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

DECISION

Child's Name: E.N.

Date of Birth: [redacted]

Dates of Hearing:

January 8, 2013
January 9, 3013
January 15, 2013
January 16, 2013

CLOSED HEARING

ODR Case # 3346-1213KE

Parties to the Hearing:	Representative:
Parent	Charles Jelley, Esquire 229 South Maple Street Greensburg, PA 15601
Port Allegany School District 20 Oak Street Port Allegany, PA 16743	Jeffrey Champagne, Esquire McNees, Wallace & Nurick 100 Pine Street P.O. Box 1166 Harrisburg, PA 17108
Date Record Closed:	March 18, 2013
Date of Decision:	April 9, 2013
Hearing Officer:	Jake McElligott, Esquire

INTRODUCTION AND PROCEDURAL HISTORY

[Student] (hereinafter "student") is a [teenaged] student who resides in the Port Allegany School District ("District") and who has been identified as a student with a disability under the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEIA") and Pennsylvania special education regulations ("Chapter 14").[1] Specifically, the student has been identified as a student as having specific learning disabilities and speech and language impairment. Parent alleges that the student was denied a free appropriate public education ("FAPE") as the result of allegedly inappropriate evaluation processes/reports and individualized education plans ("IEPs").

Additionally, parent makes claims that the student was denied FAPE under the provisions of Section 504 of the Rehabilitation Act of 1973 ("Section 504"),[2] as well as claims that the student suffered discrimination, prohibited by Section 504, as a result of deliberate indifference on the part of the District. As a result, parent seeks an award of compensatory education, accruing from July 3, 2010 (two years prior to the filing date of the complaint), a prospective order for a residential placement at a private school specializing in reading

[1] It is this hearing officer's preference to cite to the pertinent federal implementing regulations of the IDEIA at 34 C.F.R. §§300.1-300.818. *See also* 22 PA Code §§14.101-14.164.

[2] 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., 15.10 wherein Pennsylvania education regulations explicitly adopt the provisions of 34 C.F.R. §§104.1-104.61 for the protection of "protected handicapped students".

disorders, and a finding that the District engaged in discrimination against the student.

The District counters that that it met its obligations to the student under IDEIA and Section 504. Therefore, the District asserts that no remedy is owed, whether compensatory education or an order for a prospective placement. The District also disputes that there is no basis for a finding of discrimination.

For the reasons set forth below, I find in favor of the parent and student on claims for compensatory education arising out of a denial of FAPE, and in favor of the District on claims of discrimination. I decline to order a prospective private placement for the student.

ISSUES

Was the student provided with FAPE
during the 2010-2011 (5th grade), 2011-2012 (6th grade),
and/or 2012-2013 (7th grade) school years?

If the answer to this question is "yes",
is compensatory education owed to the student?

Is the student entitled to a prospective placement,
by hearing officer order, at a residential private placement?

Did the District discriminate against the student
in violation of Section 504?

FINDINGS OF FACT

1. The student has attended District schools for the entirety of the student's educational years. (Parent's Exhibit ["P"]-7).

2. In May 2007, at the conclusion of the student's 1st grade year, after concerns about the student's reading and language skills, the District issued an initial evaluation report ("ER"), finding that the student was not eligible as a student with a specific learning disability. The ER found, however, that the student was a student with a speech and language impairment. (P-2d, P-2e).

3. The ER noted some behavioral difficulties, but these difficulties did not impact the student's learning or the learning of others. (P-2d, P-5c).

4. In February 2010, during the student's 4th grade year, anticipating the required triennial re-evaluation of the student, the student's mother waived the re-evaluation. (P-5b).

5. At the same time, in February 2010, the student's IEP team met for its annual meeting to revisit the student's IEP. The IEP contained one speech and language goal. The IEP noted behavioral difficulties in staying focused and inattentiveness. The student received accommodations on the Pennsylvania State Standard Assessment testing ("PSSA"). Also, a teacher noted that he would sometimes need to give the student one-on-one directions. (P-5c).

6. The student's four 4th grade teachers who provided input in the present levels of educational performance in the February 2010 IEP rated the student's rate of learning as below average. Additionally, each indicated marked behavioral difficulties, including poor social skills, problems interacting with peers and adults, lack of interest, inattentiveness, and no motivation. (P-5c; Notes of Testimony ["NT"] at 162-164. See also NT at 338-339).

