

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

Pennsylvania  
Special Education Hearing Officer

DECISION

ODR No. 00237-0910AS

Child's Name: E.Z.

Date of Birth: <redacted>

Dates of Hearing: 11/17/09; 11/20/09

CLOSED HEARING

Parties to the Hearing:

Parents

Representative:

Parent Attorney: None

School District

Downingtown Area  
126 Wallace Avenue  
Downingtown, PA 19335-2643

School District Attorney

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Date Record Closed:

January 3, 2010

Date of Decision: January 18, 2010

Hearing Officer: Anne L. Carroll, Esq.

### **INTRODUCTION AND PROCEDURAL HISTORY**

<Student>, a resident of the Downingtown Area School District, is eligible for special education services due to autism spectrum disorder, speech/language deficits and probable mental retardation. <Student> is currently attending a full-time, center based autistic support program located within the District but run by the Chester County Intermediate Unit.

Over a period of several months, from the spring to the fall of 2009, Parents and the District were involved in a due process hearing before another hearing officer concerning the appropriateness of the District's most recent full reevaluation and past IEPs.

Before the previous case concluded, Parents filed a second due process complaint, the subject of this hearing, challenging the appropriateness of the IEP offered by the District for the 2009/2010 school year. The hearing in this case encompassed two days of testimony in November 2009.

Based upon that record, and for the reasons explained in detail below, the District's final IEP offer for the 2009/2010 is appropriate for <student>. Parents' claims, therefore, will be denied in all respects.

### **ISSUES**

1. Did Parents have a meaningful opportunity to participate in developing the 2009/2010 IEP?
2. Is the educational program proposed by the District for <student> for the 2009/2010 school year appropriate?
3. If the proposed 2009/2010 IEP is inappropriate in any respect, how should it be changed?

4. Is <student> entitled to compensatory education, and if so, how much, for what period and in what form?

### **FINDINGS OF FACT**

1. <Student> is a 14 year old child, born (redacted). <Student> is a resident of the District and is eligible for special education services. (S-8, S-9, S-10 )
2. Student has a current diagnosis of autism and speech-language impairment in accordance with Federal and State Standards. Student's overall intellectual functioning is presumed to fall within the mental retardation range, but no cognitive test has confirmed that diagnosis due to Student's difficulties with taking standardized tests. Past evaluations have concluded that such tests underestimate Student's true cognitive potential, which has never been determined. 34 C.F.R. §300.8(a)(1), (c)(1)(i), (11); 22 Pa. Code §14.102 (2)(ii); (P-212,<sup>1</sup> S-8, S-14, p. 2)
3. Since September 2008, Student has been attending a full-time autistic support class, located at [Redacted] Center, conducted and staffed by the Chester County Intermediate Unit (CCIU). (N.T. pp. 247; S-9, S-10, S-15, pp. 7, 11)
4. The District's March 2008 reevaluation report (RR), and the June 18, 2008 IEP proposed by the District for the 2008/2009 school year were the subject of a prior due process hearing, culminating in a November 10, 2009 decision by a different hearing officer, who concluded, among other things, that the District's RR and IEP were appropriate and that Student made meaningful progress during the 2008/2009 school year. (N.T. p. 248; S-15, p. 23)
5. The IEP proposed by the District and rejected by Parents in August 2009 has been implemented during the current 2009/2010 school year. An updated version of the IEP was offered to Parents in November 2009, just before the due process hearing in this case was convened. The proposed IEP includes goals in the areas of reading, writing, math (in terms of using money), functional communication, life skills and social skills, gross and fine motor skills, including motor planning, receptive and expressive language. (S-9, S-10, S-11)
6. The reading fluency running records included in the proposed IEP's present levels of educational performance were compiled during Reader's Theater, a preferred activity for Student, in which student engages in reading and enacting parts of an adapted and familiar story. The range of fluency data is based upon the number of words Student read correctly when data was collected at various points and reflects the highest and lowest

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<sup>1</sup> It appears that Parents maintained some of the exhibit numbers from the prior due process hearing, since they offered only 17 exhibits for admission into the hearing record in this case, but the offered and admitted documents included exhibits numbered 181, 212 and 343.

words correct per minute (wcpm) student attained. (N.T. pp. 284, 285, 446; P-12, S-9, S-10)

