

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 Gifted Education Due Process Hearing Officer  
Final Decision and Order**

**Open Hearing**

**ODR No. 32116-25-26**

**Child's Name:**

D.B.

**Date of Birth:**

[redacted]

**Parents:**

[redacted]

**Local Education Agency:**

Central Bucks School District  
20 Welden Drive  
Doylestown, PA. 18901

**Counsel for LEA:**

Rose McHugh, Esq.  
Sweet/Stevens/Katz/Williams  
331 East Butler Avenue  
New Britain, PA. 18901

**Hearing Officer:**

Vicki A. McGinley, Ph.D.

**Date of Decision:**

January 28, 2026<sup>1</sup>

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<sup>1</sup>The record closed upon receipt of written closing briefs from the parties' dated 1/20/2026.

## INTRODUCTION AND PROCEDURAL HISTORY

The Student (“Student”), D.B., is a [redacted]-year-old Student identified as gifted residing within the District (“District”). On October 7, 2025, Parents filed the first of two Due Process Complaints (“DPCs”) on behalf of Student. Although the first complaint was subsequently withdrawn, it is referenced in this Decision since testimony concerning the allegations raised therein was repeatedly introduced during the current due process hearing, which was filed on November 3, 2025. In the initial DPC, Parents alleged that the District refused to accelerate Student into AP English Language and Composition for [redacted] grade. This due process was dismissed after the Student’s Gifted Individualized Education Plan (“GIEP”) was revised on October 17, 2025, and again on October 30, 2025, placing Student into AP English Language and Composition.

This Decision addresses the DPC filed on November 3, 2025, in which Parents allege that, notwithstanding the resolution of the AP placement, Student suffered “retrospective harm” and that the District engaged in systemic noncompliance resulting in an inappropriate provision of gifted education from October 7, 2023, to the present.

On November 24, 2025, the District filed a Motion to Limit, asserting that Chapter 16 provides a one-year statute of limitations for Pennsylvania gifted education matters. Parents opposed the motion and requested application of a two-year evidentiary “look-back” period based upon alleged “mitigating circumstances”. In my ruling on the Motion to Limit, I permitted a broader evidentiary period due to the alleged mitigating circumstances. Accordingly, the evidentiary scope of this due process hearing extends from October 7, 2023, through the present.<sup>2</sup>

Two hearing sessions were held. The first on December 5, 2025, and the second on January 8, 2026.

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<sup>2</sup>In the Closing Argument, the District referenced the relevant timeline as extending from October 3, 2023, to the Present. however, in transcript reflects that the parties agreed the applicable look-back period begins October 7, 2023, and extends to the present. This discrepancy does not impact does not impact this Decision.

Procedural Issues

Admission of Exhibits

Parents exhibits admitted: P-2, P-3 pages 8-53, P-6, P-7, pages 16-168; P-8, P-15, P-19

District exhibits admitted: S-2, S-3, S-4, S-5, S-9\* ; S-7, S-8, S-10, S-11\*, S-13

\*S-9, S-11 DPCs filed by Parents on October 7, 2025, and November 3, 2025

ISSUE(S):

Did the District deny the student an appropriate gifted education from 10/7/23<sup>2</sup> through the present and if so, is the Student entitled to compensatory education?

Is the GIEP dated October 30, 2025, appropriate to meet the Student’s gifted needs?

Stipulations

The following facts are stipulated by parties and are accepted as true:

1. Student is a resident of the District.
2. Student is a [redacted]-year-old student who was determined eligible for gifted education during the 2016/17 school year ( [redacted]).
3. A Gifted Written Reevaluation Report (GWR) was completed during the students 2021/22 school year (Student’s [redacted] grade) to determine if Student was a good candidate for grade acceleration.
4. The Student was accelerated at the start of the 2022/23 academic school year to, [redacted]grade year.

FINDINGS OF FACT

**[redacted] Grade Academic Year- [redacted] 2023/24**

1. Exhibit P-3 consists of fifty-three pages of email correspondence exchanged between Parents and the District specifically related to the Student’s [redacted] grade year, with some movement into correspondence concerning the [redacted] grade GIEP. Most of the emails do not relate to the timeline for this due process.

