

This is a redacted version of the original decision. Select details have been removed from the decision to preserve the anonymity of the student. The redactions do not affect the substance of the document.

Pennsylvania Special Education Due Process Hearing Officer

Final Decision and Order

Closed Hearing

ODR No. 31028-24-25

Child's Name:

W.J.

Date of Birth:

[redacted]

Parents:

[redacted]

Local Educational Agency:

Perkiomen Valley School District
3 Iron Bridge Drive
Collegeville, PA 19426

Counsel for LEA:

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Hearing Officer:

Michael J. McElligott, Esquire

Date of Decision:

07/16/2025

Introduction

This special education due process hearing concerns the educational program and placement of [redacted] ("student"), a student who resides in the Perkiomen Valley School District ("District").¹ The parties dispute the program and placement of the student at the District in the 2024-2025 school year, under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA").²

Specifically, the parents assert that the student was denied a free appropriate public education ("FAPE") in various aspects of the student's program/placement, namely goals in the student's individualized education program ("IEP"), accuracy of present levels of performance in the IEP, appropriateness of accommodations in the student's programming, inappropriate changes in the student's schedule, inappropriate class size, and the nature of the class setting where the student received services. Additionally, parents claim they have been denied participation in the decision-making for the student's programming, including sharing schoolwork and class materials.

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

² 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").

The District counters that, at all times, it proposed and/or delivered appropriate supports and instruction to the student, based on the information it had had at the time, or was permitted to develop. It also asserts that parents were not denied the opportunity to participate in any aspect of decision-making about the student's education. For these reasons, the District feels that no remedy is owed to the parents.

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

Issue

Did the District provide, or propose, programming that provided FAPE to the student in the 2024-2025 school year?

Were parents denied an opportunity to participate in the education of the student?

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 each witness's testimony are not explicitly referenced below.

Student's Prior Education

1. In the school years prior to the 2024-2025 school year, the student had been evaluated privately and by prior local education agencies, both school districts and a cyber charter school. (Parents' Exhibit ["P"]-1, P-12, P-13, P-31, P-32, P-43, P-76, P-81; School District Exhibit ["S"]-1, S-2, S-3, S-4).
2. Immediately prior to the student's enrollment in the District in the 2024-2025 school year, the student attended a Pennsylvania cyber charter school. (P-1; S-4; Notes of Testimony ["NT"] at 349-449, 538-554, 559-608).
3. In July 2024, the cyber charter school, the student's IEP team at the school, revised the student's IEP. (P-1; S-4).

2024-2025 School Year

4. In May 2024, the student's parents, as residents of the District, contacted the District about potentially seeking special education services from the District. (P-72).
5. In August 2024, the student was formally enrolled in [redacted] grade at the District. (P-68, P-72, S-20 at pages 1-4, 7, 10-14).

6. In late August 2024, the District proposed a comparable-services IEP, based on the July 2024 IEP from the cyber charter school. Within 30 days of enrollment, the District intended to gather baseline data and other information regarding the student's performance in the District in order to propose a more comprehensive IEP. (P-3; S-5, S-6; NT at 24-124, 132-176, 349-449).
7. In pertinent part (see *Finding of Fact #9* below), the July 2024 IEP from the cyber charter school contained six speech and language ("S&L") goals for various aspects of expressive and receptive language. The July 2024 IEP indicated that the student would receive 90 minutes per week of individual S&L services. (P-1 at pages 36-41, 47).
8. The August 2024 comparable-services IEP proposed by the District contained four S&L goals and indicated that the student would receive 90 minutes of S&L per 6-day cycle (days A-B-C-D-E-F), the organizing school-week schedule at the student's school in the District. (S-6 at pages 35-36, 38).
9. In August 2024, shortly after the issuance of the District's notice of recommended educational placement ("NOREP"), the parents returned the NOREP, indicating that they did not feel the August 2024 IEP

provided comparable S&L services. Parents requested both a follow-up meeting and mediation. (P-3; NT at 349-449, 538-554, 559-608).

10. Given different results about the identification status of the student between two prior school district evaluations, and the fact that both evaluators did not have deep, if any, experience with the student in educational settings over an extended period of time, the District wished to conduct a comprehensive evaluation of its own. In early September 2024, the District requested permission to evaluate the student. Parents did not provide consent for the evaluation. (P-8; S-7; NT at 349-449).³

11. In late September 2024, approximately one month after the beginning of the school year, the District proposed a draft IEP, replacing the comparable-services IEP, for consideration of the student's IEP team. The team IEP met in early October 2024. (P-75; S-8; NT at 24-124, 349-449, 538-554, 559-608).