7. The reading fluency goal proposed in the IEP offered by the District is for Student to demonstrate the ability to consistently read 71 wcpm when given an unfamiliar 3<sup>rd</sup> grade reading passage, with consistency defined as demonstrating the skill over 3 consecutive sessions. The goal incorporates a more traditional and objective academic approach than had been used in the past with Student, and for that reason, there was some uncertainty concerning Student's reading skills on a "cold" read. That uncertainty was reflected in the expected progress set for that goal. The goal also includes short-term objectives for instruction at the 1<sup>st</sup> and 2<sup>nd</sup> grade reading levels to assure that Student reaches a solid 3<sup>rd</sup> grade reading level by the end of the 2009/2010 school year. (N.T. pp. 286—288, 405, 443—445, 447; P-12, S-9, S-10)
8. In the early fall of 2009, a CCIU reading specialist conducted reading assessments of Student for the purpose of making instructional recommendations to Student's classroom teacher. The reading specialist described Student's current functioning to the extent that the reading assessments provided useful information, and provided recommendations for improving Student's word recognition, reading fluency and comprehension. She also provided Student's teacher with several reading goals that might be adapted for inclusion in Student's future IEPs. An IEP team meeting was to be held early in December 2009 in which the reading specialist had been invited to participate. (N.T. pp. 401—404, 407—414, 422—424; P-21, p. 63, S-12)
9. Although the CCIU reading specialist did not consider the Gray Oral Reading Test (GORT) results a true estimate of Student's reading rate, accuracy and fluency because Student could complete only one reading passage, she does believe that the GORT reading comprehension score, which placed Student below a 1<sup>st</sup> grade level, is an accurate reflection of Student's reading comprehension level, since a student needs to achieve a score of 5 correct answers to comprehension questions to advance to a second reading passage, and Student's score on the only completed passage was 2. A different test that also measures reading comprehension placed Student at the kindergarten level. (N.T. pp. 426, 427; S-12, pp. 1, 2)
10. Because Student is now 14 years old, the proposed IEP includes a transition activity in the areas of employment exploration and notes that independent living goals would include household responsibilities such as meal preparation, cleaning, laundry; personal self-care and hygiene and accessing community resources for shopping, recreation/leisure. There are, however, no goals or activities related to independent living in the transition portion of the proposed IEP. (S-10, p. 25)
11. Data collected on progress toward IEP goals and plotted on graphs for the first quarter of the 2009/2010 school year appears to indicate mastery of a number of the annual goals in the 2009/2010 IEP. The person providing support to Student, who collected the data, did not, however, indicate when Student required prompting to demonstrate the skills that

12. Narratives concerning Student's progress toward IEP goals during the first quarter of the current school year provide more accurate data concerning how far Student has progressed toward independent mastery of the IEP goals and objectives, since the level of support and prompting are noted for Student's performance on each goal and objective. (N.T. pp. 258—260; S-11)
13. By the end of the first quarter, Student had attained mastery or near mastery on a several goals or short term objectives relating to taking turns, responding to peer or adult requests during familiar shared activities, labeling common objects, accurately typing 10 words of a Reader's Theater part, locating and obtaining an item on a shopping list, cooking a 3 step recipe, safely approaching a street or parking lot and typing a functional shopping list with a minimum of 5 words. (N.T. pp. 451, 452; S-11)
14. Student requires a comprehensive and detailed behavior plan to respond to aggressive behaviors, such as biting, hitting, kicking, pushing, pinching and hair pulling. A behaviorist under contract with CCIU who has been working with Student since the 2006/2007 school year conducted a Functional Behavior Assessment (FBA) in March 2009 and developed a behavior support plan in the form of recommendations to Student's IEP team. The FBA report and the recommendations are included in the District's proposed IEP. (N.T. pp. 171, 329, 330, 335—344, 363, 364; P-3, p. 16, S-9, pp. 68—85, S-10, pp. 60—75)
15. In accordance with the recommendations of Student's long-term behavior specialist and Parents' request, the 2009/2010 IEP incorporates the SCERTS<sup>2</sup> methodology for assessing Student's ability to develop communicative competence through the use of joint attention and use of symbols, engage in mutual and self-regulation, and assess the manner in which others who interact with Student shape the environment for Student's performance. (N.T. pp. 143, 144, 332)
16. The underlying philosophy of the SCERTS methodology is integrating a child with autism fully into the daily plan for the child, including academic instruction and all other aspects of the day. SCERTS assessments and methods address social communication and emotional regulation goals across all settings and activities with necessary and appropriate transactional supports. The SCERTS methodology is intended to address all core developmental areas, with skill development expected to occur in the environment where various skills are naturally used via task analysis of all sub-skills, which are then practiced to mastery until the entire transaction goal is mastered. (N.T. pp. 264—268, 277—283)
17. All staff working with Student have been trained in the SCERTS philosophy and methods. The CCIU behaviorist who conducted the March 2009 FBA compiled SCERTS assessment data gathered by the team working with Student during the

