

*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**

26161-21-22

#### **Child's Name**

D.Y.

#### **Date of Birth**

[redacted]

#### **Parents**

[redacted]

[redacted]

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#### **Hearing Officer**

Michael J. McElligott, Esquire

#### **Date of Decision**

08/22/2022

## Introduction

This special education due process hearing concerns the past and present educational program for D.Y. ("student"), a student who resides in the Stroudsburg Area School District ("District").<sup>1</sup> The parties agree that the student qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEIA")<sup>2</sup> as a student who requires special education for specific reading disabilities in reading and written expression, as well as the health impairment of attention deficit hyperactivity disorder ("ADHD").

Parents claim that the District denied the student a free appropriate public education ("FAPE") under the terms of IDEIA from the 2019-2020 school year through the date of this decision as the result of allegedly inappropriate programming in reading. Parents seek compensatory education as a remedy for this alleged denial of FAPE, as well as specific amendments to the reading instruction which the student receives.<sup>3</sup>

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<sup>1</sup> The generic use of "student", and avoidance of personal pronouns, are employed to protect the confidentiality of the student.

<sup>2</sup> 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 §§14.101-14.162 ("Chapter 14").

<sup>3</sup> Parents filed their complaint in March 2022. Through the complaint, parents sought a compensatory education remedy for the period of the 2019-2020 school year through the date of this decision. The District objected to the alleged scope of parents' claim, asserting that parents knew or should have known, prior to March 2020, of the alleged actions/omissions that form the basis of their complaint. The evidentiary scope of claims was addressed in G.L. v. Ligonier Valley School Authority, 801 F.3d 602 (3d Cir. 2015). In G.L., the Court recognized that under the terms of the IDEIA, a claim for remedy is *prima facie* valid for a period of two years prior to the filing date of the complaint. For claims prior to that period, an evidence-based determination must be made as to whether a parent 'knew, or should have known', of the alleged acts/omissions that form the basis of the parent's complaint. This forms the basis of the acronym "KOSHK" which is commonly used to describe the concept. If a parent knew or should have known of the basis of the claims in the complaint, those claims may be untimely. If not, the parent's claims may proceed.

Here, KOSHK evidence was developed at the first evidentiary session of the hearing. (Notes of Testimony ["NT"] at 42-207). On the basis of that evidence, a KOSHK ruling was issued, finding that the parents had knowledge, as of January 2020 with the issuance of a private evaluation report, of the alleged actions/omissions which form the basis of their

The District counters that at all times it met its obligations to the student under IDEIA and, therefore, no remedy is owed to the student.

For the reasons set forth below, I find in favor of the District.

### **Issues**

1. Did the District provide FAPE to the student from the period March 2020 to the present?
2. If the District did not provide FAPE, is the student entitled to compensatory education?
3. Is the student's current programming appropriate?

### **Findings of Fact**

All evidence in the record, both exhibits and testimony, was considered. Specific evidentiary artifacts in findings of fact, however, are cited only as necessary to resolve the issue(s) presented. Consequently, all exhibits and all aspects of the witnesses' testimony are not explicitly referenced below.

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complaint. Therefore, parents' claims for the period January – March 2020 were untimely as presented in their March 2022 complaint. Their claims for remedy accrued as of March 2020, two years prior to the filing of the complaint in this matter. (HO Exhibit – KOSHK Ruling – June 21, 2022).

