

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. 31586-25-26

Child's Name:

C.G.

Date of Birth:

[redacted]

Parents:

[redacted]

Local Educational Agency:

Octorara Area School District
228 Highland Road – Suite 1
Atglen, PA 19310

Counsel for LEA:

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Hearing Officer:

Michael J. McElligott, Esquire

Date of Decision:

03/16/2025

Introduction

This special education due process hearing concerns the educational rights of [C.G.]("student"), a student who attends school in the Octorara School District ("District").¹ The student currently qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 ("IDEA")² as a student with specific learning disabilities in reading and written expression.

The student's parents filed the complaint which led to these proceedings. The parents claim that the District's special education programming was inappropriate in a variety of ways, denying the student a free, appropriate public education ("FAPE") in the 2023-2024 and 2024-2025 school years (respectively, the student's [redacted] grade years).

The District counters that at all times it has met its obligations to the student under IDEA.

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

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 IDEA at 34 C.F.R. §§300.1-300.818. See *also* 22 PA Code §§14.101-14.162 ("Chapter 14").

Issues

1. Was the District's special education program for the 2023-2024 and/or 2024-2025 school years appropriate?
2. If not, is the student entitled to compensatory education?

Findings of Fact

All evidence of record was reviewed. The citation to any exhibit or aspect of testimony is to be viewed as the necessary and probative evidence in the mind of the hearing officer.

[redacted] Grade / 2022-2023 School Year

1. In March 2023, in the spring of the student's [redacted] grade year, the student was re-evaluated as part of its triennial re-evaluation process. (School District Exhibit ["S"]-2).
2. The March 2023 re-evaluation report ("RR") contained cognitive assessments, including an abbreviated cognitive assessment provided by a private provider in April 2022. The District's assessment yielded a full-scale IQ of 92, the private assessment yielded a full-scale IQ of 94. (S-2).

3. The March 2023 RR contained academic achievement testing, including academic achievement testing from the private provider. The District's achievement testing yielded statistically significant results (less than 1.5 standard deviations from the student's full-scale IQ) in the word-reading subtest (76) and the reading composite (78). The spelling subtest was borderline statistically-significant (79). The student scored below-average, although not at the statistically-significant level, in reading comprehension (84), spelling, essay composition (80), the written expression composite (83), numerical operations (83), and the mathematics composite (84). (S-2).³
4. The private provider, based on her IQ assessment, obtained statistically-significant achievement scores in an oral reading index (73) and math calculation (77). (S-6).
5. The March 2023 RR identified the student with specific learning disabilities in written expression and broad reading. The evaluator recommended that the student receive support in these areas of need as well as math calculation, numeric operations, and executive functioning (working memory). (S-6).

³ The District evaluator seemed to rely on the descriptor of scoring ranges (average, below average, etc.) rather than the results of the ability/achievement discrepancy analysis.

6. In April 2023, the student's individualized education program ("IEP") team developed an IEP, based on the March 2023 RR. (S-3).
7. The April 2023 IEP indicated that in the spring of [redacted] grade, in mathematics the student earned 29 points on a [redacted] grade probe for math calculation, with an expectation that the student would earn 57 points by year-end. The IEP indicated "(The student) will not be monitored on this skill". (S-3 at page 13).
8. The April 2023 IEP indicated that in the spring of [redacted] grade, in mathematics, the student earned 6 points on a [redacted] grade probe for math problem-solving, with an expectation that the student would earn 18 points by year-end. The IEP indicated "(The student) will not be monitored on this skill". (S-3 at page 13).
9. In May 2023, the April 2023 IEP was revised to include additional parental concerns. The parental concerns centered on the delivery of multi-tiered systems of support ("MTSS") supports in mathematics, and continued reading support, the student's time in regular-education science and social studies, and the student's transition to a new District building for [redacted] grade. (S-4).
10. The May 2023 IEP revisions also included an indication that the student would receive a student attendance improvement plan. (S-4).

11. The April 2023 IEP, with the May revisions, was in place for the student's special education programming in [redacted] grade.

[redacted] Grade / 2023-2024 School Year

12. The April 2023 IEP contained three goals, one each in oral reading fluency (with a baseline at the 3rd grade level), reading comprehension (with a baseline at the 4th grade level), and spelling (with a baseline at the 2nd grade level). (S-3).

13. The April 2023 IEP contained specially-designed instruction and supports in reading and executive functioning. (S-3; Notes of Testimony ["NT"] at 76-96, 119-126, 199-224).

14. The student did not receive specially-designed instruction in mathematics but did receive regular-education support in mathematics through MTSS. (S-3; 104-113, 135-183).

15. In September 2023, the student's IEP was revised to include additional parental concerns about support in mathematics and regular-education science and social studies classes. (S-5).

16. In December 2023, the student's IEP was revised to update performance in regular-education science (vocabulary support), improved performance in mathematics, and a change in the provision of reading support. This last change was implemented in December

2023, with a new specialist providing reading support. (S-5; NT at 119-126, 199-224).