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<sup>2</sup> The acronym "SCERTS" stands for **S**ocial **C**ommunication, **E**motional **R**egulation and **T**ransactional **S**upports.

- fall/winter of 2008 and the fall of 2009, which demonstrated progress. (N.T. pp. 147—149, 302—305, 330—334; P-13, p. 1, 2, 10, 11)
18. Staff members who work with Student, in consultation with the CCIU behaviorist, have targeted specific areas to focus on in implementing the SCERTS methodology in the areas of social communication and emotional regulation. The SCERTS assessments also consider use of transactional supports in both interpersonal and learning support areas. (P-13, pp. 1,2, 10, 11)
  19. The SCERTS methodology is used throughout Student's school day, encompassing both goals and objectives and several items included in the specially designed instruction that incorporate and describe transactional supports considered fundamental to the SCERTS philosophy. (N.T. pp. 463—467 ; P-3, pp. 25—30, S-10 pp. 33—35, 38, 43, 45—51)
  20. In addition to extinguishing aggressive behaviors, the CCIU behavior specialist identified frequent breaks from academic tasks as an area of behavior to target for reduction. Although breaks are important for sensory regulation, observation of the Student suggests that breaks are more often used as a task-avoidance mechanism than for sensory regulation. The SCERTS methodology includes a break schedule that Student's classroom team believes should be a behavior goal directed toward shaping/reducing break requests to reduce interference with academic tasks and to promote greater progress in the areas of waiting and academics. (N.T. pp. 262, 263, 342—346, 380, 381, 393, 394; S-9, p. 81, S-10 p. 73)
  21. In addition to the SCERTS methodology, Student's program is based on DIR and community-based instruction. Parents no longer request use of the DIR method, believing that its principles are sufficiently encompassed within the SCERTS model. (N.T. pp. 268—273; S-9, p. 11; S-10, p. 9, S-15, p. 11)
  22. A positive behavior plan developed by the Parents' behavior therapist in July 2009 was based upon observation of the Student at home and at school, input from Parents and teachers and the SCERTS assessment method. (N.T. p. 142)
  23. Unlike Applied Behavior Analysis (ABA), SCERTS is not a consequence-based method and is more suitable for Student, who does not always understand consequences, resulting in confusion with respect to what is expected, leading in turn to increased anxiety and disregulation. (N.T. pp. 145, 146)
  24. In February 2009, at Parents' request, the District agreed to provide an updated evaluation by an independent psychologist who had evaluated Student in the past. (N.T. pp. 205, 206; P-21)
  25. That independent reevaluation has not yet occurred. In a conversation with Parents in the late spring of 2009, the independent evaluator expressed a desire to wait until the due process proceedings had concluded before undertaking the reevaluation. (N.T. pp. 206, 236, 237)

26. For both the 2008/2009 and 2009/2010 school years, Parents requested that learning to ride a bike be included as one of the Student's IEP goals in the areas of PT, sensory integration and/or leisure/social activities. (N.T. pp. 214, 215, 241, 437)
27. Based upon the opinions of the CCIU staff working with Student, the District refused to include a bike riding goal in the current IEP due to safety concerns, the ability to address Student's sensory and motor coordination needs via other appropriate PT, sensory integration and social/leisure goals and the absence of a need for a bike riding goal for Student to access the school environment. (N.T. pp. 249, 250, 437, 438)

## **DISCUSSION AND CONCLUSIONS OF LAW**

### I. Parental Input

Although Parents' primary objections to the 2009/2010 IEP will be discussed individually, it is important to note that the underlying basis for Parents' dissatisfaction with the proposed IEP is their contention that they have been, and continue to be, denied full participation in the process of developing Student's IEPs. The crux of the dispute in this case is Parents' belief that their effective participation in developing Student's program requires the District to write and implement Student's IEP in accordance with Parents' wishes and using only methods preferred and approved by Parents. Parents, however, are greatly mistaken. The IDEA statute and regulations concerning parent participation explicitly require only that parents be members of the child's IEP team and that a district afford parents the opportunity to attend, or otherwise participate, in IEP meetings. 20 U.S.C. §1414(d)(1)(B)(i), 34 C.F.R. §300.322.