2. A GIEP meeting was held on May 18, 2023, for Student's [redacted] grade year (S-2, P-3, pg. 34–35). At this meeting, the District stated that it was in the process of gathering additional assessment data (P-3, p. 36). On May 18, 2023, the District sent Parents the Student's [redacted]-grade GIEP and NORA; neither document was signed by Parents (S-2) as Parent's due to the concern around additional testing.
3. The District completed additional assessment data collection by June 7, 2023, utilizing an Algebra midterm and final examination, -[redacted] grade Science and Social Studies final examinations, and English assessments (S-2, p. 4; P-3, p. 39). On June 15, 2023, the District sent Parents a NORA, which was not signed by Parents (S-2).
4. On August 24, 2023, Parents notified the District that they were having difficulty attending a meeting due to reported family health issues and difficulty obtaining time off from work (P-3, p. 48). The record reflects that scheduling difficulties continued throughout the summer months of 2023 (P-3, p. 48).
5. At this time and throughout the whole time period of this due process, Parents communicated that they were participating in meetings with the Pennsylvania Department of Education (PDE) Gifted Advisor, including a meeting held on August 21, 2023 (P-3). The correspondence reflects that Parents signed off on the [redacted] grade GIEP (S-2) that they described as "a little lite," and the District indicated that a meeting with the new team at the Student's new school would be needed because the Student would be transferring to the high school (P-3, p. 47).
6. The record reflects that both the District and Parents communicated with the Pennsylvania Department of Education (PDE) Gifted Advisor during this period. Within the email correspondence admitted as P-3, the District responded to Parents' request to restructure the Student's [redacted] grade GIEP (S-2) goals by stating that the goals met PDE criteria and that the PDE Gifted Advisor had reviewed the goals as written (P-3, p. 53).
7. Exhibit P-7 consists of 156 pages of email correspondence. The correspondence reflects communications between the parties and the PDE Gifted Advisor regarding revisions to the Student's GIEP goal(s), including clarification of the criteria for determining when a goal would be considered achieved. Specifically, the correspondence reflects suggested language indicating that when the Student achieved 90% on three consecutive assessments, the goal would be re-evaluated (P-7). The correspondence further reflects that the parties sought guidance from the PDE Gifted Advisor regarding Dynamic Testing–Process Intervention (DT-PI) (P-7, p. 16)

and/or curriculum compaction based upon the Student's high scores in English Language Arts (ELA) (P-7, p. 16).

8. On September 6, 2023, there was a meeting to review the Student's draft GIEP (S-3). The GIEP contained, Specially Designed Instruction (SDI), with curriculum compacting when mastery was met, as well as enrichment. Student had already been accelerated once from [redacted] grade.

9. A NORA was issued following the September 6, 2023, GIEP meeting and Parents approved the GIEP (S-3, p. 6; Vol. I, N.T. p. 132).

10. The [redacted]grade ELA teacher, as well as the Gifted Support Teacher, reported that the Student did not take advantage of enrichment activities. However, that the Student was very involved in activities such as oratory work and the student newspaper, which the Gifted Support Teacher worked with the Student to address [student's] strengths (P-7, N.T. p. 292).

11. On February 5, 2024, the District's [redacted]-grade English teacher stated that the Student was achieving at 90% (the expected level), was not exceeding expectations, and that a second-chance quiz reflected a 70%; accordingly, the teacher stated that the Student was not ready for curriculum compacting (P-7, p. 23). Parents responded on February 8, 2024 (P-7).

12. On February 16, 2024, the District requested that a meeting be held to discuss the Student's gifted education goals (P-7). Due to scheduling difficulties, the meeting occurred on April 5, 2024 (P-7, pg. 25–29).

#### **[redacted]Grade Academic Year- [redacted] 2024/25**

1. On May 10, 2024 (P-7, Vol. I, p. 30) following a meeting on April 5, 2024, Parents wrote the District indicating they had concern, with the PLEP section of the GIEP as it related to "above-level" data (P-7, p. 30).

