

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. 14330-1314 KE

Child's Name: J.M.

Date of Birth: [redacted]

Dates of Hearing: 1/8/14, 4/3/14

CLOSED HEARING

Parties to the Hearing:

Parents
Parent[s]

Representative:

Parent Attorney
None

School District
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Date Record Closed:

May 2, 2014

Date of Decision:

May 17, 2014

Hearing Officer:

Anne L. Carroll, Esq.

INTRODUCTION AND PROCEDURAL HISTORY

Student in this case was IDEA eligible due to autism spectrum disorder until Student graduated from the District high school with a regular diploma at the end of the 2012/2013 school year. In the late summer of 2013, Parents filed their first due process complaint alleging a number of violations by the District that infringed both Parents' and Student's rights. During the first session of the due process hearing in that case, it became apparent that Parents wanted to pursue claims that they had not asserted in their initial complaint. Since a second due process complaint was the only procedurally appropriate means for obtaining an administrative due process hearing on the additional claims, Parents filed the complaint in this case in late September 2013, but requested that the hearing be deferred until the first case was completed.

The hearing in this case was held in two sessions in early January and early April, 2014. The second hearing session was initially deferred because Parents requested the opportunity to obtain counsel. Although Parents ultimately completed the hearing without an attorney, they notified the hearing officer and District counsel before the second scheduled hearing session that they were substantially limiting their claims, which significantly reduced the number of witnesses who could contribute relevant testimony. Both parties expressed a preference for selecting a hearing date available for all remaining witnesses in order to complete the record in one additional session.

Parents' claims centered on alleged lapses in the District's implementation of several IEP provisions, but they produced no substantive evidence of any actual, not speculative, educational harm to Student as a result of the alleged violations. Consequently, even if Parents' position that the violations occurred were entirely accepted and the District's defenses entirely rejected, the record provides no basis for the compensatory education Parents requested on behalf of Student.

ISSUES

1. Did the School District violate Student's IEPs during the 2011/2012 and/or 2012/2013 school years by failing to:
 - a. Provide all of the psychological counseling services specified in the IEP during the 2012/3103 school year;
 - b. Provide a "peer buddy;"
 - c. Assure that Student participated in "job shadowing;"
 - d. Assure that Student's after school aide implemented Student's social skills goals?
2. If the District violated Student's IEPs, did such violations result in a denial of FAPE to Student?
3. If the District violated Student's IEPs and if such violations amounted to a denial of FAPE, is Student entitled to an award of compensatory education, and if so, in what amount and in what form.

FINDINGS OF FACT

1. Student, born [redacted], is a [late teen-aged] resident of the School District. At all times relevant to the claims in this matter, Student was enrolled in the District and eligible for special education services. (S-3 p. 3, FF 1)
2. Student was identified as IDEA eligible in the disability category Autism, in accordance with Federal and State Standards. 34 C.F.R. §300.8(a)(1), (c)(1); 22 Pa. Code §14.102 (2)(ii); (S-3 p. 3, FF 2)
3. The IEPs in place for Student during the 2011/2012 and 2012/2013 school years included several goals with social skills components: Developing appropriate skills in the areas of eye contact, taking turns, listening to/sharing ideas with others during cooperative group activities and in unstructured social situations; maintaining appropriate social behaviors during transitions, including respecting others' personal space and using appropriately brief eye contact. (S-4 pp. 25—27, S-5 pp. 23, 24, 26, S-6 pp. 22—24)
4. Parent noted improvement in some of the social skills included in Student's IEPs and was unaware whether other skills improved due to lack of opportunity to observe Student's peer interactions in school situations or otherwise. (N.T. pp. 466—468)
5. As a related service, Student's 2012/2013 IEP provided for two 20 minute sessions of school-based psychological services each week, divided into one group and one individual session. (N.T. pp. 186, 187; S-6 p. 32)