12. The September 2024 IEP indicated, as a special consideration, the student exhibited communication needs. (S-8 at page 7).

³ Ultimately, the District utilized special education due process to obtain hearing officer authority to conduct an evaluation, authority which was granted through the decision at ODR file 31027-2425, issued June 24, 2025.

13. The September 2024 IEP contained present levels of academic performance, with content from the two prior school district evaluations, although the levels were largely based on goal-probes data for the goals in the comparable-services IEP and the student's performance on curriculum-based assessments in reading, written expression, and mathematics. (S-8 at pages 8-13).
14. The September 2024 IEP contained present levels of functional performance. The present levels noted that the student was supported by a private 1:1 paraprofessional and exhibited the need for prompting to address attention-seeking and social-skills behaviors. (S-8 at pages 13-14).
15. The present levels of functional performance in the September 2024 IEP also contained present levels for S&L performance, based on goal-probes data for the S&L goals in the comparable-services IEP. (S-8 at page 14).
16. The September 2024 did not contain parent concerns but did note that the parents had requested recording of IEP meetings, given that the parents' professional schedules sometimes led to one of the parents being unable to attend the meetings. The IEP included correspondence between parents and District special education administrators where the parents' request was denied, based on a

District policy (see further *Findings of Fact* #66-68 below). (S-8 at pages 14-15).

17. The student's needs were identified in reading (fluency, accuracy, comprehension), mathematics (computation, math reasoning), written expression, executive functioning (attention, self-regulation, social skills), and S&L (receptive language, semantics). (S-8 at page 16).
18. The September 2024 IEP contained thirteen goals, including four reading goals, one written expression goal, two mathematics goals, two behavior goals, and four S&L goals. (S-8 at pages 18-22).
19. The September 2024 IEP included program modifications and specially-designed instruction, including direct special education support in reading, mathematics, social skills, and (as a push-in support in regular education) written expression. (S-8 at pages 23-25).
20. The September 2024 IEP included four 15-minute S&L sessions (individual) per 6-day cycle and one 30-minute S&L session (group) per 6-day cycle. The IEP also included the support of a 1:1 paraprofessional across settings. (S-8 at page 25).

21. Under the terms of the placement outlined in the September 2024 IEP, the student would spend 42% of the school day in regular education. (S-8 at pages 27-29).
22. In October 2024, the District issued a NOREP for implementation of the September 2024 IEP at the District elementary school the student was attending, the student's neighborhood school. Parents did not approve the NOREP and requested both mediation and a special education due process hearing. (S-8 at pages 28, 32-35).
23. In October 2024, the District again sought permission to perform an evaluation of the student. Parents declined to provide consent for the evaluation. (S-9).
24. In October 2024, the parents filed a complaint with the Bureau of Special Education ("BSE") at the Pennsylvania Department of Education. The complaint centered on a failure to provide comparable services, specifically 1:1 instruction and S&L services, from the July 2024 cyber charter school IEP. (P-65a).
25. In November 2024, the BSE complaint was resolved, with the District agreeing to provide any missed services over the period from the outset of the 2024-2025 school year through late November 2024, when the parents agreed to the BSE-complaint resolution. (P-35, P-60, P-65a, P-99; S-12, S-22).

26. In November 2024, the parties also entered into a mediation agreement regarding revisions to the October 2024 IEP. (NT at 259-334, 349-449, 538-554, 559-608).
27. Through the BSE-complaint and mediation processes, the student's September 2024 IEP was revised in November 2024. (P-4; NT at 24-124, 259-334, 349-449, 538-554, 559-608).
28. The November 2024 IEP revisions indicated, as special considerations, that the student exhibited communication needs and also exhibited behaviors that impeded the student's learning or the learning of others. The District agreed to incorporate in the student's IEP a behavior plan developed by the local intermediate unit. (P-4 at page 5).
29. The November 2024 IEP revisions updated the present levels of academic performance, including a detailed recitation of the basis of the IEP revisions from the BSE-complaint and mediation processes. (P-4 at pages 6-8).
30. The present levels of academic performance in the November 2024 IEP revisions included the student's daily schedule, as follows:

8:40 – 8:50	Homeroom – co-taught regular education
8:50 – 9:30	Mathematics – co-taught regular education
9:30 – 9:50	Mathematics – 1:1 special education instruction

9:50 – 10:10	Mathematics – small group special education instruction
10:10 – 10:55	Specials rotation – different specials class daily
10:55 – 11:15	Snack & Read-aloud – co-taught regular education
11:15 – 12:15	Reading – small group special education instruction
11:50 – 12:20	English/Language Arts – co-taught regular education
12:20 – 12:40	ELA/S&L Vocabulary – 1:1 special education instruction
12:40 – 1:40	Recess & Lunch
1:40 – 2:00	ELA – co-taught regular education days A-B-C-D-E
	2:00 – 2:20 S&L (individual) days A-B-D-E
	2:00 – 2:30 S&L (group) day C
1:40 – 2:15	ELA – co-taught in regular education day F
2:15/2:20/2:30 – 3:05	Science/Social Studies – regular education
3:05 – 3:15	Dismissal

(P-4 at pages 7-8).

31. At parents' request, the 1:1 special education instruction was to be delivered in the hallway or other quiet environment in the school but not the special education classroom. (P-4 at page 29; NT at 24-124, 182-208, 523-533, 538-554, 559-608).
32. The November 2024 IEP revisions included additional, comprehensive parental concerns. (P-4 at pages 16-19; P-28).
33. The modifications and specially-designed instruction as part of the November 2024 IEP revisions included the delivery of special education as reflected in the student's daily schedule, including the

S&L services (four sessions of individual, one session of group, per 6-day cycle). (P-4 at pages 27-29).

34. The November 2024 IEP revisions removed, at parents' request, the 1:1 paraprofessional support by the District. (P-4 at pages 6, 29).

35. The November 2024 IEP revisions changed the complexion of the student's placement, which remained at the student's neighborhood elementary school but increased to 69% the amount of time the student spent in regular education. (P-4 at pages 31-33).

36. In mid-November 2024, the parents made a request for the student's comprehensive student records. (S-13).

37. In early December 2024, parents approved the NOREP for implementation of the November 2024 IEP revisions. (P-65).

38. In November 2024, the District issued progress monitoring (on a trimester basis) on the student's IEP goals. Because the goals in the September 2024 IEP had not been agreed-to until the November 2024 IEP revisions were approved by parents in early December 2024, the District was still implementing instruction on through the August 2024 comparable services IEP. The November 2024 progress monitoring indicated that progress would begin to be monitored on the new goals. (S-19).

39. In January 2025, the District had completed its compilation of the student's educational records and provided those to the parents. (S-13; NT at 259-334).
40. In January and February 2025, the District administered reading assessments to the student. (P-90).
41. In February 2025, the District conducted an academic assessment to gauge the student's general progress through the curriculum and mastery of learning concepts. The November 2024 IEP revisions had explicitly indicated that this assessment would be administered. (P-4 at page 28; S-14; NT at 24-124).
42. The February 2024 assessment indicated that the student's learning skills in various areas were emerging or not-acquired. The assessment indicated needs in number sense, quantity/discrimination, and reading comprehension. The assessment indicated that goals in number-quantity (larger or smaller) and number-order should be part of the student's program. (S-14; NT at 24-124).
43. A number of procedural and communication processes unfolded over March 2025.
44. On March 6, 2025, the student's IEP team met to discuss related services, student progress, and extended school year ("ESY") services. (P-62; S-15).

45. In mid-March 2025, the District again requested permission to evaluate the student. Parents declined to provide consent for the evaluation. (P-9; S-17 at pages 1-3).
46. In the midst of the IEP team's considerations over the ensuing weeks, in mid-March 2025, the District issued progress-monitoring for the second trimester for the student's IEP goals. That progress is captured in the present levels of academic and functional performance detailed below as part of the March 2025 IEP revisions. (S-19).
47. The March 2024 IEP revisions indicated that the student no longer exhibited behaviors that impeded the student's learning or that of others. (S-16 at page 4).
48. The March 2024 IEP revisions included updated present levels of academic and functional performance, including updated curriculum-based assessments from winter administrations, the February 2024 learning assessment, and updated S&L progress monitoring. (S-16 at pages 5-21).
49. On curriculum-based assessments in the present levels of the March 2025 IEP, the student showed a lack of progress in certain areas of reading and in all measures of mathematics. Goal-progress in the present levels of the March 2025 was uneven, showing progress on some goals, uneven results on some goals, and lack of progress in other goals. (S-16 at pages 9-15).