2. A NORA was sent to the Parents following the meeting and was approved on May 16, 2024. (S-4).

3. At a GIEP meeting held on May 24, 2024, near the conclusion of the Student's [redacted]-grade year and in preparation for the Student's [redacted]grade year, the Student's middle school Gifted Support Teacher added two (2) items of SDIs and one support service to the Student's GIEP (P-7, p. 34). The record further reflects that, in connection with the Student's - [redacted] grade GIEP dated May 14, 2024, the District issued an Invitation to a Gifted Team

Meeting (GTM), which

Parents signed (P-7). Additionally, the District issued a NORA dated May 15, 2024, which Parents also signed (S-4).

4. On September 17, 2024, Parents emailed the District inquiring about MAP<sup>3</sup> testing (P-7, p. 37). The District responded that it would follow up regarding MAP testing and indicated that STAR<sup>4</sup> testing might be used instead (P-7, p. 38).

5. On September 25, 2024, the District wrote to Parents to schedule a meeting for Student's new GIEP. The email correspondence in Exhibit P-7 reflects that Parents informed the District that above-level testing remained unresolved (P-7, p. 48).

### **[redacted]Grade Academic Year- [redacted] 2025/26**

1. Exhibit S-13 consists of sixty-nine pages of email beginning May 8, 2025. The correspondence includes communications among the District's Coordinator of Gifted Education, Parents, the Student's middle school Gifted Support Teacher, the District-wide Director of Teaching and Learning, the District Testing Coordinator, and the PDE Advisor for Gifted Education.

2. On May 9, 2025, the District attached a draft -[redacted] grade GIEP to an email and stated that, in contact with the PDE Gifted Advisor, the District asked the advisor to review the draft. The District further stated that it had "garnered positive feedback" regarding the -[redacted] grade draft GIEP (P-7, p. 49-55).

3. Within the correspondence at Exhibit S-13, the PDE Gifted Advisor described the Student's GIEP as exemplary (N.T., 12/8/25, p. 31; S-13, p. 1) and raised questions regarding whether the District considered use of the CAT and MAP for advanced-level testing (S-13, pg. 1-3). The District responded that, with respect to MAP, the assessment is not administered beyond sixth-grade within the District (S-13)

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<sup>3</sup>MAP (Measures of Academic Progress) is a computer-adaptive assessment that assesses a student's current instructional level and academic growth over time. It is one objective data point within the GIEP to identify present levels.

<sup>4</sup> STAR testing Reading or Math is a computer-adaptive screening assessment used to measure a student's academic skills and growth over time.

The Advisor also indicated a willingness to meet with the District and noted that Parents appeared to be conflating issues of “compliance” and “best practice” (S-13).

4. On May 11, 2025, Parents emailed the District expressing concern that MAP testing had not been completed and stating that, as a result, they would not approve the proposed GIEP for the Student’s [redacted]-grade year (P-7, p. 55).

5. The District issued the draft -[redacted] grade GIEP dated May 12, 2025 (S-10). The District also issued a NORA dated which Parents signed as not approved (S-5).

6. On May 12, 2025, the District emailed Parents indicating that certain staff members were unable to attend that afternoon’s meeting, specifically the guidance counselor and the principal, and asked whether Parents wished to proceed with the meeting as scheduled (P-7)<sup>5</sup>. The District further indicated that it would be meeting with the PDE Gifted Advisor (P-7, p. 68).

7. On May 21, 25, further testing, was completed and the GIEP was revised (S-5, pgs. 9-15).

8. On May 28, 2025, the District emailed Parents and attached a revised draft GIEP incorporating CDT testing data (P-7, p. 69).

9. Between May 29, 2025, email correspondence between the Parents and the District occurred around the request for the Student to be placed in the AP Language and Compositions course which is typically offered at the 11<sup>th</sup> grade level. Student was to be entering the [redacted] grade at the high school in the fall (P-7, pgs. 77-87).