7. The February 2010 speech and language IEP was in effect at the outset of the student's 5th grade year, the 2010-2011 school year. (P-5c).

8. Throughout 5th grade, the student received language arts in an inclusive classroom with both regular education and special education students. A special education teacher provided reading instruction to the student as one of a pair of students. Because of

behavioral difficulties, the student was provided spelling in one-to-one instruction. (NT at 167-168, 698-702).

9. The student experienced behavioral difficulties in 5th grade, including inattentiveness, off-task behavior, and disruption. In the words of one teacher, the student would "shut down"; the special education teacher who worked with the student developed strategies to help the student be more cooperative and available for instruction. (P-6b; NT at 703-704. See also NT at 338-339).

10. One 5th grade teacher sat next to the student to encourage attentiveness and engage in redirection. Additionally, weekly emails were sent to parent regarding the student's "work ethics and behavior". (P-6b).

11. In January 2011, the student's IEP team met for its annual meeting to revisit the student's IEP. The IEP contained only one speech and language goal and did not address the student's behaviors. (P-6b; NT at 462-463, 466-472).

12. In July 2011, a building-level District administrator responded by letter to a communication from a private counselor seeing the student. The District administrator detailed the District's long-standing concerns with the student's behaviors in school over multiple past school years. The administrator also completed an attention deficit hyperactivity disorder rating scale for school behaviors, indicating multiple problematic behaviors in the school environment. (P-6d; School District Exhibit ["S"]-2; NT at 170-172, 338-339, 341-345).

13. The student began the 6th grade year, the 2011-2012 school year, with the January 2011 speech and language IEP. (P-6b).

14. In September 2011, the student's mother requested a re-evaluation of the student due to concerns over the student's learning and behaviors. (P-6e, P-6f; NT at 172-173, 466-467).

15. In October 2011, the student's mother sent a letter to the District voicing concerns about the student's academics, behaviors, and the District's response. (P-6g).

16. In November 2011, the District issued its re-evaluation report ("RR"). (P-6i).

17. The November 2011 RR confirmed that the student had "a long standing theme of behavioral difficulties in school". (P-6i).

18. The District evaluator was aware of prior evaluations performed by the District but did not reference those evaluations or include the results. (P-6i; NT at 261, 269-272, 473-475, 478).

19. The November 2011 RR contained the input of student's mother indicating that the student "acted out" in school. The student's mother also indicated "concerns about learning most specifically reading and reading comprehension". The student's mother felt there was a nexus between the student's learning difficulties and problematic in-school behaviors. (P-6i).

20. The November 2011 RR noted that the student was assessed as "below basic" in reading ability on the prior year's PSSA. The RR also contained teacher input that the student received adapted homework, tests, and quizzes, and benefited from having tests and quizzes read aloud. (P-6i; NT at 262-265).

21. The District utilized the Wechsler Intelligence Scale for Children – 4th Edition ("WISC") to gauge the student's cognitive ability. The student's verbal comprehension (91), perceptual reasoning (90), and processing speed (85) were consistent. But the student's working memory (61) was markedly lower, yielding a full-scale IQ of 80. The District evaluator did not calculate the student's general ability index ("GAI") to account for the variability in the student's subtest scores; the student's GAI would have yielded a GAI score of 91. (P-6i; P-8a; NT at 41-44).

22. The District used the Wechsler Individual Achievement Test – 3rd Edition to gauge the student's achievement. Using a full-scale IQ of 80 from the WISC instead of a GAI of 91, the District concluded that there was no significant discrepancy between the full-scale IQ and the student's achievement scores on the pseudoword decoding (76), reading comprehension (80), and spelling (81) subtests. (P-6i).

23. The District also administered the Behavior Assessment Scales for Children – 2nd Edition ("BASC") to gauge the student's behavior. The District utilized the BASC self-report with the student, and BASC teacher reports with two teachers. The student's self-report contained three at-risk ratings. Both teacher reports contained numerous clinically significant ratings. The evaluator did not utilize the parent report with the student's mother. (P-6i; NT at 177-179).