## Evaluations

1. In the fall of 2019, in the student's [redacted] year, the student's parents were concerned about the student's reading. (HO Exhibit – KOSHK ruling – June 21, 2022).
2. By January 2020, parents had secured a private psycho-educational evaluation. (School District Exhibit ["S"]-2 at pages 25-42).
3. The January 2020 private evaluation included parental input and formal assessments in cognitive functioning (with a full-scale IQ of 95), academic achievement, and behavior ratings. (*See, generally, S-2 at pages 25-38*).
4. The January 2020 private evaluation yielded the psychological diagnoses of specific learning disorders in reading and written expression, and ADHD, as well as generalized anxiety disorder. (S-2 at page 39).
5. Upon presenting the January 2020 private evaluation to the District, it requested permission to perform its own evaluation. The District issued its evaluation report ("ER") in March 2020. (S-2 at page 1-24).
6. The March 2020 ER included the results of the January 2020 private evaluation. It also included teacher input and the results of curriculum-based assessments from the District. (*See, generally, S-2 at pages 1-24*).
7. The March 2020 ER found the student eligible for special education as a student with specific learning disabilities in reading fluency, reading comprehension, and written expression. (S-2 at page 21).
8. The March 2020 ER was issued on March 31, 2020. Earlier that month, in mid-March 2020, Pennsylvania schools were closed statewide as a result of the COVID-19 pandemic. Therefore, the student's

identification as a student eligible for services under IDEIA came at a point where schooling at the District had moved to online instruction. (S-2 at pages 1-3; NT at 263, 373, 445-446, 504).

#### Reading Curriculum & Assessments<sup>4</sup>

9. Reading A-Z is a regular education reading curriculum, “an online guided reading (curriculum) that allows students to read at their instructional level.” (NT at 668, 702).
10. Foundations is an early grades (K-3) intervention reading curriculum. The District utilized Foundations as its regular education reading curriculum through the 2019-2020 school year, the student’s [redacted] year. To supplement instruction, certain elements of Foundations were used by the student’s special education teacher in [the subsequent two] grades. (NT at 221-222, 233, 262, 509-510, 549, 671, 701-704).<sup>5</sup>
11. MyView is a regular education reading curriculum. The District adopted MyView in place of Foundations as its regular education reading curriculum in the 2020-2021 school year, the student’s [redacted] year, and continued to use it in the 2021-2022 school year, the [following] year. (NT at 233-235, 248, 398-401, 426, 497, 571-574, 608, 679-680, 706, 708).
12. Small Group Automation Tool (“SGAT”) is both an assessment system and instructional program, designed to guide more intensive

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<sup>4</sup> The Findings of Fact hereafter in terms of the student’s special education programming, including progress monitoring on the student’s reading goals, include reference to a number of reading curricula and assessments. These curricula and assessments are described in this sub-section so that the reader has context to understand the Findings of Fact that follow.

<sup>5</sup> This is the first substantive citation in the decision to the testimony of either parent (the student’s mother at NT 219-312 and the student’s father at NT 316-391). [Redacted] Still, their testimony was received as that of lay witnesses and the student’s parents, and not as expert witnesses in educational matters.

reading intervention. As an assessment system, it seeks to assess “skill inventories” to determine the reading skills that a student needs to develop. As an instructional program, it provides lessons and materials to allow teachers to target specific needs. Not all students with needs in reading, however, receive SGAT programming. The student received instruction in, and assessment through, SGAT beginning in the 2020-2021 school year, [redacted]. (S-23; NT at 270, 340-341, 509-510, 626, 638, 643-645).

13. Acadience (formerly known as DIBELS, with the two terms used interchangeably on this record) is a reading assessment, utilized by the District to assess reading achievement for all students in the District. Students are assessed on grade-level material regardless of their instructional level in reading. Acadience/DIBELS was used for progress monitoring on the student’s individualized education program (“IEP”) goals beginning with the student’s April 2021 IEP—at the end of [redacted] grade— and on the student’s IEP goals in [redacted] grade. (S-9; NT at 242-243, 253, 412-413, 417, 489-490, 497-498, 532, 548-549, 565-566, 569-570, 609, 626-627, 638, 643-645, 715-718, 735).
14. The MAZE reading assessment is a passage-based reading comprehension assessment where students are provided the thesis sentence of a passage and then utilize multiple-choice questions to fill in blanks in subsequent sentences of the passage to confirm understanding in a silent reading exercise. (NT 526-527).
15. The Benchmark Assessment System (“BAS”) is an assessment that allows teachers to determine a student’s independent and instructional reading levels. The levels in the BAS utilize a letter (A, B, C, D, etc., through to Z, and Z+) that maps to an approximate grade-level for reading material, as well as numeric lexile levels, and includes