6. The licensed clinical psychologist who worked with Student to implement that related service is employed by an outside agency that contracts with the District to provide psychological services. (N.T. pp. 210, 267, 268)
7. The psychologist had no formal process for definitely re-scheduling counseling sessions that students to whom she provided services missed due to absence from school or other reasons, such as the need to work on academic tasks. Students who missed sessions typically contacted her to schedule make up sessions when they wanted to see her, and she made every effort to accommodate such requests. She also checked with students who missed a session to ask whether they wanted to see her at another time during the week, and accepted their decisions to re-schedule a missed session or not. (N.T. pp. 187—192)
8. The District did not require the psychologist to track or follow-up with students who missed counseling sessions to assure that the sessions were re-scheduled and she did not inform the school administration of missed sessions. (N.T. pp.187, 189, 192, 193)
9. Between September 2012 and the first week of May 2013, Student missed 10 individual counseling sessions and attended 25 sessions. The psychologist did not recall whether any of the missed sessions were rescheduled. (N.T. pp. 251, 258; S-7)
10. One of the matters covered in the individual counseling sessions, and the primary purpose of the group component of the psychological services, was to help Student develop appropriate social skills, including initiating and continuing conversations, appropriate peer contacts and taking the perspective of others. The psychologist often invited non-disabled students to participate in the group sessions to provide opportunities for Student to practice social skills with typical peers. (N.T. pp. 206, 217, 218, 253; S-6 pp. 11, 12)
11. The group counseling services the psychologist provided changed from direct to indirect facilitation of social interactions after a meeting at the beginning of the 2012/2013 school year. In order to facilitate generalizing the social skills Student had been taught to a natural setting, specifically, to peer interactions during lunch, the psychologist coached Student during individual sessions and before Student entered the cafeteria. In the cafeteria, Student was accompanied by a 1:1 instructional assistant who observed Student's peer interactions and reviewed Student's progress in that setting with the psychologist and with Student's case manager after the lunch period. (N.T. pp. 248, 249, 252, 258—260, 263—266, 351—353, 361)
12. The change in group counseling sessions was implemented for two reasons. During senior year, Student chose to sit at a lunch table where it was more difficult for Student to participate in conversations without prior discussion, including cueing. Student also had a very heavy academic schedule that left little time to practice social skills during separate group counseling sessions. (N.T. pp. 265, 353, 426)
13. Parents' concern about the lunch table Student selected for senior year was one of the reasons for the meeting that resulted in changing the method of providing the group

counseling service, and they attended and participated in that meeting. The case manager recalled that manner in which the lunch time social skills facilitation would be implemented was explicitly explained to Parents, and that they agreed with that plan. . Although Father confirmed that Parents agreed to have the lunch-time social skills facilitation serve as the group counseling aspect of the school-based psychological services, he believes that the psychologist should have provided direct supervision in the cafeteria in order to properly implement Student's IEP. (N.T. pp. 248, 249, 352, 353, 360, 370, 371, 414, 422)

14. Parents admittedly became aware of the manner in which the group psychological services were being provided around the time of the winter holiday during Student's senior year, but did not request a change in implementation of the group counseling services. (N.T. pp. 423, 431)
15. Neither the psychologist nor Student's case manager knew of any "bonded" or "close" friendships that Student formed during high school. The psychologist defined a "bonded" friend as a peer whom Student would regularly seek out, who would regularly seek out Student, and with whom Student communicated outside of school. The first step in forming a bonded friendship is a desire for such a relationship. (N.T. pp. 207, 208, 219, 262, 309; S-6 p. 13)
16. During individual counseling sessions, the psychologist worked with Student to identify opportunities to invite peers to join in weekend activities. Student, however, expressed no interest in or desire to engage in out of school activities with peers, or in forming a bonded friendship. (N.T. pp. 218—220)
17. By the end of high school, the psychologist who provided the school-based psychological services noted that Student needed less prompting and coaching in social situations. Student was also able to anticipate and plan for stressful situations and was more tolerant of changes in routines. (N.T. pp. 250, 251)
18. Behavior support for social skills development, as well as social skills training, was included in the specially designed instruction (SDI) sections of Student's 11th and 12th grade IEPs. Behavior supports included prompting/intervention to facilitate appropriate peer social interactions and respond to any negative peer interactions in both structured and unstructured social settings, as well as referral to a peer buddy to promote socialization in academic settings. The term "peer buddy" was not defined in Student's IEPs. (N.T. p. 386, 393; S-4 pp. 33, 37, S-5 pp. 31, 35, S-6 pp. 26, 30)
19. Parents envisioned appropriate implementation of the peer buddy SDI as the District either adopting a commercially available program, specifically "Best Buddies," or as otherwise training a willing typical peer to accompany Student through the school day, and assist in facilitating Student's interactions with other peers in unstructured social situations. Parent also hoped that an assigned peer buddy might have helped Student develop peer friendships beyond the school setting. Parents had no specific information concerning the components and operation of the Best Buddies program that they

requested. (N.T. pp. 297, 298, 328, 329, 374, 384, 387, 390, 406, 409, 410, 412, 420, 454—457, 470, 475, 476)