24. The District evaluator observed the student's difficulty with reading and reading comprehension but attributed the difficulties to working memory deficits and effort. (P-6i; NT at 272-273, 279).

25. The November 2011 RR concluded that the student should be identified as a student with an emotional disturbance but not as a student with a specific learning disability. The RR also recommending that the student be exited from speech and language services. (P-6i).

26. On November 14, 2011, due to deep disagreement with the November 2011 RR, the student's mother revoked consent for the provision of special education for the student. (P-6l; NT at 183).

27. Shortly thereafter, on November 16, 2011, the student's mother requested, and the District agreed to, an independent educational evaluation ("IEE") of the student. (P-6n).

28. In January 2012, the independent evaluator issued an IEE. (P-8a).

29. The independent evaluator utilized the Woodcock-Johnson – 3rd Edition-NU/Tests of Cognitive Abilities ("WJ Cognitive") to gauge the student's cognitive ability. The student's standard score was 81, consistent with the full-scale IQ of 80 obtained by the District in November 2011. At the hearing, the independent evaluator opined that given the variability of the WISC results, the GAI of 91 on the WISC is the more accurate measure of the student's cognitive ability. (P-8a).

30. The independent evaluator found that the student's cognitive ability scores had decreased significantly since earlier Woodcock-Johnson cognitive testing in April 2007 when the student was 1st grade.[3] (P-8a; NT at 40-49).

31. The independent evaluator utilized the Woodcock-Johnson – 3rd Edition-NU Achievement ("WJ Achievement") to gauge the student's achievement. The IEE concluded that the student had specific learning disabilities in basic reading, reading fluency, written expression, and listening comprehension, as well as speech and language impairment. (P-8a).

[3] These results were not contested by the District as an earlier evaluation process evidently unfolded in the spring of 2007, although the evaluation report was not part of the record.

32. The independent evaluator utilized the Piers-Harris Children's Self Concept Scale – 2nd Edition to gauge the student's social, emotional, and behavioral functioning. The student's scales were all in the average or above average ranges. (P-8a).

33. The IEE concluded that the student was not a student with an emotional disturbance. (P-8a).

34. The independent evaluator utilized the Comprehensive Test of Phonological Processing to gauge the student's phonological processes. The student scored in the poor or very poor ranges (3rd percentile or less) for phonological awareness, phonological memory, and rapid naming. (P-8a).

35. The IEE concluded that the student was a student with a speech and language impairment, the phonological deficits all leading the evaluator to conclude "(the student) will predictably have difficulty with reading decoding, reading comprehension, and reading fluency." (P-8a).

36. In January 2012, after presenting the results of the IEE to the District, the District declined to reimburse parent due to supposed procedural elements in the District's acquiescence to an IEE that were ostensibly not followed by parent. (P-9a; NT at 184).

37. In March 2012, having taken into account the IEE, the District issued a RR. (P-9c; NT at 288-289).

38. The District's RR, incorporating much of the IEE, found that the student was a student with specific learning disabilities and speech and language impairment. (P-9c; NT at 291-292, 485-488).

39. In March 2012, the student's multi-disciplinary team met to discuss the results of the RR. The independent evaluator, located in another part of the Commonwealth, participated by telephone. (P-9c; S-6; NT at 187-189, 326-328, 488-489).

40. In April 2012, the student's IEP team met to design an IEP that incorporated the findings of the RR (and, by adoption, the IEE). (P-9d; NT 489-490).

41. The April 2012 IEP indicated that the student exhibited behaviors that impeded the student's learning or the learning of others. As a result, the IEP team developed a positive behavior support plan. (P-9d, P-9e).

42. The April 2012 IEP contained four goals, one each in speaking/listening (with a phonological emphasis), reading fluency, written expression, and reading comprehension. (P-9d).

43. The April 2012 IEP called for the student to spend 99% of the school day in the regular education environment. (P-9d).

44. Along with the April 2012 IEP, the District issued a notice of recommended educational placement ("NOREP"). (P-9f).

45. In May 2012, parent signed and returned the NOREP, thereby approving the April 2012 IEP for implementation as the student's education program. The parent testified credibly that the District administrator who presented the NOREP misrepresented the NOREP and it effect. (P-9f; NT at 194-196, 495-498).

