as a student with autism. While parents may not agree with that conclusion, it is supported by the record.

Accordingly, the record taken in its entirety supports a finding that the District's March 2025 RR is appropriate.

IEPs. As for the student's special education programming, delivered through the October 2024 and March 2025 IEPs, these documents can be considered together in one regard but must be considered separately in other regards.

LRE. Neither IEP, and that is to say that the student's program/placement across the 2024-2025 school year since October 2024 and the current 2025-2026 school year, is inappropriate regarding issues of LRE. The student clearly has significant needs related to foundational, functional academics. Namely, the student was, and is, working on letter naming, number naming, initial letter sounds, and paired number comparisons. The District is appropriately dedicating a large portion of the student's school day to making sure that instruction toward those foundational, functional academics is taking place in an appropriate setting. Progress toward higher levels of academic performance in reading and mathematic, and ultimately written expression, require that the student receive the instruction in the placement outlined in both IEPs. The placements outlined in those IEPs is not overly restrictive or inappropriate.

October 2024 IEP. The programming in the October 2024 IEP is reasonably calculated to yield meaningful education benefit, in the form of significant learning given the student's unique needs.

The student clearly has significant needs related to foundational, functional academics. Namely, the student was, and is, working on letter naming, number naming, initial letter sounds, and paired number comparisons. The October 2024 IEP contains present levels, goal baseline data, goals, specially-designed instruction, services, and supports that are all reasonably calculated to yield meaningful education benefit. And progress monitoring data over the period October 2024 – March 2025 supports the finding that the student made consistent progress across three of the four goals.⁹ Thus, there is no denial-of-FAPE for the programming, as designed or implemented, in the October 2024 IEP.

March 2025 IEP. In most regards, the programming in the March 2025 IEP is reasonably calculated to yield meaningful education benefit, in the form of significant learning given the student’s unique needs. The present levels, goal baseline data, specially-designed instruction, services, and supports that are all reasonably calculated to yield meaningful education benefit.

Certain academic goals in the March 2025 IEP are ambitious enough given the student’s strengths and needs; other goals, however, are not ambitious enough. Specifically, this calculus is geared to the intersection of

⁹ The progress on the letter-naming, initial-sound, and number-naming goals showed consistent progress over October 2024 – March 2025. The number comparison fluency/pairs is somewhat flat, although does not show regression. (P-4 at pages 25-26).

the grade-level of the curriculum in the goal and the expected percentile necessary for goal mastery.

The initial-sound and number comparison fluency/pairs goals are appropriately ambitious. The initial-sound goal is written for goal mastery at the 70th percentile at the kindergarten level. The intersection of a high level of performance, even on a kindergarten curricular level, is ambitious given the student's cognitive and achievement profiles. The number comparison fluency/pairs goal is written for goal mastery at the 11th percentile at the first grade level. The lower level of performance is appropriately ambitious because the level of the performance is counter-balanced by the curricular level (one grade level higher than the other academic goals in the IEP).

This interplay between the performance levels and the curricular levels in the letter-naming fluency goal and the number-naming fluency goal, however, is not appropriately ambitious. The letter-naming fluency goal is written for goal mastery at the 11th percentile but only at the kindergarten level. Similarly, the number-naming fluency goal is written for goal mastery at the 15th percentile but only at the kindergarten level. In these two goals, either the performance level needs to be higher at the kindergarten level, or a lower performance level needs to utilize first grade curriculum.

To be sure, the student made progress on all four of the academic goals in the March 2025 IEP (as well as the OT goal). But the letter-naming

fluency goal and the number-naming fluency goal need to be strengthened. Accordingly, the order below will provide this directive to the student's IEP team.

There is one additional note, namely on this record there is no way to gauge the student's progress, or lack of progress, on the S&L goals in the March 2025 IEP. The four academic goals and the OT goal all contain progress monitoring results through the end of the 2024-2025 school year, but there is no data for the S&L goals. Compensatory education will be awarded as outlined immediately below.

