

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. 31909-25-26

Child's Name:

M.K.

Date of Birth:

[redacted]

Parent:

[redacted]

Counsel for Parent:

Jonathan Steele, Esquire
525 Beaver Street Extension, Suite 208
Mars, PA 16046

Local Education Agency:

Central Greene School District
250 South Cumberland Street
Waynesburg, PA 15370

Counsel for the LEA:

Adam Belletti, Esquire
54 South Washington Street
Waynesburg, PA 15370

Hearing Officer:

Cathy A. Skidmore, Esquire

Date of Decision:

03/26/2026

INTRODUCTION AND PROCEDURAL HISTORY

The student, M.K. (Student),¹ is a beyond school-aged student residing with the Parent and enrolled in Central Greene School District (District or local education agency (LEA)). Student has been identified as eligible for special education pursuant to the Individuals with Disabilities Education Act (IDEA)² and accordingly has a disability and entitled to the protections under Section 504 of the Rehabilitation Act of 1973.³

In September, 2025, the Parent filed a Due Process Complaint under the IDEA and Section 504 raising a number of issues including a denial of a free, appropriate public education (FAPE) because certain related services were not provided over the 2023-24 and 2024-25 school years. The parties reached and reported an agreement in principle in October 2026 and the matter was closed with a conditional dismissal. In early January, following notice that the agreement was not finalized, the case was reinstated and convened for an efficient hearing in late

¹ In the interest of confidentiality and privacy, Student's name, gender, and other potentially identifiable information are not used in the body of this decision. All personally 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 29 U.S.C. § 794. The federal regulations implementing Section 504 are codified in 34 C.F.R. §§ 104.1 – 104.61; the applicable Pennsylvania regulations are set forth in 22 Pa. Code §§ 15.1 – 15.11 (Chapter 15).

February 2026.⁴ Commendably, counsel agreed to a series of stipulations that streamlined the need for presentation of evidence.

Following review of the record and for all of the reasons set forth below, the claims of the Parent must be granted and appropriate relief ordered.

ISSUE

Whether the agreed amount of compensatory education should be limited to specific terms, conditions, and permissible uses?

FINDINGS OF FACT

1. Student is beyond school-age and has graduated from the District. Student is eligible for special education under the IDEA (Autism, Intellectual Disability, and Post Traumatic Stress Disorder) and has a disability pursuant to Section 504.

⁴ References to the record throughout the findings and discussion in this decision will be to the Notes of Testimony (N.T.), Parent Exhibits (P-) followed by the exhibit number, School District Exhibits (S-) followed by the exhibit number, and Hearing Officer Exhibit 1 (HO-1). Citations to duplicative exhibits and testimony generally are not exhaustive. The Parent's objection to the District exhibits is overruled with respect to S-1 through S-14 because they are non-duplicative and necessary to understand the narrow issue presented; in addition, counsel for the parties reached a number of agreements such as deferral of disclosure due dates and it is understandable that one of them may have misunderstood one such agreement. (HO-1.) The Parent's objection to all other District exhibits is sustained.

Student also has limited vision. (N.T. 42, 134; P-2; P-3; P-4.)

2. Student is able to use words to convey wants and needs, and often engages in scripting from cartoons. Student also understands better with visual cues and having the ability to see people and items. (N.T. 53-55.)
3. Student is able to use technological devices such as a smart phone or tablet to watch and listen to television shows, [redacted] with the better vision. (N.T. 50-51.)
4. Student engages in self-injurious behavior (SIB) several times each day, [redacted] but also other parts of Student's body. Student is able to walk and move independently in familiar locations but tends to hold onto the Parent in unfamiliar spaces. (N.T. 48, 52-53.)
5. The parties entered into a prior settlement agreement in March 2024 resolving similar claims and providing for compensatory education. The procedure for accessing the funds was straightforward: the Parent would request certain services or items from the District based on her research of how Student might benefit, and the Superintendent would either approve or deny the request, with approval occurring much more frequently until the funds were exhausted. (N.T. 64-65; P-1; P-7; S-1 through S-14 inclusive.)

6. Many of the items that the Parent requested were related to Student's sensory needs and SIB. (N.T. 78-81, 91-93, 116.)
7. Student's Individualized Education Programs (IEPs) for the relevant time period included, among annual goals and specially designed instruction, speech/language therapy, counseling, vision services, and orientation and mobility training. (P-2; P-3; P-4.)
8. Student attended a non-District placement at the start of the 2023-24 school year, but missed many days of school because the placement was unable to provide appropriate vision services. Student then transferred to a different placement operated by the local Intermediate Unit (IU). (N.T. 43-44.)
9. Student engaged in SIB over the 2023-24 school year, frequently involving [redacted]. This SIB would occur several times each day. The IU limited the amount of time that Student was permitted to attend school as a result. (N.T. 48-49.)
10. In March 2024, Student was hospitalized in order to determine if a medication change might diminish the occurrences of SIB. That hospitalization lasted until the end of the 2023-24 school year. (N.T. 109.)
11. During the 2024-25 school year, Student transitioned to a different IU campus because the classroom moved there. As

in the prior school year, Student's school day was shortened because of Student's behaviors. (N.T. 60-61, 111.)