46. The April 2012 IEP guided the student's instruction for the remainder of the 2011-2012 school year, the student's 6th grade year. (P-9f; NT at 197, 223).

47. On July 3, 2012, the parent filed the special education due process complaint that led to these proceedings.

48. In late July 2012, the student engaged in an admissions assessment at an out-of-state residential private placement that specializes in addressing severe reading/language-based disabilities. Based on the student's disability profile and results of the admissions assessment, the student was accepted for admission to the school. (P-11, P-12b; NT at 123-153, 201-202).

49. In the 2012-2013 school year, the student's 7th grade year, the student transferred from the District's elementary building (K-6) to the junior/senior high school (7-12). The April 2012 IEP was in effect for the student's 7th grade year; for the purposes of the hearing, the April 2012 [program] is the student's pendent placement. (P-9d, P-21; NT at 223, 534-535).

50. In September and October 2012, the District developed on its own a series of accommodations and specially designed instruction for a new IEP. This was undertaken internally, without convening the IEP team. (S-8).

51. In December 2012, the District unilaterally developed an IEP without convening the IEP team and sent a draft of the IEP to parent's attorney. (S-10).

52. Through the first half of the 2012-2013 school year, the student showed intermittently successful behaviors, although almost every classroom reported some difficulties with the student, some on a consistent basis (art, keyboarding, mathematics). (P-10a through P-10n).

DISCUSSION AND CONCLUSIONS OF LAW

Provision of FAPE

To assure that an eligible child receives a FAPE (34 C.F.R. §300.17), an IEP 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" (Ridgewood Board of Education v. N.E., 172 F.3d 238 (3rd Cir. 1999)), not simply *de minimis* or minimal education progress. (M.C. v. Central Regional School District, 81 F.3d 389 (3rd Cir. 1996)).

In this case, the entirety of the record supports the conclusion that the District has denied the student FAPE for the entirety of the recovery period, that is from July 3, 2010 through the date of this decision. Since the earliest encounters with the student in kindergarten and 1st grade, the District has known that the student experienced severe difficulties in reading, difficulties which called for specially designed instruction to be delivered through an IEP. Beginning as early as 1st and 2nd grade, the

2006-2007 and 2007-2008 school years, the student was exhibiting signs of a specific learning disability in reading. Yet not until March 2012 did the District identify the student with specific learning disabilities, and that identification came only after an extensive and expert IEE.

Additionally, even after this identification, the April 2012 IEP is not reasonably calculated to yield meaningful education benefit. The goals lack adequate baseline data and are prejudicially vague and unmeasurable. Specially designed instruction is lacking; the specially designed instruction and program modifications, as listed, are largely variations on regular education strategies.

Added to this is the fact that the record clearly supports a finding that the student's mother has never agreed with the implementation of the April 2012 IEP. Even at the hearing, the student's mother recognized that the student needed to be educated, and the April 2012 IEP was an unpalatable recourse. This is especially prejudicial to the parent as her approval of the NOREP in May 2012 was garnered by misrepresentations as to the nature and effect of that document.

On balance, then, the District has failed to provide FAPE for the entire period claimed by parent as the basis for remedy, or July 3, 2010 continuing through the date the record closed (March 18, 2013). Accordingly, an award of compensatory education will follow.

Remedies

Compensatory Education. Where a school district has denied a student a FAPE under the terms of the IDEIA, compensatory education is an equitable remedy that is available to a claimant when a school district has been found to have denied a student FAPE under the terms of the IDEIA. (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)). In this case, the District has denied the student a FAPE since July 3, 2010. The award of compensatory education that follows, however, even as an equitable remedy, has certain contours and exclusions.

First, while the District's acts and omissions have, in effect, meant the student's needs were not formally addressed for years, the educational history of the student has not been a total loss. The student has made some educational gain. And even as the District failed in its duties to the student under the obligations of IDEIA, it did not entirely ignore the student's needs. Equitably, it must be recognized that the District attempted interventions to support the student, as ineffective as those interventions may have been. These factors are noted because the equitable remedy will be 3 hours for every school day since July 3, 2010 through the end of the 2011-2012 school year (the student's 6th grade year)[4] and 3.5 hours for every school day in the 2012-2013 school year

[4] Three hours represents 60% of the minimum 5-hour school day for 1st-6th grades. 22 PA Code §§11.1, 11.3.

through March 18, 2103.[5] But this award must be adjusted further as set forth in the following paragraph.