qualitative descriptors of reading development (emergent, emergent/early, early, early/fluent, fluent, etc.). The District utilized the BAS as a universal reading assessment for all students prior to the 2020-2021 school year, the student's [redacted] year. The BAS continued to be utilized, however, to assess the student in [redacted] grade and served as the progress-monitoring assessment on the student's IEP goals until April 2021 when progress-monitoring on IEP goals switched to Acadience/DIBELS. Following the December 2021 IEP meeting, the BAS was again used to assess the student's reading levels in [redacted] grade. (S-9, S-22; NT at 238, 245-246, 284-285, 479-481, 494-497, 548, 566-567, 665, 689-690, 704, 709, 717-718, 737).

16. The Phonological Awareness Skills Test ("PAST") is a reading assessment geared toward assessing students' phonological skills. The District utilized the PAST in regular education to gauge students' phonological skills. The District discontinued use of the PAST for universal screening but, at parents' request, the PAST was administered to the student in January 2022. Thereafter, phonological goals were part of the March 2022 IEP, and the PAST was used for progress-monitoring on those goals. (S-17 at pages 43-45; NT at 243, 278-279, 285-286, 350-351, 376-377, 443-446, 474-475, 500-502, 536-539, 566, 616-617, 664, 705-706)
17. The Qualitative Reading Inventory ("QRI") is a reading assessment used to identify specific strengths and weaknesses in a student's reading ability. The District assessed the student, at parents' request, using the QRI as part of the re-evaluation process that led to the issuance of the March 2022 re-evaluation report ("RR"). (S-16, S-27; NT at 473-474, 490-491).

2019-2020 / [redacted]

18. Following the student's identification as a student in late March 2020, the student's IEP was implemented as of late April 2020. (S-3 at pages 8-38).
19. Present levels of academic performance in the April 2020 IEP contained PAST results through February 2020, just prior to the school closure. The PAST results showed a consistent pattern of difficulty with phonological skills when first introduced with improvement to mastery after targeted instruction. (S-3 at pages 16-17.)
20. Present levels of academic performance in the April 2020 IEP contained Acadience/DIBELS results through January 2020. The Acadience/DIBELS results showed uneven results but definitive progress from the beginning-of-year scores in September 2019 and middle-of-year scores in January 2020. There were no end-of-year scores due to the pandemic. (S-3 at pages 17, 19-20, S-12A).
21. Present levels of academic performance in the April 2020 IEP contained BAS results through February 2020, just before the school closure. The BAS results showed that the student progressed from level A (emergent reader at beginning kindergarten level) in September 2019 through level E (emergent/early reader at late kindergarten/beginning 1<sup>st</sup> grade level) in February 2020. (S-3 at page 18).
22. The April 2020 IEP had a reading fluency goal and a reading comprehension goal. Both goals were written for goal-achievement on the BAS assessment. The reading fluency goal called for the student to exhibit 90% accuracy at level L; the reading comprehension goal called for the student to exhibit 85% correct on comprehension assessment at level L. (S-3 at pages 29-30; NT at 709-712).



23. The student's special education instruction took place over the period late April – June 2020 in an online environment as a result of the pandemic-related school closure. The special education teacher would work one-on-one with the student in the online environment with the Reading A-Z curriculum and Foundations. (NT at 662-672; see Findings of Fact ["FF"] 9, 10).