20. The District did not adopt a specific, structured peer buddy program or assign a specific typical student as a peer buddy for Student. Student's case manager, who was responsible for implementing and monitoring the social skills/peer relationship components of Student's IEPs, considered promoting appropriate social interactions in the school setting, including generalizing the social skills Student was explicitly taught, to larger settings to be a part of implementing the peer buddy provision.. (N.T. pp. 297, 298, 300, 328, 329, 350, 358, 363, 364, 375, 382, 384, 386, 389, 420)
21. Student's case manager tried to help Student achieve two of the personal social goals for high school that Student shared with her and with the psychologist who provided the psychological related services. Student's personal goals included forming a relationship with a peer of the opposite gender, going to the prom and being invited to a Sweet 16 party. The case manager provided instruction to Student directly and through the instructional assistant, and facilitated Student receiving advice from peers, with respect to appropriate methods for achieving Student's prom and party goals. She considered her efforts toward helping Student achieve those personal social goals another aspect of implementing the peer buddy provision (N.T. pp. 220, 221, 341, 342, 344, 345, 382, 384)
22. The SDI also specified that Student's teachers or instructional assistant would select the group to which Student would be assigned for group activities in academic classes, and would clearly define Student's role in a group activity. Student's case manager considered implementation of that SDI as also implementing the peer buddy provision. (N.T. pp. 329, 364, 365, 369, 389; S-4 p. 33, S-5 p. 31, S-6 p. 26, S-10)
23. Student's teachers in academic classes were generally responsible for implementing the peer buddy provision within their classrooms. Although Student's math teacher did not assign a specific "peer buddy" to work with Student in the calculus class, a typical peer took on that role informally. In physics class, Student generally interacted well with peers and did not need to rely on two students designated to serve in that role in order to socialize with classmates and effectively participate in group activities. (N.T. pp. 331, 339, 389; S-10)
24. The SDI in the 2011/2012 and 2012/2013 IEPs also included a provision for an instructional assistant to stay with Student for after school activities. The purpose of that provision was for the assistant to provide support to Student during that unstructured time in terms of promoting positive and appropriate social behaviors/peer interactions. (N.T. pp. 325, 327; S-4 p. 34, S-5 p. 35, S-6 p. 28)
25. Parents believes that the after school instructional assistant should have been responsible for implementing all of Student's social skills goals, specifically, that the aide should have promoted social interactions between Student and typical peers during extracurricular activities in order to assist Student in making at least one close friend.

Parent did not observe the instructional assistant facilitating the type of peer social interactions that Parent believes should have been implemented during extracurricular activities. (N.T. pp. 417, 419, 420, 449)

26. The transition services/activities directed toward employment in Student's IEPs for the 2011/2012 and 2012/2013 school years included encouraging Student to participate in the POWR job shadowing program that the District offered. (S-4 p. 17, S-5 p. 15, S-6 p. 15)
27. The program involves District staff making community contacts to arrange for District students to spend a day with a person who is actually doing a job in which a student expressed interest for the purpose of exposure to the job functions and duties and reflecting on the observation of the work activities. (N.T. p. 347)
28. Student's case manager discussed available job shadowing opportunities with Student at least once during junior year (2011/2012), specifically suggesting that Student consider shadowing someone in a math-related career, such as an actuary, but Student declined to participate. The case manager may have, but did not specifically recall encouraging Student to participate in the job shadowing program on any other occasions, either individually or in a group setting. The District did not offer Student specific job shadowing opportunities in the areas of professional baseball, sports broadcasting, science, or musical performance, all areas in which Student demonstrated ability and expressed a career interest. (N.T. pp. 304—307, 348, 350, 436, 438, 440; S-4 p. 17, S-5 p. 14)
29. Parent believes that the District failed to properly implement Student's IEP by not encouraging Student strongly enough or often enough to participate in the job shadowing program, and thereby failed to expose Student to employment possibilities more likely to result in the selection of a major that will prepare Student for a job after college graduation. (N.T. pp. 440, 441, 444, 445, 447, 448)
30. Student graduated from the District high school in June 2013 and is presently enrolled in a four year college, majoring in music. Student is also taking, and intends to continue with math courses. Student primarily plays percussion instruments and participates in jazz band at college. (N.T. pp. 350, 446; S-3 p. 3, FF 3)
31. Parents provided social skills services for Student during the current school year. Student now engages in regular social interactions with a group of college peers and has developed closer friendships. (N.T. pp. 459, 461, 462)