Notwithstanding the minimal literal requirements for parent participation, no educational agency could fulfill those requirements by permitting attendance but denying parents meaningful input by ignoring or dismissing their legitimate concerns and the wealth of information they can provide concerning their child. Parental input, however, must also be reasonable. Parents cannot expect the educational agency providing services to a disabled child to follow every suggestion or accede to every demand concerning the components of a child's program, the methods used

for delivering services or how progress is monitored. If that were the case, the IDEA statute and regulations would not provide for a team approach to developing an IEP, and the U.S. Supreme Court would not have determined that a district's proposed IEP is presumptively correct, as it did in *Schaffer v. Weast*, 546 U.S. 49; 126 S. Ct. 528; 163 L. Ed. 2d 387 (2005), when it cited that principle as a reason for placing the burden of persuasion on parents who challenge a district proposal.

The inquiry in this, and in all other cases where there is a dispute over whether an IEP is appropriate, centers on whether the IEP is reasonably calculated to result in meaningful progress and significant learning. *Board of Education v. Rowley*, 458 U.S. 176, 102 S.Ct. 3034 (1982); *Ridgewood Board of Education v. N.E.*, 172 F.3d 238 (3<sup>RD</sup> Cir. 1999). Determining whether an IEP is appropriate does not require an exhaustive, separate inquiry into whether the district should have accepted parental suggestions or included all, or any, parent requests if the IEP otherwise addresses the needs arising from the child's disability and is reasonably calculated to result in meaningful progress.

The record of this case establishes that Parents were fully included in the IEP meetings that resulted in the proposed IEP and that their concerns and information were taken into account, including use of the SCERTS framework that Parents, and the District, believe is effective for Student. The SCERTS philosophy and assessment methods have been substantially incorporated into the proposed IEP, notwithstanding Parents' belief that the use of SCERTS is not sufficiently explicit and pervasive. (F.F. 15, 16, 17, 18, 19). Moreover, although the District concedes that SCERTS is not the sole principle underlying Student's academic instruction and behavior support, that does not automatically establish that the District has not proposed and/or is not providing an appropriate and effective program for Student.



The bike riding goal Parents have sought to incorporate into Student's IEP provides another instance of the limitation on Parents' ability to control the details of Student's program. Parents cannot establish that the IEP is inappropriate without a goal for teaching Student to ride a bicycle by providing testimony that it would be an enjoyable activity and could meet Student's needs in several areas. That may well be entirely accurate, but is also an insufficient basis for including a bike riding goal in the face of the District's legitimate safety concerns and the absence of evidence that riding a bike is the only appropriate means of meeting the needs Parents identify, or at least that the activities included in the IEP cannot appropriately meet the same needs. (F.F. 26, 27) Parents provided no such evidence.

## II. Reevaluation

Parents argue that the IEP cannot be appropriate because an updated evaluation for which Parents signed a permission to reevaluate never occurred. (F.F. 24, 25) Parents suggest that the independent evaluator was either prevented or dissuaded from proceeding with the evaluation by the CCIU staff working with Student. *See* N.T. p. 206. Although the CCIU director of special education found the existing evaluation information sufficient to proceed with developing the 2009/2010 IEP, that does not mean that the District, via CCIU staff, prevented the independent reevaluation or that it will not occur. Parents' own testimony recounted a conversation with the independent evaluator in which that psychologist stated her preference for delaying the reevaluation until the due process procedures had concluded. (F.F. 25) That has not yet occurred. The hearing on Parents' previous due process complaint was still ongoing when the complaint in this case was filed. *See* S-15. There is no reason to believe that the independent reevaluation cannot occur this year, assuming the parties still agree that it would be useful to have Student's current functioning assessed by that independent evaluator—and she is willing to

undertake the evaluation. Moreover, the District has already agreed to a requested neuro-psychological evaluation and is awaiting Parents' identification of an acceptable evaluator. N.T. p. 294.

