

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 Special Education Hearing Officer
Final Decision and Order

CLOSED HEARING
ODR File Number: 20793-17-18

Child's Name: N. D. **Date of Birth:** [redacted]

Dates of Hearing:
6/20/2018

Parents:
[redacted]

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Hearing Officer: Cathy A. Skidmore, M.Ed., J.D. **Date of Decision:** 7/5/2018

INTRODUCTION AND PROCEDURAL HISTORY

The student (hereafter Student)¹ is a late elementary school-aged student residing in and attending the Parkland School District (District) who is eligible for special education pursuant to the Individuals with Disabilities Education Act (IDEA).² As Student completed the fourth grade year, a dispute arose between the parties surrounding the District's proposal for Extended School Year (ESY) services for 2018. Student's Parents filed a Due Process Complaint challenging that proposal, and an expedited hearing was held to permit a decision within thirty calendar days.³ The Parents asserted that the ESY program was not sufficiently intensive for Student's needs, challenging both procedural and substantive aspects of the proposal, while the District maintained that it was appropriate.

For the reasons set forth below, the Parents' claims will be granted with specific directives ordered for Student's ESY program.

ISSUES

1. Whether the District's proposed program for ESY in 2018 is appropriate for Student's needs?

¹ In the interest of confidentiality and privacy, Student's name, gender, and other personal information are not used in the body of this decision. All potentially identifiable information, including details appearing on the cover page of this decision, will be redacted prior to its posting on the website of the Office for Dispute Resolution in compliance with its obligation to make special education hearing officer decisions available to the public pursuant to 20 U.S.C. § 1415(h)(4)(A) and 34 C.F.R. § 300.513(d)(2).

² 20 U.S.C. §§ 1400-1482. The federal regulations implementing the IDEA are codified in 34 C.F.R. §§ 300.1 – 300. 818. The applicable Pennsylvania regulations are set forth in 22 Pa. Code §§ 14.101 – 14.163 (Chapter 14).

³ References to the record throughout this decision will be to the Notes of Testimony (N.T.), Parent Exhibits (P-) followed by the exhibit number, and School District Exhibits (S-) followed by the exhibit number. References to Parents in the plural will be made where it appears that one was acting on behalf of both Parents. The additional, non-expedited issues have been bifurcated and will be addressed separately following a hearing within the standard timelines.

2. If there are procedural and/or substantive flaws in the District's proposed ESY program, should the District be ordered to provide different or more intensive programming for the summer of 2018?

FINDINGS OF FACT

1. Student is a late elementary school-aged Student who is a resident of the District. Student is eligible for special education on the basis of Autism and a Speech/Language Impairment. Student also has a seizure disorder. (N.T. 25-26, 91; S-1.)
2. Student has limited verbal ability and is generally not able to communicate needs and wants. (N.T. 92, 191.)
3. Student did not show regression in speech/language skills at the start of the 2017-18 school year following an ESY program that provided for one session of direct speech/language therapy per week for five weeks. (N.T. 58-59, 78-79.)
4. The Parents have had concerns about the District's management of Student's behaviors over the course of the 2017-18 school year. They have kept Student home from school at times as a result, with Student absent from school between October 30, 2017 and January 8, 2018 as well as for the last eight days of the 2017-18 school year. (N.T. 30, 67, 93-94, 105.)
5. Student was last evaluated in the fall of 2017 with a Reevaluation Report (RR) issued on November 17, 2017. The RR included input from the Parents, a review of past evaluations and other records, classroom-based and other assessments, and a number of classroom observations by an Autistic Support Consultant and the school psychologist. (S-1.)
6. The RR included assessments in the areas of cognitive ability, reading, speech/language, occupational therapy, and adaptive behavior, in addition to a Functional Behavioral Assessment (FBA) of Student's elopement. The FBA was limited to one observation due to Student's absences. (S-1.)
7. The RR identified Student as eligible for special education with a primary disability category of Autism and a secondary category of Speech/Language Impairment. Student's needs were summarized to include development of reading fluency and comprehension, mathematics concepts, written expression (sentence writing), and receptive and expressive language skills. A behavioral need was identified for communicating wants and needs. (S-1.)
8. An IEP was developed in November 2017 following completion of the RR; the Parents attended that meeting. That IEP noted the needs identified in the RR, and summarized additional needs for small group instruction in a setting with a low student-to-adult ratio, increased to two or three adults supporting Student during transitions. Student's

instructional needs required modification and adaptation to, or replacement of, the general education curriculum. (S-2; S-21.)