2020-2021 / [redacted]

24. In August 2020, the student's IEP was revised to reflect that student's status for return-to-schooling following the District's re-opening plan. Students at the District had the choice to receive instruction entirely online five days per week, or to return in a hybrid model with three days of online instruction and two days of in-person instruction. As a special accommodation, the student was offered four days of in-person instruction per week, with one day of online instruction. The student's family chose the hybrid model with two days of in-person instruction per week, although by October 2020, the family had requested that the student move to four days of in-person instruction per week, a request that was accommodated. (S-6 at pages 8, 13; NT at 676-677).

25. The student received the regular education reading curriculum through MyView and special education support with SGAT. (See FF 11, 12).

26. With the initial adoption of the SGAT program, data was initially collected on paper and professional development of teaching staff was choppy. By December 2020, SGAT data was computerized and instruction was proceeding more smoothly. (NT at 235, 421, 507, 682-683, 686, 726-727).

27. SGAT results in the 2020-2021 school year show that the student was at the mastery level in various skill inventories in September, October, and November 2020. (S-11, S-31 at pages 2, 4-9, 34-36).
28. By April 2021, on progress-monitoring of the student's IEP goals, the student reached 90% accuracy at level L on the reading fluency goal and exhibited 85% correct on comprehension assessment at level L. Both goals had been mastered. (S-8 at pages 1-7 and at pages 7-13).
29. In April 2021, the student's IEP underwent its annual revision. (S-9).
30. The April 2021 IEP contained goals in reading fluency (with a goal of 86 words correct per minute), reading accuracy (with a goal of 97%), reading comprehension (with a retell goal score of 30), and two goals in written expression (with goals of 42 written words in 3-minute sample and 14 points on a 15-point writing rubric). (S-9 at pages 29-31).
31. Progress monitoring on the April 2021 IEP goals switched from the BAS assessment to Acadience/DIBELS. (See FF 13, 15).
32. The reading goals in the April 2021 IEP are not written with a specific grade-level for progress monitoring; assessment utilizing Acadience/DIBELS is always on the student's grade-level regardless of the student's reading level. (S-9 at pages 29-31; see FF 13).
33. Over the course of the 2020-2021 school year, the student showed progress in most tests on the Acadience/DIBELS assessment, although the student was still below-benchmark or well-below-benchmark on most measures. (S-12A).

34. The end-of-year scores on the Acadience/DIBELS assessment in oral reading fluency/words-correct (ORF WC), oral reading fluency/accuracy (ORF Acc), and retell, all at the 2<sup>nd</sup> grade level, formed the baselines for the April 2021 IEP goals. (S-9 at pages 29-31, S-12A; NT at 720).

2021-2022 / [redacted]

35. The testimony of the student's [redacted] special education teacher was judged as highly credible and was accorded heavy weight. (NT at 561-646).

36. In September 2021, progress monitoring seemingly showed significant declines in all three reading goals from the most recent progress monitoring in June 2021, but the June 2021 scores were at the 2<sup>nd</sup> grade level and the September 2021 Acadience/DIBELS scores were at the 3<sup>rd</sup> grade level. (S-10; see FF 13).

37. In October 2021, the parents contacted the student's special education teacher with questions about the student's programming. (Parents Exhibit ["P"]-3 at pages 11-13).

38. In December 2021, the student's IEP team met to add parental concerns to the IEP. (S-15 at pages 9-10).

39. As of December 2021, updated progress monitoring on the reading goals based on the September 2021 Acadience/DIBELS beginning-of-year scores at the 3<sup>rd</sup> grade level showed progress in reading fluency (September 2021: 43 words correct per minute, December 2021: 53) and reading accuracy (September 2021: 73%, December 2021: 87%). Reading comprehension showed some progress over the intervening months but ultimately was stagnant

(September 2021 retell: 20, December 2021: 21). (S-15 at pages 10-11).<sup>6</sup>