17. In March 2024, the student's IEP team met for its annual revision of the student's IEP. (S-6; NT at 76-97).
18. The student met the oral reading fluency goal on a 3rd grade passage in the April 2023 IEP. The March 2024 IEP included an updated oral reading fluency goal (with a new baseline at the 4th grade level). (S-6).
19. The student met the reading comprehension goal at the 4th grade level in the April 2023 IEP. The March 2024 IEP included an updated reading comprehension goal (with a baseline at the 5th grade level). (S-6).
20. The student met the spelling goal on a 2nd grade level in the April 2023 IEP. The March 2024 IEP included an updated spelling goal (with a baseline at the 4th grade level). (S-6).
21. The student's performance in mathematics detailed in the March 2024 IEP was uneven. (S-6).
22. On a curriculum-based assessment at the 5th grade level, the student showed progress between the September and December administrations in geometry, numbers and operations, algebraic

concepts, and total score. The student regressed in data and measurement. The data indicated that the student fell below the 50th percentile in the fall administration and below the 47th percentile in the winter administration, but exact percentile levels were not reported. The student's scores, however, were far below average, with percentiles generally below the 15th percentile. (S-6).

23. On a fact-fluency assessment, the student scored 24 out of 50 in multiplication, with a grade-level expectation of 45 out of 50. On a fact-fluency assessment, the student scored 12 out of 25 in division, with a grade-level expectation of 22.5 out of 25. (S-6).

24. In December 2023, on a math computation probe at the 5th grade level, the student performed at the 88th percentile. (S-6).

25. On a math reasoning benchmark administered at the 5th grade level in September 2023 and January 2024, the student scored at accuracy levels, respectively, at the 42% and 31% levels. (S-6).

26. In April 2024, the March 2024 IEP was revised to include the notation that the student was receiving a student attendance improvement plan for excessive absences. (S-7).

27. In April 2024, additional revisions to the March 2024 IEP were discussed regarding the type and frequency of supports. The student's parents rejected these substantive revisions. (Parents Exhibit ["P"]-1).

[redacted] Grade / 2024-2025 School Year

28. In September 2024, the student's IEP team reviewed mathematics benchmark assessments, but those scores were presented without context. The IEP team discussed other aspects of the student's schedule and programming. (S-8).

29. In January 2025, the student's IEP was revised to include the notation that the student was receiving a student attendance improvement plan for excessive absences. (S-8).

30. In March 2025, the student's IEP team met for its annual revision of the student's IEP. (S-9; NT at 42-70, 76-97).

31. The student made inconsistent progress in oral reading fluency goal on a 4th grade passage in the March 2024 IEP. From a baseline of 88 words correct per minute, the student's probes were stagnant in the 90s on most probes through March 2025. (S-9).

32. It is impossible to determine whether or not the student met the reading comprehension goal in the March 2024 IEP. The March 2024 IEP had included a reading comprehension goal for 70% accuracy on

three consecutive comprehension probes at the 5th grade level with a baseline of 42% accuracy. The record includes probes only in November 2024, December 2024, and January 2025, with scores of 76%, 68%, and 76%. The March 2025 IEP indicates that this was goal mastery, but by its terms, it was not. Yet the District discontinued the goal. (S-9).

33. The student regressed on the spelling goal at the 4th grade level in the March 2024 IEP. From a baseline of 100 correct letter sequences, the student scored 113, 91, 94, and 91 through March 2025. (S-9).

34. The March 2025 IEP contained no new or updated goals in any area. (S-9).

35. The reporting of mathematics benchmark testing in the March 2025 IEP is incomplete. (S-9 at page 10).

36. Over March and April 2025, the IEP team had difficulty convening given various concerns of the parents and the parents' inability to attend. (S-10).

37. In April 2025, the student's March 2025 IEP was revised. (S-10).

38. In the April 2025 revisions, the mathematics benchmark testing from September 2024 and January 2025 administrations was reported

completely. The student showed marked progress, what might be termed extraordinary progress, between the two administrations. (S-10).

39. The parental concerns in the April 2025 IEP were also revised, to include parents' concerns over changes to the IEP and programming including characterizations of the student's needs, lack of progress reporting, concerns over mathematics instruction (albeit recognizing that the student was making progress in that area), the removal of the reading comprehension goal, an increase in problematic classroom behavior, and changes to specially-designed instruction, MTSS support, and program modifications. (S-10).

40. The April 2025 IEP revisions contained no new or updated goals in any area. (S-10).

41. In May 2025, the parents obtained a private neuropsychological evaluation. The results of the private evaluation largely align with the findings of the District's re-evaluation of the student in March 2023. (P-3).

42. The May 2025 private evaluation listed a number of assessments performed in the areas of cognitive testing, task approach and persistence, executive functioning, verbal learning, anxiety scales, and

social/emotional/behavioral scales. None of the results of these assessments, however, were provided in the report. (P-3).