50. The present levels in the March 2025 IEP revisions did not report any data on the reading comprehension goal from the November 2024 IEP revision. (S-16 at page 12; S-19 at pages 2-3).
51. The present levels in the March 2025 IEP revisions showed that the student showed progress on goals in passage-reading fluency, uneven progress on word-reading fluency, uneven progress in written expression, progress in math problem-solving, uneven progress in math computation, lack of progress in sustaining attention, and lack of progress in task-completion. (S-16 at pages 10-11, 13-14; S-19 at pages 1-2, 4-9)
52. In the present levels of the March 2025 IEP revisions, the results of the student's nonsense word fluency goal is unclear. The goal is written for progress from a baseline at the 2nd grade level to achievement at the 3rd grade level. The goal data reported in the March 2025 IEP for nonsense word fluency is reported at the 2nd grade level only indicates that the student mastered fluency at the 2nd grade level but there is no indication that the student progressed to the 3rd grade level. (S-16 at page 10; S-19 at page 3).
53. The present levels in the March 2025 IEP revisions included progress-reporting on the student's S&L goals. The student showed slight but uneven progress on 5Ws/H questions, slow progress on attribute-identification of objects, and progress on expressive language

(relative position using prepositions). (S-16 at pages 17-20; S-19 at pages 9-12).

54. The March 2024 IEP included parents' input and concerns. (S-16 at pages 5, 21-22, 24).

55. The March 2024 IEP revisions included proposed goals in number-quantity and number-order, based on the February 2025 learning assessment. (S-16 at page 29; S-19 at pages 7-8).

56. The March 2024 IEP revisions indicated that the student would receive ESY services for instruction on the student's S&L goals. (S-16 at page 36).

57. The March 2024 IEP revisions did not revise and change the student's placement. (S-16 at pages 37-40).

58. In mid-March 2025, the District issued a NOREP qualifying the student for ESY services. (S-18).

59. On March 21, 2025, parents filed the complaint which led to these proceedings. (Hearing Officer Exhibit ["HO"]-1, HO-2; P-49).⁴

⁴ Parents initial complaint was filed, and provided to the District, on March 21, 2025. (HO-1). A subsequent complaint, which removed certain claims and adjusted certain other claims, was filed on March 26, 2025. (HO-2). This hearing officer clarified with the parties that the March 26th complaint is the complaint upon which the hearing would proceed, although both complaints are materially the same (except for the claims that parents specifically did not repeat in the March 26th complaint). Nearly contemporaneously with the filing of the parents' complaint, the District filed its complaint seeking hearing officer authority to conduct an evaluation of the student; that complaint led to the decision at ODR file 31027-2425.

60. On March 24, 2025, the District issued a NOREP for implementation of the March 2024 IEP revisions. (P-98; S-16 at pages 43-46).
61. On April 1, 2025, parents returned the disapproved NOREP, referencing the complaint they had already filed. Parents also included content regarding their position on the potential March 2024 IEP revisions. (P-30, P-98; S-16 at pages 43-46).
62. Although the District was initially resistant, parents ultimately were afforded the opportunity to observe the delivery of special education and S&L instruction. (P-23, P-24; NT at 259-334, 349-449, 456-515, 523-533, 538-554, 559-608).
63. Given the volume of emails flowing from parents to various educators and, at times, overlapping or disparate communication chains, in May 2025, the District implemented a process by which one special education administrator was tasked with responding to all of parents' emails, with other educators instructed to forward parents' emails to that administrator for response. (P-26; NT at 24-124, 182-208, 259-334, 349-449, 456-515, 538-554, 559-608).
64. The special education administrator serving as point-of-contact for communications from parents was not always diligent about responding to parents' emails. (P-27; NT at 349-449, 538-554, 559-608).