40. In March 2022, the student was re-evaluated by the District. (S-16).
41. The March 2022 RR contained QRI results, finding that the student was independent at the kindergarten and 1<sup>st</sup> grade reading levels, instructional at the 2<sup>nd</sup> grade reading level, and frustrational at the 3<sup>rd</sup> grade level. (S-16 at pages 16-18).
42. The March 2022 RR contained BAS results, finding that the student was independent at level I (an 'early reader' at the end of 1<sup>st</sup> grade) with mixed instructional/frustrational results at level J (an 'early/fluent reader' at the beginning of 2<sup>nd</sup> grade). (S-16 at page 18, S-22).
43. The March 2022 RR contained PAST results, finding that the student showed satisfactory or mastery levels in some areas and emerging or low levels in other areas. The evaluator opined "more advanced skills that require deletion, addition, and substitution of phonemes are more difficult for (the student)." (S-16 at pages 18-19).
44. Following the issuance of the March 2022 RR, the student's IEP team met to revise the student's IEP. (S-17).
45. The March 2022 IEP re-set the baselines and annual goal-progress schedule. The new baselines were set with the

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<sup>6</sup> Given the use of Acadience/DIBELS assessment, which is always administered on grade-level, annual goal progress across the student's grade levels is better understood when encapsulated within a grade level rather than between grade levels. For example, the April 2021 baselines (S-9 at pages 29-31) were gauged as the 2<sup>nd</sup> grade level; yet the progress-monitoring in [redacted] grade (e.g., S-15 at pages 10-11, S-16 at page 22, S-18) was conducted with the Acadience/DIBELS assessment at the 3<sup>rd</sup> grade level. The most accurate, goal-driven sense of progress then, are the Acadience/DIBELS assessment results in any one school year.

Acadience/DIBELS middle-of-year testing results and are written to illustrate that the student's goal-achievement will reflect 3<sup>rd</sup> grade material but account for the move to 4<sup>th</sup> grade material in the following school year. (S-17 at pages 5, 40-45, S-18, S-32 at page 1).

46. As of March 2022, the student was making progress on the reading fluency goal, increasing from a baseline of 54 words current per minute (at the 2<sup>nd</sup> grade level) to a middle-of-year Acadience/DIBELS score of 78 (at the 3<sup>rd</sup> grade level). The student's progress on the April 2021 reading accuracy goal was apparently stagnant, with a baseline of 90% (at the 2<sup>nd</sup> grade level) and a 91% (at the 3<sup>rd</sup> grade level). The student made progress on the April 2021 reading comprehension retell goal, increasing from a baseline of 17 (at the 2<sup>nd</sup> grade level) to a middle-of-year Acadience/DIBELS score of 49 (at the 3<sup>rd</sup> grade level). (S-9 at pages 29-31, S-17 at pages 40-42).<sup>7</sup>
47. The student showed marked progress within the [redacted] year from the beginning-of-year to middle-of-year Acadience/DIBELS results: from 43 to 78 in reading fluency, from 73% to 91% in reading accuracy, and from 20 to 49 in reading comprehension/retell (the first of which was at benchmark and the second of which was above benchmark). (S-18, S-32 at page 1).
48. The March 2022 IEP contained a written expression goal, and three new phonological awareness goals were added. (S-17 at pages 43-45).
49. SGAT results in the 2021-2022 school year show that the student was at the mastery or satisfactory levels in various skill

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<sup>7</sup> The reading comprehension retell goal in the March 2022 IEP was not updated with the middle-of-year Acadience/DIBELS score (49) as a new baseline. Compare S-9 at page 30 to S-17 at page 42; and see S-18, S-32 at page 1.

inventories over the course of the school year. (S-31 at pages 1, 3, 6-8, 10-30, 36-64).