9. Annual goals and short term objectives in the November 2017 IEP addressed reading comprehension and oral reading fluency; functional written expression; functional/prerequisite mathematics concepts; functional communication; following directions/elopement; and initiating peer and adult interactions. (S-2.)
10. The November 2017 IEP included a number of program modifications and items of specially designed instruction including a 1:1 Personal Care Assistant (PCA) and 2:1 adult assistance during transitions. Related services were for speech/language and occupational therapy, as well as transportation (door to door with a bus aide). (S-2.)
11. A Positive Behavior Support Plan (PBSP) addressing elopement was included in the November 2017 IEP. There is an Elopement Plan within the PBSP. (S-2.)
12. The November 2017 IEP identified the program as one of Supplemental Learning Support during the school year. (S-2.)
13. Student was determined to be eligible for ESY services at the November 29, 2017 IEP meeting. The IEP specified that ESY goals would be determined in February 2018. (N.T. 28-29, 64, 65; S-2 p. 48.)
14. The District did not specify ESY goals for 2018 in the November 2017 IEP because Student was out of school for an extended period of time and ESY needs could not be determined at that point in time. (N.T. 30, 65-66.)
15. The Parents did not approve the Notice of Recommended Educational Placement (NOREP) dated January 5, 2018 that accompanied the November 29, 2017 IEP. They provided a four-page document setting forth their concerns with the NOREP and IEP, including the absence of a plan for ESY services. (S-4.)
16. Student's IEP team met again on January 5, 2018. (N.T. 69.)
17. After Student returned to school in early January 2018, Student attended for partial days only with a plan for increasing the amount of time at school. Student never attended for full days before the end of the school year. (N.T. 68, 116, 127-28, 139-40.)
18. Evidence of Student's regression and recoupment of skills in areas other than speech/language skills, as gleaned from progress monitoring reports from January 2018 after Student's lengthy absence from school, is mixed. (S-28.)
19. In late January 2018, the Parents asked for an IEP meeting to discuss, among other things, ESY programming. (N.T. 97; P-1.)
20. After the Parents requested the meeting in late January 2018, the District scheduled IEP meetings at which ESY was on the agenda. There was never a specific IEP meeting scheduled to only discuss ESY. (N.T. 33-36, 45, 68-69, 71, 97; S-8.)

21. An IEP meeting convened on January 30, 2018. (N.T. 68-69; S-5.)
22. On February 21, 2018, the District revised Student's IEP to include ESY goals and sent a copy of the revised pages to the Parents with a new NOREP. The goals identified for ESY were for reading comprehension; functional written expression; functional/prerequisite mathematics;⁴ and social interactions with peers and adults. The Parents did not receive those documents in February 2018. (N.T. 71-72, 97-99, 129-30, 131-32; P-3; P-4; S-6; S-7; S-8 p. 1; S-24.)
23. At a SETT meeting in April 2018, ESY was again briefly discussed. (N.T. 74, 100-01.)
24. Another meeting of the IEP team convened on May 2, 2018. ESY was briefly discussed, and the Parents alerted the District that they had not received the February documents regarding ESY. The District resent the February 2018 revised IEP and NOREP to the Parents after the May 2, 2018 meeting. (N.T. 133-34, 156-58; P-2; P-3; P-4; S-24.)
25. Student's behaviors including elopement increased in frequency and duration toward the end of the 2017-18 school year. (N.T. 137-39, 178, 181.)
26. Student ended the 2017-18 school year (missing the final eight school days) attending approximately three hours per day. (N.T. 51.)
27. An IEP meeting was held on May 30, 2018 to discuss, among other things, ESY for 2018. The team discussed the need to focus on Student's behaviors and attending to task, as well as on speech/language needs, for ESY. (N.T. 55-56, 75, 164-65.)
28. The proposed ESY program is classroom-based with five students and four staff members. Occupational and speech/language therapy to include sensory and social/communication opportunities, as well as functional academics, are embedded within the daily programming. The program is highly structured. (N.T. 135, 159, 189-90, 192-93, 206, 213-14.)
29. The proposed ESY classroom is set up with different areas for teacher-directed activities, peer-directed interactions, independent work, and free space or play activities. (N.T. 173-74, 193-94.)
30. The proposed ESY classroom would have Applied Behavior Analysis (ABA) components, including positive reinforcement, task analysis, and errorless learning. (N.T. 174-77.)
31. The District proposed a full time one-on-one personal care assistant for Student for ESY. (N.T. 61, 151)

⁴ Although the Parents expressed a belief that this goal did not relate to mathematics, the skill described in the goal is a component of the Pennsylvania Common Core Standards for that subject area (available at, *e.g.*, <http://www.pdesas.org> (last visited June 25, 2018)).