12. Also during the 2024-25 school year, the IU conducted a trial of Student's use of a tablet at school. (N.T. 132-33.)

13. Over the relevant school years, Student was not provided many hours of speech/language therapy, counseling, vision and mobility services. A District administrator kept a well-organized, color-coded calendar tracking the missed services. Lack of staffing at the IU was often the reason for the missed services. (104-05; P-6.)

14. The District administrators believe that Student's compensatory education should be used solely for replacement of services that Student was not provided. (N.T. 124-26, 143.)

DISCUSSION AND APPLICATION OF LAW

General Legal Principles

The burden of proof is viewed as consisting of two elements: the burden of production and the burden of persuasion. 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 Parent who filed the Complaint leading to 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.

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). This hearing officer found each of the witnesses who testified to be credible as to the facts. Their testimony was essentially quite consistent where it overlapped. In the relatively few instances that there were contradictions, those are attributed to lapse in memory or recall, or to differing perspectives, rather than an intention to mislead. The weight accorded the evidence, however, was not equally placed; the documentary evidence was accorded significant weight.

The findings of fact were made as necessary to resolve the issues; thus, not all of the testimony and exhibits were explicitly cited. However, in reviewing the record, the testimony of all witnesses and the content of each admitted exhibit were thoroughly considered, as were the parties’ closing statements.

The Parent’s Claim

The sole area of disagreement is whether the compensatory education fund should be limited to services that Student missed,

or whether requests for products and devices that benefit Student because of disability-related needs should be permitted as well. In this hearing officer's view, there are several reasons to permit use of the fund beyond the missed services.

First, the main reason for the missed services is a lack of staffing for the IU. There can be no dispute that the Parent and Student reside in a rural part of the Commonwealth where shortages of related service providers is almost certainly more common than in its cities. Limiting the Parent and Student to services that they may or may not be able to obtain before the end of the term of the agreement would deprive Student of the ability to access the funds to which Student is entitled. The District's citation to cases in support of its position, including *C.G. ex rel. A.S. v. Five Town Community School District*, 513 F.3d 279, 289 (1st Cir. 2008), and *Stapleton v. Penns Valley Area School District*, 2017 U.S. Dist. LEXIS 204143, 2017 WL 6336611 (M.D. Pa. 2017), do not dictate the result it seeks.

A second basis for declining the limitation sought by the District is that, despite the limited understanding some may have as to the benefit of specific items to individuals with sensory needs, each of the products that the Parent has requested over time and were approved by the District are appropriate developmental, remedial, or enriching educational service, product, or device that further Student's identified educational and related services needs in the areas of identified disability.

This language has been traditionally used in special education administrative decisions for as long as the undersigned has been in this role, and she finds no reason to depart from it now.

A final rationale for declining to limit the compensatory education is that the Parent has proposed a service-related tie to use of the fund which this hearing officer herein adopts in light of the District's serious reservations. The Parent's suggestion is that she and Student be permitted to access services, products, and devices that are specifically recommended for Student by a relevant related-service provider. This logical condition will ensure that Student and the Parent are consulting with relevant providers and making requests that at least one of them approves, even if they are not directly providing a service. This limitation should serve to reassure the District that the Parent is seeking only beneficial and/or necessary uses of the compensatory education fund. The attached order will specify the procedure to be used by the parties for its implementation.

CONCLUSION OF LAW

The Parent and Student's use of the agreed compensatory education fund must be subject to certain conditions before submission to the District for approval but shall not be limited to the extent requested by the District.

ORDER

AND NOW, this 26th day of March, 2026, in accordance with the foregoing findings of fact and conclusions of law, it is hereby

ORDERED as follows.

1. The use by the Parent and Student of the compensatory education funds at issue shall be conditioned upon each of the following:
 1. Each request for use of the fund shall be accompanied by a written recommendation by a related service provider.
 2. Upon request of the District, the related service provider shall provide a brief explanation of how the developmental, remedial, or enriching educational service, product, or device is expected to benefit Student's identified educational and related services needs in the areas of identified disability.
 3. Following compliance with these conditions, the District shall approve the recommendation using the current procedure.
 4. This procedure shall remain in effect through the term of the parties' current settlement agreement.

2. Nothing in this decision and order should be read to preclude the parties from mutually agreeing to alter any of its terms.

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

/s/ Cathy A. Skidmore

Cathy A. Skidmore, Esquire
HEARING OFFICER
ODR File No. 30919-25-26

Sent to counsel for both parties this date as required by 34 C.F.R. § 300.515 by electronic mail message as requested by counsel consistent with 22 Pa. Code § 14.162(n) to be followed by a District copy via U.S. mail.