50. SGAT results showed that the student scored at unsatisfactory or intervention levels in only one skill inventory by June 2022 (substitute final sound). (S-31 at pages 31).
51. SGAT results showed that two skill inventories had not been worked on since the fall of 2020 (delete and substitute first consonant sound in a final blend). (S-32 at pages 32-33).
52. These SGAT results reinforce the conclusion of the March 2022 evaluation that the student experiences particular difficulty with the deletion, addition, and substitution of phonemes in words. (S-16 at page 19).
53. Over the course of January - May 2022, BAS results indicated that the student moved from instructional at level J to level N (the first stage of 'fluent reader' at the beginning of 3<sup>rd</sup> grade). (S-19 at pages 1-2, S-22).
54. As of May 2022, PAST results indicated that the student was making progress, in most cases to mastery, on areas of phonological skills where the student had scored low or emerging in the PAST assessment in the March 2022 RR. (S-19 at pages 2-3).
55. As of May 2022, the student was making progress on the reading goals in the March 2022 IEP. End-of-year progress monitoring on the Acadience/DIBELS assessment, when compared to middle-of-year baselines, showed that the student made progress within [this] grade year: from 78 to 92 in reading fluency, from 91% to 94% in reading accuracy, and from 49 to 59 in reading comprehension/retell (a score again above benchmark). (S-18, S-29, S-32 at page 1).

56. Over the course of [the year], the Acadience/DIBELS results from beginning-to-middle-to-end of the year show consistent and marked progress in all goal areas of reading: reading fluency increased from 43 words correct per minute to 78 to 92; reading accuracy increased from 71% to 91% to 94%; reading comprehension/retell increased from 20 to 49 to 59.<sup>8</sup> (S-18, S-32 at page 1).
57. As of May 2022, the student was making progress on the phonological awareness goals in the March 2022 IEP. (S-29; see FF 54).

### **Witness Credibility**

All witnesses testified credibly and a degree of weight was accorded to each witness's testimony. Where particular emphasis was accorded to a witness's testimony on a particular issue or event, that is pointed out above in a specific finding of fact, as applicable.

### **Legal Framework**

The provision of special education to students with disabilities is governed by federal and Pennsylvania law. (34 C.F.R. §§300.1-300.818; 22 PA Code §§14.101-14.162). To assure that an eligible child receives 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

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<sup>8</sup> The MAZE assessment for reading comprehension increased from 3 to 9 to 10. (S-18, S-32 at page 1; see FF 14).

in light of his or her individual needs, not simply *de minimis* or minimal education progress. (Andrew 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)).

## **Discussion**

Here, the record in its entirety supports a finding that the District's programming provided FAPE to the student.

As to [the 2019-2020 school year], the record is too sparse to allow for any definitive findings. The initial evaluation of the student was undertaken and issued in the course of the COVID-19 pandemic and consequent school closure. The student's IEP was not issued until late April 2020, which left only approximately six weeks of online instruction. Not only was special education going to be delivered to the student for the first time but it was being delivered when schooling, and society in general, was in a tumult. This is not a matter of parents not carrying their burden of proof, or the District not providing evidence of instruction or progress—it is simply a matter of chronology and the state of the world at that time, especially in the context of this student beginning a journey with special education supports. (FF 6-8, 18-23).

As to [the 2020-2021 school year], the student's goals and progress monitoring were written for the BAS assessment. (FF 15, 21, 22). As of February 2020, just prior to the school closure, the student's baselines in the April 2020 IEP were gauged at level E on the BAS assessment with goals set for achievement at level L. (FF 15, 21, 22). By April 2021, progress monitoring showed that the student's reading goals had been mastered, with the student achieving at goal-mastery levels at level L. (FF 28). Additionally, once the SGAT data-collection system was available for electronic recording



of data, the student showed mastery of a wide array of skill inventories. (FF 12, 26, 27). The student's performance on the Acadience/DIBELS assessment over the course of [the 2020-2021 school year] also showed progress in reading. (FF 33). Therefore, the record fully supports a determination that, in [the 2020-2021 school year], the student made meaningful educational progress in reading, benefiting from significant learning in light of the student's unique needs.