In light of the evidence that the independent psychologist was unwilling to proceed with a reevaluation in 2009, the District was in an untenable position. It could neither force the independent psychologist to conduct the evaluation nor delay proposing a program and placement for Student for the current school year. The District, therefore, cannot be faulted for developing the current proposed IEP based upon existing and available data. The IEP will necessarily be revisited for the current school year if new information becomes available via an independent evaluation conducted prior to the end of the 2009/2010 school year. In the alternative, if an evaluation is conducted between now and the beginning of the next school year, it will provide additional information for developing the 2010/2011 IEP. Based upon the absence of any evidence that the District reneged on its agreement to provide an IEE, the fact that the evaluation for which Parent signed a PTRE in February 2009 did not occur provides no basis for concluding that the IEP proposed for the 2009/2010 school year is inappropriate.

### III. Present Levels of Performance/IEP Goals

#### A. Reading Fluency/Comprehension

Parents argued that the District's reading goals provided for regression rather than progress in reading. That conclusion, however, is based on the classic "apples/oranges" comparison. The CCIU supervisor of special education cogently explained how the running record fluency information included in the propose IEP present levels of educational performance was derived from the Reading Theatre activity, while progress toward the reading fluency goal is measured by unfamiliar reading passages or "cold" reads. (F.F. 6, 7, 8) In

addition, the special education supervisor noted that the IEP goal represents a change to a more stringent standard for reading instruction and progress monitoring. (F.F. 7)

Although the reading specialist who testified for Parents was clearly experienced and generally knowledgeable about reading instruction and assessments, it was obvious that she had little specific knowledge of how the levels were determined for Student or of the shift in emphasis of the reading program. Her testimony, therefore, was too general and speculative to effectively support the Parents' position.

Finally, Parents suggested that the reading fluency goal was inappropriate because Student met the first short-term objective by the end of the 1<sup>st</sup> quarter. (S-11, pp. 5, 6) Meeting the first objective, however, indicates the kind of progress that should be expected from appropriate instruction. The purpose of objectives is to delineate the steps that are expected to lead to meeting the goal by the end of the school year.

#### B. Life Skills

Parents contended that Student does not need goals for cooking, shopping and crossing the street. Progress on those goals reported at the end of the first quarter confirms Parents' assertion that Student was able to perform well on those tasks. (F.F. 13) Student mastered the goal for creating a shopping list, short-term objective for the cooking goal, and nearly met a short-term objective for shopping. (S-11, pp. 7—9) It is certainly understandable that Parents do not want Student, who has so many significant needs, to spend time working on skills <student? has already mastered. The IEP can and should be revised to replace goals that are already mastered and revise other goals and objectives to provide opportunities for learning new skills. An IEP meeting, however, had already been scheduled for early December at the time the due process hearing sessions in this case were held, providing an

opportunity to revise the life skills goal. Certainly, the entire IEP is not invalidated because a few of the goals and objectives in one area may need to be altered.

In general, Student's progress toward the IEP goals demonstrates that they are appropriately challenging, and do not plan for either little progress or actual regression. Student has not even mastered one short term objective for each goal, but has been making progress toward all objectives. Success indicated by attaining some objectives and goals by the end of the first reporting period is meaningful progress, provided, of course, that the IEP is adjusted to reflect that progress by changing or eliminating the goals that have been met.

#### IV. FBA, Behavior Support Plan and Crisis Intervention Plan

##### A. Appropriateness of FBA

In challenging the FBA, Parents asserted, first, that there was no permission to evaluate before the FBA was conducted. Since the FBA is a procedure to identify and determine methods for addressing behaviors of concern in the educational setting, and does not constitute a full reevaluation of the Student, no permission to reevaluate was necessary in accordance with either 34 C.F.R. §300.300(c) or 22 Pa. Code §14.124.