Second, the student's parent exercised her right to remove the student from special education services on November 14, 2011. The District, in its closing statement, argues effectively that it should not be held for remedy for the period of time when the parent has unilaterally revoked consent for the provision of special education and related services. Particularly, "(i)f…the parent of a child revokes consent in writing for the continued provision of special education and related services, the (school district)…will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services." 34 C.F.R. §300.300(b)(4)(iii). Therefore, the period between November 14, 2011 through April 24, 2012, when the District proposed the April 2012 IEP, will be excluded from the calculation of compensatory education.

As for the nature of the compensatory education award, the parent may decide in her sole discretion how the hours should be spent so long as they take the form of appropriate developmental, remedial or enriching instruction or services that further the goals of the student's current or future IEPs. These hours must be in addition to the then-current IEP and may not be used to supplant the IEP. These hours may

[5] Three-and-a-half hours represents approximately 60% of the minimum 5.5-hour school day for 7th-12th grades. 22 PA Code §§11.1, 11.3.

occur after school, on weekends and/or during the summer months, when convenient for the student and the family.

There are financial limits on the parent's discretion in selecting the appropriate developmental, remedial or enriching instruction that furthers the goals of the student's IEPs. The costs to the District of providing the awarded hours of compensatory education must not exceed the full cost of the services that were denied. Full costs are the hourly salaries and fringe benefits that would have been paid to the District professionals who provided services to the student during the period of the denial of FAPE.

In sum, then, an award of compensatory education will be made for (1) 3 hours per school day from July 3, 2010 through November 14, 2011 and April 24, 2012 through the end of the 2011-2012 school year, and (2) 3.5 hours per school day from the beginning of the 2012-2013 school year through March 18, 2013.

Prospective Private Placement. Counsel for parent argues in the closing statement, as in the opening statement, that this hearing officer should make a prospective placement under the terms of the order. As parent notes, broad equitable powers for relief are invested the processes for resolving special education complaints. (20 U.S.C. (i)(2)(C)(iii)). The award of compensatory education as part of this decision is an example of how supple and equitable such relief can be.

But where a parent asks a local education agency to pay, at public expense, for a private placement, the legislature has spoken plainly as to how that process unfolds. The IDEIA provides for the potential for private school tuition reimbursement if a school district has failed in its obligation to provide FAPE to a child with a disability. (34 C.F.R. §300.148; *see also* 22 PA Code §14.102(a)(2)(xvi)). This remedy was incorporated into the statute as it surfaced out of earlier judicial remedies. (Florence County District Four v. Carter, 510 U.S. 7 (1993); School Committee of Burlington v. Department of Education, 471 U.S. 359 (1985)).

Explicit in this remedy, however, is the requirement that the student be enrolled in the private placement: "(i)f the parents of a child with a disability, who previously received education and related services under the authority of a public agency, ***enroll*** the child in a private (school)...a court or hearing officer may require the agency to ***reimburse*** the parents for the cost of that ***enrollment***...." (emphasis added). (34 C.F.R. §300.148(c)). Even U.S. Supreme Court decisions that found that a student need not ever receive services from a school district for parents to qualify for tuition reimbursement dealt with cases where the students was enrolled in private schools, and parents were reimbursed for the cost of that enrollment. (Forest Grove School District v. T.A., U.S. , 129 S.C. 2484, 174 L.Ed. 2d 168 (2009); Bd. of Educ. of City of New York v.

Tom F., 193 Fed. Appx. 26, 2006 WL 2335239 (2d Cir.) *aff'd without op.* 552 U.S. 1 (2007)).

This is not to say that a prospective placement by hearing officer order is entirely barred; again, the equitable considerations of a certain case might require it. This, though, in the eyes of this hearing officer would need to be an extraordinary circumstance. Generally, the courts, and more pointedly the legislature, have directed that to seek the potent remedy of a private placement at public expense, parents must first commit to the private placement and seek reimbursement thereafter.