DISCUSSION AND CONCLUSIONS OF LAW

IDEA Legal Standards

Free, Appropriate Public Education (FAPE)

The legal obligation to provide for the educational needs of children with disabilities has been summarized by the Court of Appeals for the 3rd Circuit as follows:

The Individuals with Disabilities Education Act (“IDEA”) requires that a state receiving federal education funding provide a “free appropriate public education” (“FAPE”) to disabled children. 20 U.S.C. § 1412(a)(1). School districts provide a FAPE by designing and administering a program of individualized instruction that is set forth in an Individualized Education Plan (“IEP”). 20 U.S.C. § 1414(d). The IEP “must be ‘reasonably calculated’ to enable the child to receive ‘meaningful educational benefits’ in light of the student’s ‘intellectual potential.’ ” *Shore Reg’l High Sch. Bd. of Ed. v. P.S.*, 381 F.3d 194, 198 (3d Cir.2004) (quoting *Polk v. Cent. Susquehanna Intermediate Unit 16*, 853 F.2d 171, 182-85 (3d Cir.1988)).

Mary Courtney T. v. School District of Philadelphia, 575 F.3d 235, 240 (3rd Cir. 2009).

“Meaningful benefit” means that an eligible student’s program affords him or her the opportunity for “significant learning.” *Ridgewood Board of Education v. N.E.*, 172 F.3d 238 (3rd Cir. 1999). Consequently, in order to properly provide FAPE, the child’s IEP must specify educational instruction designed to meet his/her unique needs and must be accompanied by such services as are necessary to permit the child to benefit from the instruction. *Board of Education v. Rowley*, 458 U.S. 176, 102 S.Ct. 3034 (1982); *Oberti v. Board of Education*, 995 F.2d 1204 (3rd Cir. 1993). An eligible student is denied FAPE if his/her program is not likely to produce progress, or if the program affords the child only a “trivial” or “*de minimis*” educational benefit. *M.C. v. Central Regional School District*, 81 F.3d 389, 396 (3rd Cir. 1996; *Polk v. Central Susquehanna Intermediate Unit 16*, 853 F. 2d 171 (3rd Cir. 1988).

Under the interpretation of the IDEA statute established by *Rowley* and other relevant cases, however, an LEA is not required to provide an eligible student with services designed to

provide the “absolute best” education or to maximize the child’s potential. *Mary Courtney T. v. School District of Philadelphia*, 575 F.3d at 251; *Carlisle Area School District v. Scott P.*, 62 F.3d 520 (3rd Cir. 1995).

Procedural Violations

The IDEA statute and regulations provide that “the determination of whether a child received FAPE must be based on substantive grounds,” and that procedural violations can support a decision against a school district,

- only if the procedural 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.

§300.513(a) (1), (2)

Parent Participation

Although the IDEA statute and regulations include the provision that parents of eligible students have the right to participate in decision-making for appropriate placement and services as members of the child’s IEP team, the right to participate neither explicitly nor implicitly provides for parental control of IEP team decisions concerning an appropriate placement and appropriate services, much less for the right to force school districts to adopt general programs and practices that parents believe would be beneficial. Even when services requested by parents are equally appropriate, or better than a public agency’s program, a school district is permitted to reject parents’ preference and select its own program and services, as long as the district’s services appropriately meet an eligible student’s needs. The principle that school districts have the ultimate authority, and broad discretion, to determine curriculum, as well as to choose the means and methods of providing special education services, is well established by court

decisions. *See, e.g., J.E. v. Boyertown ASD*, 2011 WL 476537 at *4 (E.D. Pa. 2011); *J.C. v. New Fairfield Bd. of Educ.* 2011 WL 1322563 at *16 (D.Conn.,2011 ; *Rosinsky v. Green Bay Area School Dist.*, 667 F.Supp.2d 964, 984 (E.D.Wis. 2009); *Cerra v. Pawling Cent. School District*, 427 F.3d 186, 192 (2d Cir.2005).

Procedural Safeguards/Burden of Proof

The IDEA statute and regulations provide procedural safeguards to parents and school districts, including the opportunity to present a complaint and request a due process hearing in the event special education disputes between parents and school districts cannot be resolved by other means. 20 U.S.C. §1415 (b)(6), (f); 34 C.F.R. §§300.507, 300.511; *Mary Courtney T. v. School District of Philadelphia*.