Parents disagree with the conclusions of the FBA concerning the function of Student's aggressive behaviors. Parents believe that behaviors, such as hitting, kicking, pinching and hair pulling arise from lack of communication skills that inhibit Student's ability to express uncertainty, confusion and anxiety related to unclear expectations, an overly noisy environment, or unexpected changes in routine, as well as posttraumatic stress disorder related to a negative private school experience several years ago. *See* S-15, p. 1. After a functional behavioral assessment conducted in March 2009, the District concluded that the behaviors of concern are related to successful avoidance of non-preferred activities and attaining desired reinforcers,

either objects, food or preferred activities. Student's outside behavior specialist, essentially agreed with both positions, acknowledging that the aggressive behaviors may be related to an immediate avoidance of a non-preferred activity or attempt to gain something Student finds highly desirable, but stating that the behaviors are symptoms of underlying stress, including possible post traumatic stress disorder. (N.T. p. 170) The therapist noted that the FBA conducted by the District is based only upon what the school psychologist saw when conducting the FBA. (N.T. p. 170)

The entire point of an FBA is to determine how and why undesirable behaviors arise and are maintained in the school setting in terms of the immediate circumstances. Parents' theory of the underlying cause of the aggressive behaviors may very well explain the origin of the aggressive behaviors and why the aggression can be so extreme, but does nothing to address reducing both the frequency and intensity of the behaviors in the school setting. Missing from Parents' theory is an essential component—a coherent means of dealing with the immediate and unacceptable effect of an immediate trigger, regardless of the underlying reason why the particular antecedent led to an extreme reaction to the situation. Although it is certainly highly desirable to assure that the underlying cause is addressed, and essential that Student is comfortable and secure in the educational environment, it is also essential that the behaviors be extinguished. Student will never be able to function with consistent success in school or later in life if everyday situations result in uncontrollable aggressive behaviors. In addition, Student will likely require some degree of assistance, necessitating working closely with someone who can provide transactional support to varying degrees in many settings. Consequently, the District is required to address Student's aggressive behaviors, regardless of their underlying cause, with a

view toward eliminating them in the school setting, initially, and hopefully generalize replacement strategies and coping skills to all settings.

#### B. Behavior Support Plan

Parents provided no reasonable basis for their objections to the behavior plan included in the proposed IEP. Parents also provided no facts, even from their own testimony, for their conclusion that the staff in the CCIU program was not implementing Student's behavior plan developed by their behavior specialist. Parents provided no factual basis for that conclusion, or for the implication that ABA is incorporated into the behavior plan. The March 2009 FBA and the behavior plan in the 2009/2010 IEP incorporate all of the concepts encompassed in the private behavior specialist's July 2009 report and behavior plan. *Compare* P-3, pp. 25—31 with S-10, pp. 60, 72, 73. In addition, the proposed behavior plan explicitly incorporates recommendations from the developer of the SCERTS methodology that the staff working with Student learned at a SCERTS training. *See* S-10, p.73.

#### C. Crisis Intervention Plan

An important basis for Parents' initial rejection of the IEP proposed for the current school year was the inclusion of a crisis plan that permitted use of restraints in the event of violently aggressive behaviors that could not be controlled by other means and that the staff working with Student determined presented a danger to Student or others. *See* Parents' Closing Statement, p. 6; P-1. That option, however, was removed from the final version of the behavior support plan included in the propose IEP. N.T. pp. 251, 293; S-10. Consequently, there is no need to determine whether a restraint option makes the behavior support plan included in the proposed IEP inappropriate since that was removed from proposed IEP before the hearing in this matter was convened.

## **CONCLUSION**

Parents have not established that the IEP proposed by the District for the 2009/2010 school year was inappropriate for Student in terms of academic goals, behavior support and methods for delivering services. The IEP is reasonably calculated to assure that Student makes meaningful progress, and the first quarter progress reports demonstrated actual progress. To the extent that some goals and objectives in the area of life skills need to be adjusted in light of Student's mastery of skills, that should be done via the IEP meeting process.

Parents have not established that they were denied a meaningful opportunity to participate in the development of the IEP. The IDEA statute and regulations do not elevate Parents' contribution to the process of developing an appropriate program for an eligible Student above the expertise of the professional educators who provide the educational services. Parents' membership on the IEP team does not give them a right to control Student's program or how it is delivered. As long as the District's proposals are reasonably calculated to assure that Student makes meaningful educational progress, the District's goals, objectives and methods control the program and placement, notwithstanding Parents' absolute right to participate in the process.

## **ORDER**

In accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that Parents' claims in this matter are DENIED.

*Anne L. Carroll*

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Anne L. Carroll, Esq.  
HEARING OFFICER

January 18, 2010