32. The District planned to work with all students in the ESY classroom, including Student, on academic skills and activities based on their collective needs. (N.T. 62-63, 137, 151)
33. The ESY goals in the current IEP as revised on May 30, 2018 were for (a) transitions in the hallways, stairways, and between rooms with adult support; (b) transitions within the classroom with adult support; and (c) speech/language (following 2-3 step directions). S-8 pp. 55-57)
34. The May 30, 2018 revised IEP also proposed weekly speech/language therapy in addition to consultative occupational therapy, autistic support, and consultative BCBA support. (S-8 p. 56)
35. The District proposed direct speech/language therapy one time per week in a small group for ESY because that was the amount provided in 2017, and Student successfully maintained those skills. (N.T. 58-59, 78-79, 85-86)
36. The District proposed to implement the two transition goals during ESY because Student tended to exhibit difficult behaviors, including elopement, during transitions throughout the school building and classroom. The building where the classroom-based program would be held lacks any sets of stairs, so the only transition would be through the hallways. In addition, there will be fewer transitions during ESY compared to the school year; and, with only four classrooms in use, opportunities for elopement would be minimized. (N.T. 59, 135-36, 138-39, 188-89)
37. The District held a planning meeting with all District staff who would be involved in its ESY program on June 14, 2018, including occupational therapy consultation. (N.T. 58, 60-61, 150-51, 161.)
38. The IEP revised on May 30, 2018 was provided to the Parents on June 15, 2018. (N.T. 54; P-9)
39. In June 2018, the District sent a form letter to the parents of all children who would be attending the District's classroom-based ESY program. That letter specified the duration of the program (July 10 through August 9, 2018); the dates of the week (Tuesdays, Wednesdays, and Thursdays); and hours (9:00 – 12:00). (N.T. 46-47; P-7.)
40. The District designed its ESY program after considering a number of similar programs in the geographic area. (N.T. 51-53, 81-82, 142-43; S-20.)
41. The District professionals believed that the proposed program of three half-day sessions each week with staff who already know and work with Student, including the teacher, Autism Support Consultant, and BCBA, is appropriate, particularly in light of Student's behavioral needs. (N.T. 142-43, 149, 154, 173, 182-83, 185-86, 195-96, 198, 206)

42. The District's ESY program is scheduled to begin approximately three weeks after the end of the 2017-18 school year and end less than four weeks before the 2018-19 school year begins. (N.T. 52-53.)⁵
43. At the end of June, Student was attending outside services two hours per day, four days per week. Two of those days were for behavioral health services, and the other two days were for speech and occupational therapy. (N.T. 116-17)

DISCUSSION AND CONCLUSIONS OF LAW

GENERAL LEGAL PRINCIPLES

In general, the burden of proof is viewed as consisting of two elements: the burden of production and the burden of persuasion. At the outset of the discussion, it should be recognized that the burden of persuasion lies with the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006). Accordingly, the burden of persuasion in this case must rest with the Parents who requested this administrative hearing. Nevertheless, application of this principle determines which party prevails only in those rare cases where the evidence is evenly balanced or in "equipoise." *Schaffer, supra*, 546 U.S. at 58. The outcome is much more frequently determined by the preponderance of the evidence, as is the case here.

Special education hearing officers, in the role of fact-finders, are also charged with the responsibility of making credibility determinations of the witnesses who testify. *See J. P. v. County School Board*, 516 F.3d 254, 261 (4th Cir. Va. 2008); *see also T.E. v. Cumberland Valley School District*, 2014 U.S. Dist. LEXIS 1471 *11-12 (M.D. Pa. 2014); *A.S. v. Office for Dispute Resolution (Quakertown Community School District)*, 88 A.3d 256, 266 (Pa. Commw. 2014).