In *Schaffer v. Weast*, 546 U.S. 49; 126 S. Ct. 528; 163 L. Ed. 2d 387 (2005), the Supreme Court established the principle that in IDEA due process hearings, as in other civil cases, the party seeking relief bears the burden of persuasion. Consequently, because Parents have challenged the District's actions during the period in dispute, Parents were required to establish the violations they alleged, and on which they presented evidence at the hearing, including sufficient proof of all facts required to meet the applicable legal standards described above.

The Supreme Court limited its holding in *Schaffer* to allocating the burden of persuasion, explicitly not specifying which party should bear the burden of production or going forward with the evidence at various points in the proceeding. Allocating the burden of persuasion affects the outcome of a due process hearing only in that rare situation where the evidence is in "equipoise," *i.e.*, completely in balance, with neither party having produced sufficient evidence to establish its position. *Ridley S.D. v. M.R.*, 680 F.3d 260 (3rd Cir. 2012)

Parents' Claims

As listed in the statement of issues and further discussed below, Parents asserted four specific violations, centered primarily on the District's implementation of the social skills services, including specially designed instruction and related psychological services, provided in the IEPs in effect during Student's last two years in the District. (S-4, S-5 and S-6) Parents also asserted that the District failed to properly implement part of the transition services in those IEPs.

In general, Parents' claims are based on their contentions that the District did not implement the IEP provisions at issue in accordance with their wishes. The record certainly established the accuracy of those contentions, but Parents cannot prevail on those arguments, since the District was under no obligation to agree to Parents' suggestions, or to accept Parent's interpretation of the proper implementation of any IEP provision, including the social skills goals, the specially designed instruction directed toward improving Student's social skills, the counseling services and transition services.

Parents could prevail on such issues only if the absence of an IEP provision suggested by Parents, or the District's implementation of the IEP, resulted in a denial of FAPE to Student. Here, however, Parents produced no evidence that Student did not make meaningful progress, generally, or on any specific IEP goals, including social skills development. Even if Parents' suggestion that Student might have made better progress in, *e.g.*, improving social skills generally, developing friendships, or gaining a more realistic idea of a viable employment goal were accepted as possibly accurate if the District had implemented Student's IEP differently, the District was under no obligation to do so. In order to provide Student with a FAPE, the District

was only required to assure that Student had the opportunity to make meaningful progress with the services the District provided.

Parents did not deny that Student actually made meaningful progress in social skills development during the high school years, and presented no evidence to support a claim for denial of a FAPE based upon a lack of appropriate social skills services. Student's post high school success to date, in fact, amply supports the conclusion that Student made significant progress. (FF 4, 17, 30, 31) Parents argued, in essence, that Student might have been more socially successful during high school, and might not have needed the private counseling services Parents provided after Student's high school graduation had the District provided the services they wanted. Such suggestions, however, are highly speculative, and provide no substantive basis for a denial of FAPE claim and compensatory education in any event.

It is a credit to Parents that they provided additional services to Student, and those services certainly might have contributed to Student's apparently greater access to and success in social interactions since entering college. If Parents want optimal services to improve outcomes, however, it is their obligation to provide them, since school districts are obligated to provide only a basic floor of opportunity, not to maximize a an eligible student's potential, or to achieve a particular outcome. Since IDEA does not guarantee outcomes, an argument that Student might have had a better outcome with different or increased services cannot establish a denial of FAPE. Moreover, there is no basis in the record for concluding that the services the District provided during Student's high school years contributed any less to Student's current success. It is just as plausible to conclude that the District's services provided Student with the necessary tools to maintain appropriate social interactions and that Student's increased success since graduation is

equally attributable to greater maturity of both Student and college peers, and/or to a peer group that Student finds more compatible than high school peers.

Implementation of Psychological Services

Based on the log kept by the psychologist who provided psychological services pursuant to the 2012/2013 IEP, Parents argued that Student should have received 72 sessions with her but only 31 were provided. (Due Process Hearing Summary Submitted by Parents at p. 1) The basis for the number of missed counseling sessions Parents assert is unclear, since the only documentary evidence established that Student missed 10 of a potential 35 individual counseling sessions. (FF 9)

Parents argued that the District should have assured that all missed sessions were re-scheduled rather than allowing Student to decide whether to re-schedule the counseling sessions either at the psychologist's invitation or on Student's own initiative. (FF 7, 8) Although Parents were clearly dissatisfied with that procedure, they produced no evidence that the missed counseling sessions adversely affected Student in any way. Consequently, although it appears that Student received fewer individual counseling sessions than specified in the 2012/2013 IEP, the reduction in counseling services due to missed sessions constituted a procedural violation, at most, and cannot support a claim for a denial of FAPE or an award of compensatory education.