Certainly, the student's mother makes a good-faith, heartfelt, and sympathetic argument that personal finances interfere with the ability to fund a deposit at the private placement. Yet the requirements of the law are clear.

Accordingly, the order will not include a provision for a prospective private placement.

IEE. It is unclear on this record whether the parent was ever reimbursed for the January 2012 IEE. The District initially resisted the parent's request for reimbursement for the IEE even though it had acquiesced in the request. Yet the District relied heavily on the IEE in its March 2012 RR. Indeed, much of the District's understandings of the student and the student's needs were drawn from the IEE. Therefore, to the extent that parent has not been reimbursed for the costs of the IEE,

or the necessary participation of the independent evaluator, the District will be ordered to make such reimbursement.

Provision of FAPE under Section 504

To assure that an eligible child receives a FAPE under Section 504, a student must be provided "regular or special education and related aids and services that …are designed to meet individual educational needs of handicapped persons as adequately as the needs of non-handicapped persons are met" and also comply with procedural requirements related to least restrictive settings, evaluations, and access to procedural due process. (34 C.F.R. §104.33(b)). In meeting these requirements, the school district is held to analogous standards under IDEIA. P.P. v. West Chester Area School District, 585 F.3d 727 (3d Cir. 2009). Therefore, the analysis above applies to an analysis of parent's denial-of-FAPE claim under Section 504.

As set forth above, the compensatory education award will also serve as a remedy for the denial of FAPE in violation of the obligations of Section 504.

Discrimination under Section 504

To establish a *prima facie* case of disability discrimination under Section 504, a plaintiff must prove that (1) he is disabled or has a handicap as defined by Section 504; (2) he is "otherwise qualified" to

participate in school activities; (3) the school or the board of education received federal financial assistance; (4) he was excluded from participation in, denied the benefits of, or subject to discrimination at the school; and (5) the school or the board of education knew or should be reasonably expected to know of her disability. Ridgewood; W.B. v. Matula, 67 F.3d 484, 492 (3d Cir. 1995).

In the instant case, there is no dispute that the student is disabled and is otherwise qualified to participate in school activities; the District knows and acknowledges that the student is disabled. While not made an explicit matter of proof in this case, it is a near certainty that federal funding flows to the District.

Thus, the legal determination to be made is whether the student "was excluded from participation in, denied the benefits of, or subject to discrimination at the school". Here, I find that the student was not subjected to discrimination as the result of the student's disabilities. Specifically, while the District lapses were severe, at no time did the District act with deliberate indifference toward the student. Indeed, as flawed as its evaluation and IEP processes were, the District attempted to support and educate the student, albeit inappropriately, throughout the period in question.

Accordingly, there will be no finding of discrimination in violation of Section 504.

CONCLUSION

The District failed to provide FAPE from July 3, 2010 through the close of the record on March 18, 2013. A compensatory education award will account for equitable considerations regarding the amount of compensatory education hours, and certain time periods that should be excluded from that award. Additionally, the student will not be placed prospectively in a private placement. Finally, the District has not discriminated against the student.

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ORDER

In accord with the findings of fact and conclusions of law as set forth above, the School District denied the student a free appropriate public education for a period to be remedied from July 3, 2010 through March 18, 2013.

The student is entitled to compensatory education as follows:

- 3 hours per school day from July 3, 2010 through November 14, 2011
- 3 hours per day from April 24, 2012 through the end of the 2011-2012 school year, and
- 3.5 hours per school day from the beginning of the 2012-2013 school year through March 18, 2013.

To the extent that the parent has absorbed any unreimbursed out-of-pocket expenses, or has balances owing, related to the preparation of the January 2012 IEE, including any expenses related to having the independent evaluator participate as a member of the March 2012 multidisciplinary team meeting and/or as a witness at the January 8th hearing session in these proceedings, the School District shall reimburse parent for said expenses upon parent furnishing to the office of the superintendent proof of payment for said expenses and/or proof of a balance owed.

Finally, as set forth above, the School District did not engage in discriminatory behavior in violation of Section 504 of the Rehabilitation Act of 1973.

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

Jake McElligott, Esquire

Jake McElligott, Esquire
Special Education Hearing Officer

April 9, 2013