⁵ The District's website reflects that the first day of school for the 2018-19 school year is September 4, 2018, so the end of the ESY program is less than four weeks before the start of that school year. *See* https://www.parklandsd.org/schools/calendar?cal_date=2018-09-01 (last visited July 5, 2018).

This hearing officer found all of the witnesses who testified to be credible, testifying to the best of his or her recollection from his or her perspective. The testimony overall was essentially consistent on factual matters. As for the issues, there is no disagreement that Student is eligible for ESY services. The real dispute is over whether the District complied with its procedural obligations in proposing the ESY program; and, substantively, whether that proposal is appropriate to meet Student's individual needs. In reviewing the record, the testimony of all witnesses and the content of each admitted exhibit were thoroughly considered in issuing this decision, as were the parties' closing statements made on the record.

GENERAL IDEA PRINCIPLES: FREE APPROPRIATE PUBLIC EDUCATION

The IDEA and the implementing state and federal regulations obligate local education agencies (LEAs) to provide a "free appropriate public education" (FAPE) to children who are eligible for special education. 20 U.S.C. §1412. In *Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982), the U.S. Supreme Court held that this requirement is met by providing personalized instruction and support services that are reasonably calculated to permit the child to benefit educationally from the instruction, provided that the procedures set forth in the Act are followed. The Third Circuit has interpreted the phrase "free appropriate public education" to require "significant learning" and "meaningful benefit" under the IDEA. *Ridgewood Board of Education v. N.E.*, 172 F.3d 238, 247 (3d Cir. 1999). LEAs meet the obligation of providing FAPE to eligible students through development and implementation of an IEP that is "'reasonably calculated' to enable the child to receive 'meaningful educational benefits' in light of the student's 'intellectual potential.'" *Mary Courtney T. v. School District of Philadelphia*, 575 F.3d 235, 240 (3d Cir. 2009) (citations omitted).

Quite recently, the U.S. Supreme Court was called upon to consider once again the application of the *Rowley* standard, and it then observed that an IEP “is constructed only after careful consideration of the child’s present levels of achievement, disability, and potential for growth.” *Endrew F. v. Douglas County School District RE-1*, ___ U.S. ___, ___, 137 S. Ct. 988, 999, 197 L.Ed.2d 335, 350 (2017).

The “reasonably calculated” qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials. The Act contemplates that this fact-intensive exercise will be informed not only by the expertise of school officials, but also by the input of the child’s parents or guardians. Any review of an IEP must appreciate that the question is whether the IEP is reasonable, not whether the court regards it as ideal.

The IEP must aim to enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement. This reflects the broad purpose of the IDEA[.]

Endrew F., ___ U.S. ___, 137 S. Ct. 988, 999, 197 L.Ed.2d 335, 349-50 (2017)(citing *Rowley* at 206-09)(other citations omitted). The Court thus concluded that “the IDEA demands ... an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” 137 S. Ct. at 1001, 197 L.Ed.2d at 352. This standard is not inconsistent with the above longstanding interpretations of *Rowley* by the Third Circuit.

As *Endrew*, *Rowley*, and the IDEA make abundantly clear, the IEP must be responsive to the child’s identified educational needs. See 20 U.S.C. § 1414(d); 34 C.F.R. § 300.324. However, an LEA is not required to provide the “best” program, but rather one that is appropriate in light of a child’s unique circumstances. *Endrew F.*, *supra*; *Ridley*, *supra*; *Tucker v. Bay Shore Union Free School District*, 873 F.2d 563, 567 (2d Cir. 1989). In addition, an IEP must be judged “as of the time it is offered to the student, and not at some later date.” *Fuhrmann v. East Hanover Board of Education*, 993 F.2d 1031, 1040 (3d Cir. 1993); see also *D.S. v. Bayonne Board of Education*, 602 F.3d 553, 564-65 (3d Cir. 2010) (same).

ESY PRINCIPLES

This FAPE requirement extends to provision of ESY services as necessary for the child.

34 C.F.R. § 300.106(a)(1). Pennsylvania sets forth a number of criteria that IEP teams must consider to determine whether a student is eligible for ESY:

(i) Whether the student reverts to a lower level of functioning as evidenced by a measurable decrease in skills or behaviors which occurs as a result of an interruption in educational programming (Regression).