Parents also suggested during the hearing that the change in implementing the group counseling sessions during Student's senior year was improper. (FF 11) The methodology change, however, did not even constitute a procedural violation of the IEP, since it did not specify how the group sessions would be provided or by whom. Moreover, Parents were aware of and approved the decision to focus the group sessions on generalizing the social skills Student had been practicing in a small, contained group for several years to the general education setting.

(FF 11, 12, 13) Although Parents later contended that they did not intend to give up direct services from the psychologist but expected her to facilitate the social interactions in the cafeteria, they were aware of how the group counseling was implemented within a few months of beginning the new procedure, but never questioned it or suggested that it was a violation of Student's IEP. (FF 14) Parents' silence for the remainder of the 2012/2013 school year undercuts their contention that they did not agree to indirect group services provided by the psychologist. Regardless of Parents' position either at the time the services were provided, or subsequently, however, the absence of any evidence of substantive educational harm to Student eliminates any claim for compensatory education based upon implementation of the group component of the school-based psychological services specified in the 2012/2013 IEP.

Peer Buddy

Although Student's IEP team agreed to include a peer buddy in Student's 2011/2012 and 2012/2013 IEPs, it was obvious from the District's witnesses' description of the purpose and implementation of that SDI compared to Parents' testimony and argument that the parties had vastly different concepts of the nature of that provision. (FF 18, 19, 20, 21, 22, 23) Although the District members of Student's IEP team broadly agreed with Parents' request to assign a peer buddy, to District staff that meant primarily directing teachers to assign Student to a compatible group for class projects to assure that Student was not working alone and left out of classwork that included pairs or groups of students working together. (FF 22)

There was no evidence that the IEP team ever agreed with Parent's very different request for a peer buddy, incorporated Parents' understanding into Student's IEP, and then failed to implement that provision. To the contrary, Parents' claim was based on the District's refusal to agree to their concept of a peer buddy and incorporate it into the IEP. Regardless whether the

District could have provided the type of peer buddy Parents wanted, or promised but failed to look into such a program, the District was under no obligation to agree to that request. As noted above, even if the type of peer buddy program that Parents requested might have been beneficial to Student, the District was free to define and implement the peer buddy provision in the manner it believed was appropriate. Parents argued only that the District refused their peer buddy request, not that such refusal impeded in any way Student's right to a FAPE or caused educational harm, and produced no evidence of any adverse effect on Student's educational or social progress.

Implementation of Social Skills Goals by After School Aide

With respect to this claim, Parents again argued only that the provision for an instructional assistant to accompany Student to after school activities could and should have been implemented differently, to Student's greater benefit. Parent's claim of improper implementation of the provision for an after school aide rests only upon their view of what the aide might have done better, not on any actual IEP violation. Consequently, this claim also presents no viable claim for an IDEA violation and an award of compensatory education.

Job Shadowing

Parents asserted that District staff should have been more forceful, and possibly more resourceful, in finding job shadowing opportunities Student might have accepted. (FF 28, 29) The 2011/2012 and 2012/2013 IEPs, however, provided only that the District would "encourage" Student to participate in that transition activity and did not specify how that should be accomplished. (FF 26) There is, therefore, no basis for accepting Parents' contention that Student's case manager violated the IEP by not sufficiently encouraging Student to agree to a job shadowing experience. Moreover, Parents' suggestion of multiple, far reaching benefits that

Student might have derived from job shadowing is not only speculative, but had nothing to do with meaningful educational progress. Parents argued that the District's actions deprived Student of a potentially valuable life experience, not of any educational benefit.

CONCLUSION

Of the four IEP implementation violations Parents pursued to a decision in this case, only the reduction in the number of individual counseling services provided in the 2012/2013 IEP amounts to even a procedural IDEA violation. That claim is defeated because Parents presented no evidence of any substantive educational harm to Student that resulted from the District not assuring that all missed sessions were replaced.

All other claims included in the due process hearing did not constitute IEP violations at all and any alleged deprivation of educational benefits to Student arising from the District's actions were speculative.

ORDER

In accordance with the foregoing findings of fact and conclusions of law, it is hereby **ORDERED** that Parents' claims are **DENIED**. The School District is not required to take any further action with respect to the claims adjudicated in this case.

It is **FURTHER ORDERED** that any claims asserted in the complaint and amended complaint in this case that are not specifically addressed in this decision and order are denied and dismissed.

Anne L. Carroll

Anne L. Carroll, Esq.
HEARING OFFICER

May 17, 2014