Compensatory Education. Where a school district has denied FAPE to a student under the terms of IDEA, compensatory education is an equitable remedy that is available to a student. (Lester H. v. Gilhool, 916 F.2d 865 (3d Cir. 1990); Big Beaver Falls Area Sch. Dist. v. Jackson, 615 A.2d 910 (Pa. Commonw. 1992)).

The evidentiary scope of claims, which is not a point of contention in this matter, and the nature of compensatory education awards were addressed in G.L. v. Ligonier Valley School Authority, 801 F.3d 602 (3d Cir. 2015) The G.L. court recognized two methods by which a compensatory education remedy may be calculated.

One method, the more prevalent method to devise compensatory education, is the quantitative/hour-for-hour calculation, where, having

proven a denial of FAPE, the compensatory education remedy is calculated based on a quantitative calculation given the period of deprivation. In most cases, it is equitable in nature, and the award is a numeric award of hours as remedy.

The second method, a rarer method to devise compensatory education, is the qualitative/make-whole calculation, where, having proven a denial of FAPE, the compensatory education remedy is calculated based on a qualitative determination where the compensatory education remedy is gauged to place the student in the place where he/she would have been absent the denial of FAPE. It, too, is equitable in nature, but the award is based on services or interventions for the student, or some future accomplishment or goal-mastery by the student, rather than being numeric in nature.

Both calculations are a matter of proof. The quantitative/hour-for-hour approach is retrospective, looking back to understand the cumulative denial of FAPE, and is normally a matter of evidence based on IEPs or other documentary evidence that provides insight into the quantitative nature of the proven deprivation. The qualitative/make-whole approach is prospective, looking forward to some point in the future where the proven deprivation has been remedied, and normally requires testimony from someone with expertise to provide evidence as to where the student might have been, or

should have been, educationally but for the proven deprivation, often with a sense of what the make-whole services, or future student accomplishment/goal-mastery, might look like from a remedial perspective.

In this case, parents have requested quantitative compensatory education. (NT at 25). Thus, the award of compensatory education is an equitable hour-for-hour consideration in the hands of the hearing officer.

Here, the denial of FAPE which must be remedied is centered on a lack of progress monitoring over the period March – June 2025. To be precise, the March 2025 IEP was to be implemented on March 25, 2025, with the school year ending, ostensibly, in early June 2025, approximately eight weeks of schooling. Under the terms of the IEP, the student would have received approximately 30 minutes of S&L services. And it may be that the student made progress on the S&L goals in the March 2025 IEP. But there is no way of knowing, and this should be remedied (especially where it is a singular omission vis a vis the progress monitoring gathered and reported on the other goals in the IEP).

A formalistic award of four hours (30 minutes per week for eight school weeks) is not appropriate or equitable. Thus, as a matter of equity, the student will be awarded 25 hours of compensatory education for the omission of progress monitoring on the S&L goal over the period March – June 2025.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Mid Valley School District's March 2025 re-evaluation process and report for this student are both appropriate.

The design/implementation of, and progress under, the student's October 2024 IEP are appropriate.

The design/implementation of, and progress under, the student's March 2025 IEP are largely appropriate, although the letter-naming fluency and number-naming fluency goals must be strengthened in accord with the discussion and conclusions of this decision. Within 10 days of the date of this order, the student's IEP team shall meet to revise and to strengthen these goals in the student's IEP.

For the reasons set forth above, the student is awarded 25 hours of compensatory education.

Nothing in this decision and order should be read to limit the ability of the student's IEP team to act otherwise so long as any such action is the result of a meeting of the minds of the parties, evidenced through the

provision by the school district of prior written notice to, and the approval of, the parents.

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

s/ *Michael J. McElligott, Esquire*

Michael J. McElligott, Esquire
Special Education Hearing Officer

09/15/2025