(ii) Whether the student has the capacity to recover the skills or behavior patterns in which regression occurred to a level demonstrated prior to the interruption of educational programming (Recoupment).

(iii) Whether the student's difficulties with regression and recoupment make it unlikely that the student will maintain the skills and behaviors relevant to IEP goals and objectives.

(iv) The extent to which the student has mastered and consolidated an important skill or behavior at the point when educational programming would be interrupted.

(v) The extent to which a skill or behavior is particularly crucial for the student to meet the IEP goals of self-sufficiency and independence from caretakers.

(vi) The extent to which successive interruptions in educational programming result in a student's withdrawal from the learning process.

(vii) Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe mental retardation, degenerative impairments with mental involvement and severe multiple disabilities.

22 Pa. Code § 14.132(a)(2). If the student is eligible, the team must also determine the services to be provided. 22 Pa. Code § 14.132(a)(1). In determining whether a proposed ESY program is appropriate, the general principles applicable to special education must be applied, since ESY services must be provided in accordance with the child's IEP. 34 C.F.R. § 106(b). In addition, "a public agency may not ... [u]nilaterally limit the type, amount, or duration of [ESY] services." 34 C.F.R. § 106(a)(3).

PROCEDURAL FAPE

From a procedural standpoint, the family plays “a significant role in the IEP process.” *Schaffer, supra*, 546 U.S. at 53. Indeed, a denial of FAPE may be found to exist if there has been a significant impediment to meaningful decision-making by parents. 20 U.S.C. § 1415(f)(3)(E); 34 C.F.R. § 300.513(a)(2).

The IEP proceedings entitle parents to participate not only in the implementation of IDEA's procedures but also in the substantive formulation of their child's educational program. Among other things, IDEA requires the IEP Team, which includes the parents as members, to take into account any “concerns” parents have “for enhancing the education of their child” when it formulates the IEP.

Winkelman v. Parma City School District, 550 U.S. 516, 530 (2007).

THE PARENTS' CLAIMS

The Parents first challenge procedural aspects of the District's ESY proposal for 2018. The record is preponderant that the IEP team found Student eligible for ESY in November 2017, notwithstanding any facial errors in the body of the IEP. The evidence also establishes that the parties convened a number of IEP meetings at which ESY was to be discussed, but the team was, understandably, more focused on other issues of urgency such as Student's continued elopement and safety. The Parents' contention that they were not able to participate in discussions about the specifics of Student's ESY program is complicated by the District's efforts to provide information about ESY to the Parents in February 2018 that were not received by them until May.

What is clear, however, is that the District's proposal of a five-week, three day-a-week (Tuesday/Wednesday/Thursday), three-hour a day schedule (P-7) was not based upon a consideration of Student's individual and unique needs. Rather, the District developed a finite schedule for ESY programming, and provided it to the Parents through a form letter, followed by

specification in Student's IEP of the goals that would be addressed in that program. While it is apparent that the District members of the IEP team had the intention to include the Parents in discussions of what Student's ESY program would involve (beyond the temporal parameters), and that the filing of the Parents' Due Process Complaint may have impacted their ability to do so before the expedited hearing convened, this hearing officer must agree with the Parents that their opportunity to meaningfully participate in decisions regarding Student's ESY program for 2018 was impeded in this matter.⁶ The proposal further violates the procedural protections in the IDEA regarding unilateral limitation of the amount of services.

Substantively, the Parents are concerned that the District's proposed ESY program does not meet Student's academic needs, especially since they find that Student's behaviors are less problematic when Student is challenged. They are also concerned with the duration of the proposed program, believing a lengthier period of time is necessary, as well as a longer day toward the end of ESY to prepare Student for the normal school day in the fall. (N.T. 106-08, 111.)

The District provided a significant amount of information at the hearing describing the services it was proposing for ESY this summer. That testimony was persuasive and specific. It may well be that the program detailed at the hearing would, in the end, meet all of Student's ESY needs. The hurdle, however, is related to the procedural concerns set forth above; namely, that the Parents were not made aware of the particulars of the ESY program prior to the hearing and, moreover, the IEP provided to them on June 15, 2018 sets forth little more than a skeletal outline of the coordinated set of services that the District has planned.

⁶ Were this matter not expedited, an IEP meeting very likely could have been scheduled to address the ESY program in a timely manner. However, this decision resolves the dispute prior to the start of the District's coordinated program of ESY services.