10. An Invitation to a GTM dated May 29, 2025, which Parents signed (S-5). The GIEP meeting was held then for Student’s [redacted] grade year. The Parents were concerned at this time about placement into AP English and Language Composition. The District noted concerns

related to the Student’s age relative to classmates and referenced a “whole child” perspective in considering acceleration, including that the Student would be in a class comprised of eleventh-grade students (P-7, p. 112) and offered other options for a number of AP courses in [redacted] grade and a review of how AP over the [redacted] years of high school would progress (N.T., Vol. II, pgs. 482-487).

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<sup>5</sup>All required/mandates GIEP team members, as defined under Chapter 16 would be present.

11. On June 9, 2025, The district sent out the NORA and the Chapter 16 Parental Rights Notice (P-7, p, 88).
12. On June 10, 2025, the District emailed Parents and recognized that Parents’ analysis of the CDT online diagnostic assessment data was fair. The District agreed that CDT data did not yield sufficient information for fully informed decision-making and stated that additional data collection would be appropriate. The District further confirmed it would obtain the MAP assessment resources and schedule MAP testing for the Student (N.T., 12/8/25, p. 32; P-7, p. 93).
13. On June 16, 2025, MAP testing reports were transmitted to the District (P-7, p. 95). The MAP results placed the Student within the expected range for an eleventh- or twelfth-grade student and within the range associated with AP English Language and Composition (P-7).
14. The record reflects that the Student was placed in AP English Language and Composition following revision of the [redacted] grade GIEPs on October 17<sup>th</sup> and 30<sup>th</sup>, 2025 (S-10).
15. The NORA was sent to Parents on October 30, 2025, was not signed by Parents (S-10) as on November 3, 2025, Parents filed a DPC alleging that, notwithstanding the resolution of the AP placement, Student suffered “retrospective harm” and that the District engaged in systemic noncompliance resulting in an inappropriate provision of gifted education from October 7, 2023, to the present (S-11).
16. On October 17, 2025 a draft IEP was sent to Parents from the District (P-7, p. 160); a revision was done on October 30, 2025 and Parents signed the NORA agreeing to placement in AP English Language and composition but did not consider that resolution was met for procedural deficiencies that remained unresolved (p-7, p. 167). Revisions of this GIEP were requested and a second revision was drafted.
17. Parents accepted the proposed placement of AP Language and Composition on November 3, 2025 (P-7).

## **DISCUSSION AND CONCLUSIONS OF LAW**

### **Burden of Proof:**

The burden of proof consists of two distinct components: the burden of production, which determines which party must present its evidence first, and the burden of persuasion, which determines which party must ultimately convince the fact finder—in this case, the hearing

officer—that its position is correct. Although Chapter 16 of the Pennsylvania Code does not expressly address the allocation of the burden of proof in gifted education due process proceedings, Pennsylvania precedent has clearly established that the burden rests with the party initiating the request for due process. *See E.N. v. M. Sch. Dist.*, 928 A.2d 453 (Pa. Commw. Ct. 2007); *see also D.Z. v. Bethlehem Area Sch. Dist.*, 2 A.3d 712 (Pa. Commw. Ct. 2010); *D.V. v. Conrad Weiser Sch. Dist.*, ODR No. 20107-17-18 at \*7 (Apr. 10, 2018) (holding that the moving party bears the burden of proof); *J.S. v. Mt. Lebanon Sch. Dist.*, ODR No. 17229-15-16 at \*5 (May 13, 2016) (citing *E.N. and D.Z.*). Accordingly, in this matter, both the burden of persuasion and the burden of production rest with the Parents, as they are the party that initiated these proceedings.

### **Credibility Determinations:**

As the fact finder, the hearing officer is charged with resolving any conflicts in the testimony and determining the weight and credibility to be accorded to each witness's statements. Credibility determinations are based on the witness's demeanor, consistency, plausibility of testimony considering the entire record, and the presence or absence of corroborating evidence. *See, e.g., In re A.J.R.-H.*, 188 A.3d 1157, 1167 (Pa. 2018) (fact finder entitled to believe all, part, or none of a witness's testimony); *Commonwealth v. Johnson*, 180 A.3d 474, 479 (Pa. Super. Ct. 2018) (credibility determinations within province of fact finder). Where conflicts exist between witnesses' accounts, the hearing officer weighs the totality of the circumstances to determine which evidence is most persuasive and reliable. This hearing officer found the witnesses who testified did so to best of their ability, thus, they were all generally credible. The weight accorded the evidence, was equally placed. Parents's testified to the best of their ability, was earnest, and reflected a sincere belief in Student's potential.