65. The record contained numerous email communications and email chains which, unless specifically cited in these findings of fact, are not utilized for fact-finding, although those emails—based on the content—generally support the positions of the parties, the findings of fact, and the tenor of the decision. (P-20, P-21, P-22, P-25, P-50, P-51, P-63, P-66, P-67, P-70, P-85, P-86, P-88, P-89, P-92, P-93, P-94; S-20 at pages 1-4, 7, 10-14, 24-25, 28-29, 35, 43-44, 56, 60-61, 66-70, 75, 82, 84, 93-94, 102, 146-147, 152-160).
66. The District has a board-approved policy which limits the ability of parents to electronically record special education meetings. (S-23).
67. The policy generally prohibits “audio, video and electronic recording of meetings”. Two exceptions are provided to this general prohibition, with five days advance notice: (1) when an attendee requires audio recording to accommodate a disability, or (2) when an attendee “has a legitimate interest in attending the meeting but for good cause is unable to do so, and recording is the only feasible means by which s/he can meaningfully understand and participate in the decision-making”. (S-23).⁵

⁵ The policy is somewhat imprecise. It generally prohibits any type of recording, but then provides the two exceptions for “audio recording of a meeting”. The policy goes on to permit potential “videotaping of a meeting when written consent is given by all participants at the meeting”. Because a video recording, made part of the general prohibition, would be useless without audio, it would appear that the two exceptions apply to a video recording as well. However, it appears that unanimous consent is required by the District for video recording, as opposed to an audio recording, where the audio recording is allowed under one of the two exceptions. Still, this is an

68. Because certain educators objected to recording of the IEP meetings, the District denied the parents' request to record the IEP meetings to allow for either parent's participation where that parent's work schedule interfered with that parent's ability to attend the IEP meeting. (S-8 at pages 14-15; NT at 259-334, 349-449, 538-554, 559-608).
69. The student's regular education teacher testified credibly that student was not completing grade-level work and that workbook assignments were regularly sent home to parents. (NT at 215-249).
70. The third trimester's progress-monitoring on goal progress was due in June 2025, at the end of the school year, approximately at the time the record closed. That progress-monitoring was not made part of the record. (S-19; NT at 24-124).

Witness Credibility

All witnesses testified credibly and a degree of weight was accorded to each witness's testimony. No one witness's testimony was accorded materially more weight than any other witness. In that way, the documentary evidence was generally more persuasive in understanding the factual mosaic of the evidence.

attempt to parse the language of the policy between the general prohibition, the exceptions, and the nature of the recording being referred to. (S-23).

Legal Framework

To assure that a child eligible under IDEA receives a free appropriate public education ("FAPE") (34 C.F.R. §300.17; 22 PA Code §14.102(a)(2)(iv)), the child's special education programming 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 in light of his or her individual needs, not simply *de minimis*, or minimal, or 'some', education progress. The child's education programming must be appropriately ambitious in light of the child's strengths and needs, current levels of programming, and goals. (Endrew F. ex rel. Joseph F. v. Douglas County School District, 580 U.S. 386, 137 S. Ct. 988, 197 L. Ed. 2d 335, (2017); Dunn v. Downingtown Area School District, 904 F.3d 208 (3d Cir. 2018)).

Additionally, determinations of denial-of-FAPE through special education due process must be made on substantive grounds. Certain interactions, courses of action, or procedural processes between a school district and parents might support a finding of denial-of-FAPE where those inadequacies "(i) impeded the child's right to a FAPE, (ii) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child, or (iii)

caused a deprivation of educational benefit.” (34 C.F.R. §300.513(a); 22 PA Code §711.3(b)(27)).

Discussion

IEPs & FAPE. On this record, the District has largely provided FAPE to the student. Any deficiency in the comparable-services IEP of August 2024 was remedied through the end of November 2024, with the parties’ resolutions reached through the BSE-complaint and mediations processes.

The programming and placement outlined in the November 2024 IEP revisions, implemented from early December 2024 through ostensibly the end of the 2024-2025 school year, was largely, although not entirely, appropriate. The November 2024 IEP revisions contained appropriate comprehensive present levels of the student’s academic and functional performance, accounted for parents’ concerns, contained appropriate goals in the student’s areas of need, and provided appropriate modifications, specially-designed instruction, and S&L services to allow the student to make meaningful education progress, in the form of significant learning, given the student’s unique learning needs.

There are two areas, however, where the record supports a finding that the District did not provide FAPE to the student. One, at least as of March 2025, with the March 2025 IEP revisions, the District had not provided any data or goal-progress on the student’s reading comprehension goal. This

leaves a void for any reader of the November 2024 or March 2025 IEP revisions to understand the nature and extent of the student's progress in this long-identified area of need. Two, the lack of clarity in the reporting of the student's progress on the nonsense word fluency goal does not place parents, or any reader of the March 2025 IEP revisions, in a position to understand whether or not the student was making progress on that goal. Specifically, the data points reported do not indicate whether the probes are at the 2nd grade level or the 3rd grade level, such that the student's progress cannot be accurately gauged.