With respect to the content, it is evident that Student's behavior must be a priority. However, the ESY goals in the June 15, 2018 IEP relate solely to behavior during transitions in addition to speech/language (following directions); none address the various areas of academics that the District intends to provide. Additionally, it is significant that the opportunities for Student to elope during transitions would be significantly minimized in the building where the ESY services are to be provided, so it is unclear why the academic goals that were proposed in February 2018, with attendant monitoring of progress, cannot also be part of that program. As noted above, the Pennsylvania regulations emphasize the importance of self-sufficiency and independence, as well as interruptions in educational programming, when considering ESY services. Furthermore, requiring the District to address specific academic goals on which progress would be monitored, and thereby informing the Parents of the precise academic tasks on which Student would be working, would likely go a long way toward assisting these parties in resuming their collaborative relationship going forward. Accordingly, the District will be ordered to make certain revisions to the ESY section of the IEP. Those revisions will not, however, require change to the level of related services based on this record.

The duration of ESY services for this year must also be addressed. Since sometime in June, Student was demonstrating an ability to attend to privately arranged services for two hours a day, four days each week, or eight hours per week. The District is proposing nine hours per week on a different schedule. On balance, this hearing officer concludes that the ESY programming must be provided with services gradually increasing to four hours per day, four days each week, to assist Student with the transition back to school in September for more than a few hours. As for the number of weeks, this hearing officer concludes that it is necessary to limit the number of sequential days after the ESY program ends in light of the significant difficulties

Student experienced in returning to school in January 2018 after an extended absence. As a matter of equity, then, Student will be provided with the equivalent of one additional week of ESY services as a form of compensatory education for use as a transition between ESY and the start of the 2018-19 school year.⁷

The attached order will provide the directives to the IEP team for the ESY services to be provided to Student in 2018.

ORDER

AND NOW, this 5th day of July, 2018, in accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** as follows.

1. Not later than July 10, 2018, the first day of ESY programming in the District, the ESY section of Student's IEP shall be revised to return the annual goals and short term objectives relating to reading, writing, mathematics, and social skills as set forth in S-6 to the body of the IEP. In addition, the Program Modifications/Specially Designed Instruction section of the IEP shall be revised to specify that the PCA will be available through an anticipated duration date of November 28, 2018, consistent with the comparable section of the PBSP.
2. During the week of July 9, 2018, Student shall be provided with two hours per day of ESY programming, on July 10, 11, and 12, 2018, at the location specified by the District.
3. During the week of July 16, 2018, Student shall be provided with two hours per day of ESY programming on four weekdays to include July 17, 18, and 19, 2018, at the location specified by the District.
4. During the weeks of July 23, 2018 and July 30, 2018, Student shall be provided with three hours per day of ESY programming on four weekdays to include July 24, 25, 26, and 31, and August 1 and 2, 2018, at the location specified by the District.

⁷ Compensatory education is an equitable remedy designed to remedy deficiencies in a student's special education program. *M.C. v. Central Regional School District*, 81 F.3d 389, 397 (3d Cir. 1996); *Lester H. v. Gilhool*, 916 F.2d 865 (3d Cir. 1990).

5. During the week of August 6, 2018, Student shall be provided with four hours per day of ESY programming on four weekdays to include August 7, 8, and 9, 2018, at the location specified by the District.
6. Student is awarded sixteen (16) hours of compensatory education to be used for appropriate summer programming after August 9, 2018. Student's Parents may decide how and when the compensatory education is provided. The compensatory education may take the form of any appropriate developmental, remedial, or enriching educational service, product, or device that furthers Student's educational and related services needs. The hours of compensatory education may be used at any time prior to the first day of school of the 2018-19 school year.
7. Nothing in this decision and order should be read to preclude the IEP team, including the Parents in consultation with the BCBA and Autistic Support Consultant, from increasing the number of hours or days of Student's ESY programming.
8. Nothing in this decision and order should be read to preclude the parties from altering any of the terms of this order, including substituting services outside the District for those ordered herein, as an additional form of compensatory education.

It is **FURTHER ORDERED** that any claims not specifically addressed by this decision and order are DENIED and DISMISSED.

Cathy A. Skidmore

Cathy A. Skidmore
HEARING OFFICER
20793-1718AS