43. The District's math support teacher and the reading specialist, however, provided input for the May 2025 private evaluation. Both teachers noted difficulty with attention, and the reading specialist shared that "while (the student) has made improvement, (the student) is still reading below grade level (well below) in the areas of accuracy, fluency, and comprehension. (The student) has not yet mastered all vowel sounds in decoding or encoding." (P-3 at page 2).

44. In June 2025, the District requested permission to re-evaluate the student. (S-11).

45. In July 2025, parents filed the complaint which led to these proceedings.

46. In August 2025, the family relocated to a neighboring school district and the student was withdrawn from the District, attending [redacted] grade in the neighboring school district. (P-4).

47. In the fall of 2025, on mathematics benchmark testing at the neighboring school district, the student was "far below" the grade-level performance target in all areas of mathematics (numbers and operations, algebra and algebraic thinking, fractions, geometry,

measurement, data/statistics/probability), as well as the composite overall math. (P-4).

Credibility of Witnesses

All witnesses testified credibly. No one witness's testimony was accorded materially more weight than any other witness's testimony.

Legal Framework

To assure that a child eligible under IDEA receives a 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. (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 & Conclusions

Here, the record supports a conclusion that the District denied the student FAPE in for (1) not providing specially-designed instruction and (2) the stalled progress in oral reading fluency and spelling in [redacted] grade, as well as ceasing to provide goal-driven instruction in reading comprehension.

In mathematics, the March 2023 RR was not necessarily inappropriate in that it did not identify the student with a specific learning disability in mathematics; even though the private evaluator's results qualified the student for such an identification, it was a weak qualifying discrepancy, and the District's assessments did not indicate a statistically-significant discrepancy. One cannot fault the District for erring on the side of caution. But as time moved on, and the regular-education MTSS supports were not providing the student with the mathematics achievement one would expect, the District should have re-evaluated the student and/or proposed direct instruction through a specialized mathematics curriculum.

Indeed, by the student's [redacted] grade year, the student's performance in mathematics was faltering, notwithstanding a seemingly miraculous increase in benchmark scores in the winter of 2025. In the fall of 2025, benchmark testing at the neighboring school district showed that the student was markedly below grade-level targets in every area of mathematics testing. The cumulative accretion of data across this record supports a finding that the District did not propose and implement necessary special education programming to allow the student to attain significant learning based on the student's learning needs. Accordingly, the District denied the student FAPE in its failure to provide goal-driven special education in mathematics in the student's [redacted] grade year.

Over the course of [redacted] grade, the student's progress in oral reading fluency stagnated, and the student regressed in spelling. The reading comprehension goal was removed entirely, even though the student had not mastered the goal. And as of March 2025, no new goals were crafted, proposed, or made part of any IEP. It is not that the parent disapproved of proposed goals; no new goals were developed. All of this supports a finding that the student did not benefit from significant learning in reading and spelling, based on the student's learning needs. Accordingly, the District denied the student FAPE in its failure to provide meaningful education benefit to the student in reading in the student's [redacted] grade year.

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, and 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 did not specify which type of compensatory education they were requesting (understandably so, since characterizing a compensatory education remedy involves complicated factors even where parents are represented, let alone where they proceed on their own interest). Thus, parents' request for remedy is viewed as a request for a

quantitative compensatory education remedy, awarded as a matter of equity in the hands of the hearing officer.

Here, the denial of FAPE in [redacted] grade was rooted in a lack of necessary specialized curriculum and instruction in mathematics, stalled progress/regression/goal-removal in reading, and an entire lack of IEP goals from March 2025 through the end of the school year. Thus, the District's programming was deeply flawed in [redacted] grade, touching on the two most important academic areas (reading and mathematics) for student advancement.

In Pennsylvania, a student in the elementary grades K-6 is entitled to 900 hours of academic instruction in a given school year, approximately 5 hours per day in a 180-day school year (or 100 hours per month in a 9-month school year). (22 PA Code §11.3(a)). Using this as a starting point, there are mitigating equitable factors. One, the student made some progress in oral reading fluency in [redacted] grade and, before the goal was discontinued without mastery, the reading comprehension goal showed strong results on probes. Two, the student required an attendance improvement plan in January 2025, the latest in a series of attendance improvement plans over the student's schooling, due to excessive absences. While these absences in [redacted] grade do not impact the finding of denial-of-FAPE, the absences do impact an equitable award of compensatory

education (the student being, literally, unavailable for instruction of any sort due to absence).

Given these equitable mitigating factors, it is the considered opinion of this hearing officer that the student should be awarded 200 hours of compensatory education for the denial-of-FAPE in the [redacted] grade year. This compensatory education will be awarded in the order below.

ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Octorara Area School District denied the student a free appropriate public education in the 2024-2025 school year. The student is awarded 200 hours of compensatory education.

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

03/16/2025