### **Chapter 16:**

Gifted education in Pennsylvania is governed by 22 Pa. Code §16.1–16.65 (“Chapter 16”). The purpose of Chapter 16 is to ensure that each identified gifted student receives an education based on the student's unique needs. Such education may include acceleration, enrichment or both, beyond what is available in the general education program. 22 Pa. Code §16.41(b)(3). While a school district must provide an appropriate placement and plan with specially designed instruction reasonably calculated to confer meaningful—not merely trivial—educational benefit and progress, it is not required to “maximize” the student's potential. *Id.*; *see*

also 22 Pa. Code §§ 16.1(vii), 16.41(b)(2). *Centennial, supra*, 517 Pa. at 551, 539 A.2d at 791. Specially designed instruction for gifted students can include adaptations or modifications to the general education curriculum, and instruction, methods, materials or even a specialized curriculum. 22 Pa. Code § 16.41. Further school districts need not offer or provide gifted educational programming that goes beyond its own existing curriculum. *Id.* at 552-53, 539 A.2d at 791. Finally, the GIEP team is tasked with the responsibility of developing the gifted education individualized education plan (GIEP) that ultimately determines educational placement. 22 Pa. Code § 16.32.

In this case, Student is unquestionably gifted, as such that is not the issue here, and has received education through a series of GIEPs since the kindergarten. Since identification in elementary school.

### **Parents’s Complaint:**

This decision addresses the two issues raised and heard in this gifted due process proceeding pursuant to 22 Pa. Code § 16.63. As a preliminary matter, Parents alleged that the District engaged in “systemic procedural misconduct” by presenting what they characterized as an “unlawful waiver of Parental rights” (N.T., 12/8/25, p. 12). Parents further suggested that this conduct reflected broader District-level systemic failures. During the hearing, I clarified that my jurisdiction under Chapter 16 is limited to matters concerning the individual identification, evaluation, educational placement, and provision of gifted education services to the Student through the Student’s GIEP (N.T., 12/8/25, p. 14). To the extent Parents’ claims challenge District board policy, assert systemic violations, or seek oversight of the Pennsylvania Department of Education (PDE), such claims fall outside the scope of my authority as a Hearing Officer under Chapter 16 and are not ad judicable in this forum. However, allegations that procedural actions impacted the appropriateness or implementation of the Student’s GIEP may be before me.

### **Issue I**

Did the District deny the Student an appropriate GIEP during the 2023–2025 school years, beginning October 7, 2023, and, if so, whether the Student is entitled to compensatory education.

Accordingly, to prevail on their claim, Parents bore the burden of establishing that the District's alleged failure to timely obtain and consider appropriate instructional-level data resulted in a GIEP that was not appropriate under Chapter 16 and that, as a result, Student did not receive gifted education reasonably calculated to confer meaningful educational benefit during the relevant period. Parents also bore the burden of proving that the District failed to implement the GIEP as written, including the provision of SDIs and gifted support services.

Under 22 Pa. Code §§ 16.32 and 16.41, a school district is required to develop and implement a GIEP that is reasonably calculated to provide gifted education aligned with a student's identified needs, based upon an accurate PLEP and appropriate instructional-level data. However, procedural violations of Chapter 16, standing alone, do not establish a denial of gifted education. Consistent with *Montour School District v. S.T.*, relief is warranted only where procedural deficiencies result in substantive educational harm—specifically, where such violations materially impair the development or implementation of a GIEP and adversely affect the student's ability to receive meaningful educational benefit. Certainly, the failure to obtain or utilize appropriate above-grade-level assessment data may constitute a procedural violation where such data is necessary to accurately identify a gifted student's instructional level and to develop appropriately rigorous present levels, goals, and services. Parents also alleged some procedural violations related to lack of implementation of the GIEP, specifically curriculum compacting not being implemented.