These two aspects of the November 2024 IEP revisions, as implemented through March 2025, are the only basis for a denial of FAPE. All other aspects of the student's programming and placement, as outlined in the November 2024 IEP revisions and based on the entirety of this record, support a conclusion that the student was provided FAPE. An award of compensatory education will be fashioned below.

The programming and placement outlined in the proposed March 2025 IEP revisions is an offer of FAPE to the student. The most significant revision includes the addition of the two mathematics goals for number-quantity and number-order. The record supports a conclusion that these goals are necessary. And this points to a fundamental disagreement between the parties: Parents feel that the student's academic and functional strengths (including behaviors and the need for classroom supports) are more

advanced than the District's view of the student. Admittedly, those positions cannot be made concrete, as the student is in the midst of an comprehensive evaluation process to update everyone's understandings of the student's strengths and needs across multiple domains. Still, on this record, it appears that the level of need and consequent supports skew toward the District's position. But based on the information provided to the District, and its own experience with the student over the 2024-2025 school year, it has proposed through the March 2025 IEP revisions a program and placement which are reasonably calculated to yield meaningful education benefit to the student.

Parent Participation. The record does not support a conclusion that the procedural elements of the District's interactions with the parents impeded the student's right to FAPE, significantly impeded the parents' opportunity to participate in the decision-making process regarding the student's education, or provision of a FAPE to the parent's child, or caused a deprivation of educational benefit to the student.

Here, the elements that might undergird parents' claims include recording of the student's IEP meetings, receiving advanced copies of IEPs in a timely way, the provision of student materials and work, communications procedures and District response, and an allegation that the District has falsified content/records (see the March 2025 NOREP at P-98). Each of these will be taken up in turn.

As to the recording of the special education meetings because the work schedule of one of the parents might interfere with his/her ability to attend the meeting, it appears that with advanced notice (five days under the District's policy), the parents' request can be accommodated, for the very reason the parents had asked. Under the facts here, though, the imprecision of the policy leads to a conclusion that the position of District special education administrators (unanimous approval of attendees) can be read into the policy; the parents' request, though, clearly falls into one of the two exceptions allowing for recording of meetings (unavailability of a parent who wishes to know how the meeting unfolded). This hearing officer takes no position on the policy, except to note its imprecision supporting either reading, but there will be no finding that the District acted wrongfully in denying the parents' request that special education meetings be recorded for the benefit of the parent who could not attend.⁶

As to receiving advanced copies of IEPs in a timely way, the District attempted to provide copies of IEPs two days in advance of the meeting. Again, this record cannot support a conclusion that the District acted wrongfully in providing IEPs in advance of meetings, nor does this issue need to be addressed in the order below. As a matter of good practice, and knowing that it is an issue of concern for the parents, perhaps the District

⁶ One solution, of course, is to work with the parents' schedules to arrange special education meetings where both parents can attend, perhaps working with "good" dates on both parents' schedules and arranging meetings accordingly.

might be diligent in calendaring a point in the days before a confirmed meeting to provide the draft of IEPs (or the evaluation report, when it is ready) prior to the meeting. But, as indicated, the District has not materially interfered with the parent's ability to participate in meetings.

As to the provision of student materials and work, this record supports a conclusion that the parents were provided with student workbooks and materials.

As to communications procedures and District response, school districts can certainly instruct parents to utilize a point-of-contact for parent communications about special education matters. Normally, as here, such procedures are put in place where the volume of communication might interfere with educators' duties and/or for clarity and consistency of response. But when such a process is implemented, it is incumbent upon that point-of-contact to be diligent in collaborating with colleagues and responding in a timely way. Here, the record contains multiple instances of the parents waiting for responses, at times to seemingly straightforward questions or requests for information. Therefore, while there will be no finding that the District has wrongfully interfered with the parents ability to be involved in the student's education, the order below will implement a structure for responses, should the District continue to employ its point-of-contact process for parents' communications.

As to the allegation that the District has falsified content/records, this assertion is wholly unsupported in this record. On this record, the District has, at all times, striven to provide accurate information to design the student's programming/placement and to communicate that to the parents.