As to [the 2021-2022 school year], in April 2021 [redacted], the IEP was revised to reflect goal-writing and progress-monitoring for the Acadience/DIBELS assessment. (FF 13, 29-31). It is confusing to look at the April 2021 baseline levels in the reading goals, and the progress following on those goals through the remainder of the school year thereafter (the end of the student's [redacted] year), to see a seeming collapse of scores on the Acadience/DIBELS scores in September 2021 (the beginning of the student's [redacted] year). (FF 36) The critical factor is that the Acadience/DIBELS assessment is always given at grade-level regardless of a student's reading level. So the progress at the end of [2020-2021 school year] didn't necessarily fall off a cliff; at the outset of [the 2021-2022 school year], the student was being assessed on more elevated material from the following grade-level. (FF 13, 32, 34, 36).

This lack of a grade-level in the April 2021 IEP goals is not a trivial or scripting imprecision in the drafting of those goals. On this record, taken in its entirety, the lack of a grade-level for material as the basis of the goal is not a fatal flaw, but that is only because of the overwhelming volume of evidence that shows, consistently, that the student made meaningful education progress in reading. In a different set of circumstances, with a different mosaic of evidence, the lack of a grade-level in the reading goals could easily—and often does—provide the basis for a finding of denial-of-FAPE. In this case, it would be inequitable to fault the District with a finding

of denial-of-FAPE given the overall record, which strongly supports the conclusion that the student made consistent, meaningful progress in reading over [2020-2021 school year] and [2021-2022 school year], progress which resulted in significant learning. But no one should read this decision and come away with the impression that reading goals without specific reference to the grade-level of material as part of a reading goal (and therefore the basis for instructional materials and aligned progress-monitoring) are defensible. Ninety-nine times out of 100, that is not the case. Here, the District is fortunate that its various and wide-ranging data on the student's performance in reading overwhelms the flaw in goal-writing in the April 2021 IEP.<sup>9</sup>

In considering that data on the student's performance in reading, progress monitoring in [the 2021-2022 school year] on the Acadience/DIBELS assessment shows that the student was making consistent and meaningful progress over the course of [redacted] grade. (FF 46, 47, 55, 56). From March – May 2022, the student was making progress on the goals, and in all deficit areas, in phonological skills. (FF 54, 57). Additionally, as of May 2022, on the BAS assessment the student had moved from an instructional level J to level N. (FF 53). By the end of [the 2021-2022 school year] SGAT data showed that the student showed mastery or satisfactory levels on almost all skill inventories. (FF 12, 26, 27, 49-52). Therefore, the record fully supports a determination that, [redacted], the student made meaningful educational progress in reading, benefiting from significant learning in light of the student's unique needs.

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<sup>9</sup> The District, in its approach to goal-writing for IEP goals in reading, corrected itself in the drafting of the reading goals in the March 2022 IEP. Those reading goals explicitly address the grade-level for material in terms of how the reading goals will be measured (FF 45).

Accordingly, in [the 2020-2021 and 2021-2022 school years], the District met its obligations to provide FAPE to the student.

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## ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Stroudsburg Area School District met its obligations to provide the student a free appropriate public education over the period March 2020 through the date of this decision. The March 2022 individualized education program ("IEP") is reasonably calculated to provide meaningful education benefit to the student for the relevant period of the upcoming 2022-2023 school year.

In addition to the Acadience/DIBELS assessment for progress monitoring, the school district shall continue to utilize a schedule of BAS and PAST assessments, as recommended or as the student's IEP team deems appropriate. On this record, most of the SGAT skills inventories were mastered, although SGAT skills inventory assessment may be continued as recommended or as the IEP team deems appropriate.

The school district shall correct the baseline data in the reading comprehension/retell goal, at page 39 of the IEP to reflect accurately the student's Acadience/DIBELS baseline level in that area (49) as of March 2022 when the IEP was drafted.

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

08/22/2022