### **[redacted] Grade-Academic Year 2022/23**

Parents referenced concerns regarding the Student's -[redacted] grade GIEP (P-2), developed in June 2022 for the 2022–2023 school year when Student was accelerated from [redacted] grade into [redacted] grade. That GIEP predates the applicable due process timeline and is therefore outside the scope of this proceeding. Accordingly, it is not substantively addressed in this decision. It is noted solely for contextual purposes as it is addressed in testimony and to establish the educational timeline, including that during this school year the Student was accelerated from [redacted] to [redacted] grade and that Parents approved this GIEP.

## **[redacted] Grade-Academic Year 2023/24**

Parents allege that beginning in October 2023, during the Student's [redacted]-grade year and the start of the applicable due process timeline, the District failed to develop and implement a GIEP (S-2) that was reasonably calculated to provide gifted education aligned with the Student's identified needs, as required under 22 Pa. Code §§ 16.32 and 16.41. Specifically, Parents contend that the District did not obtain or utilize instructional-level data derived from appropriate above-grade-level assessments, resulting in inadequate and imprecise baseline data within the PLEP statements (N.T., Vol. I, p. 156). Parents assert that, therefore, the resulting GIEP goals were subjective and insufficiently tied to the Student's appropriate academic level (N.T., Vol. I, p. 19). The Student's [redacted] grade GIEP, dated May 18, 2023 (S-2), was finalized and approved on September 7, 2023 (S-3). The data reflected in this GIEP indicates that the Student was appropriately placed and challenged in both Mathematics and ELA. In Reading, the Student demonstrated "advanced vocabulary skills; however, the record reflects that [student] did not participate in enrichment or extension activities in that area. The writing data similarly reflected "performance well above grade level". With respect to Science and Social Studies, the Student likewise did not participate in enrichment or extension activities at that time. Upon finalization in September 2023, the GIEP included specially SDIs providing for curriculum compaction and acceleration in Science and English Language Arts (N.T., Vol. I, p. 86). Parents testified that, notwithstanding the inclusion of these SDIs, curriculum compaction was not being implemented during the Student's [redacted]-grade year. This testimony contrasts with the testimony of the Student's [redacted]-grade English teacher, who described the use of instructional strategies consistent with compaction. Parents further alleged that SDIs were not implemented as written, that no appropriate above-grade-level assessment data was collected, and that progress monitoring was not occurring during this period (N.T., Vol. I, p. 87). Student's [redacted]-grade ELA teacher testified that if Student had gotten 90 percent on 3 of the pretests, tests that we give in the [redacted] grade, then the Student would be moved on, but in fact as result of how Student did, "N.T., January 8, 2025, p. 335) curriculum compaction was not needed. .

Where the testimony of Parents conflicted with that of the Student's [redacted]-grade English teacher regarding the implementation of curriculum compaction and other SDIs, the

Hearing Officer finds the testimony of the teacher to be more credible and persuasive. The teacher's

testimony was detailed, consistent, and based on direct instructional interaction with the Student during the relevant time. The teacher described specific instructional practices reflective of curriculum compaction and differentiation aligned with the Student's GIEP.

By contrast, Parents' testimony regarding the alleged failure to implement compaction and SDIs was general in nature and not supported by contemporaneous instructional records, objective data, or corroborating testimony demonstrating that the Student was consistently instructed below her instructional level. Accordingly, where the testimony conflicts, the Hearing Officer credits the testimony of the District's witness and finds that the SDIs identified in the Student's GIEP were implemented in practice.

### **[redacted] Grade-Academic Year-2024/25**

Parents continued to express concerns regarding implementation of instructional curriculum compaction and the District's use of above-level assessment data and testing in connection with the Student's -[redacted] grade GIEP. In May 2024, at the end of the Student's -[redacted] grade year, the District added a support service of CDT testing, which prompted Parents to sign the NORA (S-4). However, Parents asserted that meaningful above-level testing continued to be delayed (N.T., Vol. I, pg. 91–92).