Compensatory Education. Where a school district has denied FAPE to a student under the terms of IDEA, compensatory education is an equitable remedy that is available to a student. (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)).

The evidentiary scope of claims, which is not a point of contention in this matter, and the nature of compensatory education awards were addressed in G.L. v. Ligonier Valley School Authority, 801 F.3d 602 (3d Cir. 2015) The G.L. court recognized two methods by which a compensatory education remedy may be calculated.

One method, the more prevalent method to devise compensatory education, is the quantitative/hour-for-hour calculation, where, having proven a denial of FAPE, the compensatory education remedy is calculated based on a quantitative calculation given the period of deprivation. In most cases, it is equitable in nature, but the award is a numeric award of hours as remedy. The second method, a rarer method to devise compensatory education, is the qualitative/make-whole calculation, where, having proven a denial of FAPE, the compensatory education remedy is calculated based on a

qualitative determination where the compensatory education remedy is gauged to place the student in the place where he/she would have been absent the denial of FAPE. It, too, is equitable in nature, but the award is based on services or interventions for the student, or some future accomplishment or goal-mastery by the student, rather than being numeric in nature.

Both calculations are a matter of proof. The quantitative/hour-for-hour approach is retrospective, looking back to understand the cumulative denial of FAPE, and is normally a matter of evidence based on IEPs or other documentary evidence that provides insight into the quantitative nature of the proven deprivation. The qualitative/make-whole approach is prospective, looking forward to some point in the future where the proven deprivation has been remedied, and normally requires testimony from someone with expertise to provide evidence as to where the student might have been, or should have been, educationally but for the proven deprivation, often with a sense of what the make-whole services, or future student accomplishment/goal-mastery, might look like from a remedial perspective. In this case, parents have not made any concrete claim for compensatory education. Thus, the award of compensatory education is an equitable consideration in the hands of the hearing officer.

Here, the denial of FAPE is centered on, on the one hand, lack of any data or progress-monitoring on the reading comprehension goal and, on the

other hand, a lack of clarity in the reporting of progress-monitoring on the nonsense word fluency goal. In both cases, the denial-of-FAPE is rooted in preventing the parents from knowing how the student was progressing in these areas. The denial-of-FAPE unfolded over the period from early December, when parents approved the November 2025 IEP revisions, through the end of the 2024-2025 school year.⁷ This amounts to six months of schooling, or 24 school weeks.

Thus, as a matter of equity, the parents will be awarded two hours of compensatory education for each school week for the lack of any data or progress-monitoring for the reading comprehension goal and one hour of compensatory education for each school week for the lack of clarity in the data provided through progress monitoring for the nonsense word fluency goal. Accordingly, seventy-two hours of compensatory education will be awarded.

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⁷ While the concrete evidence of these denials-of-FAPE runs through the March 2025 IEP revisions, in the considered judgment of this hearing officer as a matter of equity, the award of compensatory education will cover the remainder of the school year.

ORDER

In accord with the findings of fact and conclusions of law as set forth above, for the most part, the Perkiomen Valley School District has provided, or proposed, a program/placement for the student reasonably calculated to provide meaningful education benefit in the 2024-2025 school year, through the last day of school for all students in that school year.

The program/placement set forth through the March 2025 IEP revisions will serve as the basis of the student's programming through the annual revision date of September 24, 2025.

As set forth above, certain aspects of the report of progress-monitoring did not place parents in a position to understand the progress, or lack of progress, that the student made on certain IEP goals. Therefore, the student is awarded 72 hours of compensatory education.

Furthermore, as to procedural elements regarding the interactions between the school district and the parents did not impede the student's right to FAPE, did not significantly impede the parents' opportunity to participate in the decision-making process regarding the student's education or the provision of FAPE to the student, or did not cause a deprivation of educational benefit to the student.

Having so found, to the extent that the school district employs a designated point-of-contact regarding special education communications with the parent, the student's programming shall indicate that the school

district's designated point-of-contact shall respond to parents within five school days (that is, days where students are required to be in attendance at school from the beginning of the school year in the fall through the end of the school year in the spring).

Any claim not specifically addressed in this decision and order is denied and dismissed. With the issuance of this final decision, jurisdiction over this matter is hereby relinquished.

s/ Michael J. McElligott, Esquire

Michael J. McElligott, Esquire
Special Education Hearing Officer

07/16/2025