The District maintained that its first clear awareness of Parents' request for more firm above-level testing arose around May 15, 2024, in connection with the -[redacted] grade GIEP meeting (S-4, p. 16; N.T., Vol. I, p. 199). Testimony further reflected that the District did not have immediate access to certain requested assessments at the time Parents requested them, and that District personnel were exploring both how to obtain those assessments and whether such testing was appropriate.

CDT testing was administered later in the Student's [redacted]-grade year, and MAP testing was also completed (N.T., Vol. I, p. 94, p. 160; N.T., Vol. II, p. 468). Accordingly, in May 2025, for development of the Student's -[redacted] grade GIEP, the District proposed continuation of both CDT and MAP testing (S-10, p. 16).

During this period, a central area of dispute involved whether the Student would be placed into AP English Language and Composition. Teaming (S-13, p. 47) did not result in immediate

placement into AP English Language and Composition, as the team concluded it did not yet have sufficient data (N.T., Vol. II, p. 299), and other course options were discussed.

The [redacted]-grade GIEP included two ELA goals, including a writing goal referencing eleventh-grade ELA standards (S-5, p. 21). Parents asserted that the goal should have been written at the twelfth-grade standard level. Parents further asserted that “retrofitting” eleventh-grade standards into a [redacted]-grade classroom was not appropriate because of the limits of what a [redacted]-grade teacher could reasonably implement, as it would require time and attention and would materially impact instruction”. By contrast, the [redacted]-grade honors and eleventh-grade ELA teacher testified that advanced-level writing assessments such as MAP do not align neatly to grade levels (N.T., Vol. I, p. 210). The teacher further testified that she could implement a modified rubric incorporating both [redacted] and eleventh-grade literary and rhetorical analysis standards. The teacher indicated that the Student’s content would be different, with eleventh-grade elements layered onto the Student’s instruction even if the Student remained enrolled in [redacted]-grade honors, and that other students would not receive those additional elements (N.T., Vol. II, p. 442).

The dispute continued over the summer of 2025. The District took the position that it could provide the Student an appropriate and challenging program by offering -[redacted] grade honors English and multiple AP options across a [redacted] period. Parents contended that the most appropriate placement was AP English Language and Composition in the -[redacted] grade year and further alleged that the District denied this option due to District policy rather than the Student’s educational needs (N.T., Vol. II, p. 494).

### **[redacted] Grade-Academic Year 2025/26**

Much testimony focused on the District’s initial refusal to place Student in AP English Language and Composition prior to October 7, 2025, for Student’s [redacted]-grade year, and Parents asserted that this issue—resulting in the filing of the first due process complaint—constituted a procedural violation under Chapter 16. Parents contended that earlier above-level assessment would have demonstrated that AP English Language and Composition was

appropriate for Student. The record reflects that, after additional assessment data were obtained, Student was

placed in AP English Language and Composition (N.T., Vol. I, p. 206). Nonetheless, even assuming a delay in above-level testing occurred, such delay alone does not establish that Student's prior GIEPs were inappropriate or that Student was denied meaningful educational benefit. The appropriateness of the [redacted]-grade GIEP is addressed separately. Throughout testimony the Gifted Support Teacher as well as the [redacted] grade ELA teacher testified to the fact that enrichment activities which are individualized via the PEN Program as well as other opportunities such as Oratory work was implemented (P-7, p. 21; N.T. Vol. II, p. 293 and p. 301). The Student participated in several opportunities, however, as noted in the GIEPs refused enrichment in multiple classes.

As indicated above, this Hearing Officer finds the Parents' testimony to be credible. Their testimony was internally consistent, reflected familiarity with gifted education practices, and was informed by both advocacy experience and professional background. Parents articulated sincere concerns regarding documentation, implementation, and progress monitoring of the Student's [redacted] grade GIEPs. Credibility of testimony, however, is not dispositive. While Parents expressed frustration with the clarity of the District's GIEPs, their testimony did not establish, by a preponderance of the evidence, that the District failed to implement the Student's GIEPs or that the Student was denied appropriate gifted education during the period at issue.

The evidentiary record includes testimony and documentation demonstrating that the District was responsive and that Student was appropriately placed and challenged in academic areas. The Student's GIEPs included SDIs providing for curriculum compaction and acceleration, and the record supports a finding that there was credible testimony that the SDIs were implemented. Although Parents alleged deficiencies in documentation, above-grade-level assessment, and progress monitoring, the evidence does not demonstrate that instruction was delivered below the Student's instructional level or that the Student failed to make meaningful educational progress.

Under Chapter 16, Parents bear the burden of proving that the District failed to implement the Student's GIEP as written or otherwise denied the Student appropriate gifted education. The allegations without proof of substantive educational deprivation, do not establish a violation of Chapter 16. Consistent with *Montour School District v. S.T.*, procedural deficiencies warrant relief only where they materially impair the development or implementation of a GIEP and

result in a denial of meaningful educational benefit. In this matter, although Parents allege that the District failed to obtain sufficient above-grade-level assessment data, the evidence does not establish that these alleged deficiencies impeded the Student's access to appropriately challenging instruction or otherwise resulted in educational harm. The absence of additional formal above-grade-level assessments, standing alone, does not constitute a denial of gifted education where the record demonstrates that the Student continued to receive instruction aligned with her demonstrated abilities and instructional level.

Accordingly, the Hearing Officer concludes that Parents have not met their burden of proving that the District denied the Student gifted education as required under Chapter 16.

Compensatory education is an equitable remedy available only where a student has been denied appropriate educational services. Because no such denial has been established, there is no basis for an award of compensatory education in this matter. While clearer documentation and more robust progress monitoring would have aided review of the Student's programming, such deficiencies—absent proof of educational deprivation—do not warrant remedial relief under Chapter 16.

**For this issue, the Hearing Officer finds in favor of the District.**

Response to Parents's Claims:

Is the GIEP dated October 30, 2025, appropriate to meet the Student's gifted needs?

The GIEP dated October 30, 2025 (S-10) was preceded by an earlier draft dated October 17, 2025 (P-6). Parents argued that the October 17, 2025, draft should remain part of the record, asserting that the period between their receipt of the October 17, 2025, draft and issuance of the revised October 30, 2025, GIEP constituted an additional procedural barrier to obtaining what they believed to be a legally compliant GIEP (N.T. 1/8/26, p. 423). Parents further cited this period as another example of delay that they contend resulted in harm.

The finalized GIEP dated October 30, 2025, constitutes the controlling document for purposes of determining substantive appropriateness.

With respect to the GIEP itself, the October 30, 2025, GIEP contains the required components under 22 Pa. Code Chapter 16, including documentation of teacher and parental input, PLEPs, goals, and SDI. While baseline data was not included across every subject area, a GIEP is a strength-based document, and the evidence reflects that the goals derived from the PLEPs were measurable and supported by SDIs designed to address the Student's identified needs. Support services were included as appropriate. The GIEP further contemplated curriculum compaction, acceleration, and enrichment, and progress monitoring could reasonably be generated through the measurable goals and related performance indicators.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer concludes that the District developed the Student's -[redacted] grade GIEP in a manner reasonably calculated to provide gifted education aligned with the Student's identified needs, consistent with 22 Pa. Code §§ 16.32 and 16.41. Parents did not establish, by a preponderance of the evidence, that any alleged procedural deficiencies resulted in substantive educational harm or deprived the Student of meaningful educational benefit during the period at issue.

**For this issue, the Hearing Officer finds in favor of the District.**

#### ORDER

In accordance with the proceeding findings of fact and conclusions of law, it is hereby ORDERED as follows:

1. The District is not required to take any further action.
2. The District does not provide any other relief under these claims as such IT IS FURTHER ORDERED that any claims not specifically addressed in this Decision and Order is DENIED and DISMISSED.

/s/ Vicki A. McGinley, Ph.D.

HEARING OFFICER