

*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

Child's Name: M.W.

Date of Birth: [redacted]

Dates of Hearing:<sup>1</sup>

September 22, 2016

October 19, 2016

November 15, 2016

November 16, 2016

December 2, 2016

### **CLOSED HEARING**

ODR Case #17995-1617KE

Parties to the Hearing:

Representative:

Parent[s]

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Plymouth Meeting Executive Campus  
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Plymouth Meeting, PA 19462

Owen J. Roberts School District  
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Sharon Montanye, Esquire  
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331 E. Butler Avenue  
New Britain, PA 18901

Date of Decision:

January 18, 2017

Hearing Officer:

Michael J. McElligott, Esquire

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<sup>1</sup> The parties presented evidence over the September, October, and November sessions. Counsel for the parties presented oral closing statements at the December session.

## **INTRODUCTION**

Student<sup>2</sup> is a late-teen aged student residing in the Owen J. Roberts School District (“District”). The parties agree that the student qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEIA”)<sup>3</sup> for specially designed instruction/related services as a student with specific learning disabilities.

Parents claim, in their complaint, that the student was denied a free appropriate public education (“FAPE”) during the student’s enrollment in the District for the school years 2014-2015 (including summer 2015) and 2015-2016, and seek a compensatory education remedy for that alleged denial. At the end of the 2015-2016 school year and for the entire 2016-2017 school year, the student was enrolled unilaterally in a private placement. Parents seek a tuition reimbursement remedy for that enrollment, for the end of the 2015-2016 school year and the 2016-2017 school year (including summer 2016 programming at the private placement).<sup>4</sup>

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<sup>2</sup> The generic use of “student”, rather than a name and gender-specific pronouns, is employed to protect the confidentiality of the student.

<sup>3</sup> 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 §§14.101-14.163 (“Chapter 14”).

<sup>4</sup> In March 2016, in a prior special education due process complaint, the District sought to defend its evaluation through special education due process, pursuant to 34 C.F.R. §300.502, in light of parents’ request for funding a private evaluation. The District withdrew the complaint after parents indicated they would not seek such reimbursement in a future hearing process. (Hearing Officer Exhibit 2). Therefore, any such claim was not considered as part of these proceedings.

The District counters that at all times it provided FAPE to the student for the period of the student's enrollment. As such, the District argues that the parents are not entitled to remedy, whether compensatory education or tuition reimbursement.

For the reasons set forth below, I find in favor of the District on certain claims and the parents on other claims.

### **ISSUES**

Did the District provide the student with FAPE for the 2014-2015 and 2015-2016 school years?

If not, is the student entitled to compensatory education?

Are parents entitled to tuition reimbursement for the unilateral private placement for the final months of the 2015-2016 school year and the 2016-2017 school year?

### **FINDINGS OF FACT**

1. In December 2009, in an initial evaluation report, the student was identified as a student with specific learning disabilities in reading comprehension and written expression. (Parents Exhibit ["P"]-1 at page 1).
2. In December 2012, as part of the student's triennial re-evaluation, the student was again identified as a student with specific learning disabilities in reading fluency and reading comprehension. The December 2012 re-evaluation report ("RR") also recognized the student's needs in written expression (P-1).
3. In January 2014, the student's individualized education plan ("IEP") was revised at the annual IEP meeting. The January 2014 IEP was in place at the outset of the 2014-2015 school year. (P-5; School District Exhibit ["S"]-1).

## 2014-2015 School Year

4. The January 2014 IEP contained two goals, one in written expression and one in mathematics. There was no reading goal in the January 2014 IEP. (P-5, S-1).
5. The January 2014 IEP contained program modifications and specially designed instruction in organization/planning, reading support, mathematics support, and writing support. (P-5, S-1).
6. The January 2014 IEP provided three 45-minute periods per week for learning support, including pre-teaching, re-teaching, facilitation of support, and skill-building. (P-5, S-1).
7. The mathematics goal in the January 2014 IEP called for the student to score 80% on three of four consecutive curriculum-based assessments. In June 2014, the student had scored 87%, 70%, and 84% on three consecutive assessments. In November 2014, the student scored an 80% on four out of five consecutive mathematics assessments. (P-5, P-9, S-1).
8. The written expression goal in the January 2014 IEP called for the student to score 95% on four of five writing domains (focus, style, content, organization, and conventions) with an overall score of 95% on two writing pieces each quarter. In June 2014, the student had scored 83% and 100% on two writing pieces. In November 2014, the student scored 84% and 77% on two writing pieces. (P-5, P-9, S-1).
9. The January 2014 IEP called for the student to be in special education for 3% of the school day. (P-5, S-1).
10. In January 2015, the student's IEP was revised at the annual IEP meeting. (P-11, S-2).
11. The January 2015 IEP contained one goal, in written expression. The mathematics goal was removed from the IEP. (P-11, S-2).
12. The January 2015 IEP contained program modifications and specially designed instruction in organization/planning, self-advocacy, reading support, and writing support. (P-11, S-2).
13. The student was removed from special education support. The student's learning support teacher's input was that "(the

- student) would benefit from being placed in less amount of days of support to (gauge) (the student's ability to access the general education curriculum independently." The January 2015 IEP indicated that the student would be fully included in regular education with voluntary access to a learning support teacher during study hall. (P-10, P-11, S-2).
14. The written expression goal in the January 2015 IEP called for the student to score 90% on all five writing domains (focus, style, content, organization, and conventions) with an overall score of 90% on two writing pieces each quarter. In April 2015, the student had scored 87%, 80%, 50% and 50% on four writing pieces. In June 2015, the student scored 87% and 69% on two writing pieces. (P-11, P-13, P-14, S-2).
  15. The January 2015 IEP called for the student to be in special education for 0% of the school day. (P-11, S-2).
  16. With 90% being the goal benchmark for the written expression goal, in April 2015, the student scored 87%, 80%, 50%, and 50% on writing pieces graded as part of the goal. In June 2015, the student scored 87% and 69% on writing pieces graded as part of the written expression goal. (P-13, P-14).
  17. In May 2015, the student received a Basic score on the Pennsylvania Keystone exam in algebra, leading to a scheduled re-test in January 2016. (P-15, S-11).

#### 2015-2016 School Year

18. In the fall of 2015, there was no progress monitoring on the written expression goal in the January 2015 IEP.
19. In December 2015, the student was re-evaluated. (P-15, S-3).
20. The December 2015 RR included prior data only from the December 2009 RR. Data from the December 2012 RR was not included. (P-15, S-3).
21. The December 2015 RR included cognitive and achievement testing. The student's general ability index (the more reliable indicator of cognitive ability given the student's processing speed) was 106. The student showed significant discrepancies between cognitive ability and achievement scores in calculation, sentence reading fluency, and math facts fluency sub-tests. The student

- showed significant discrepancies in composite scores for broad reading, broad math, and math calculation. (P-15, S-3).
22. The December 2015 RR recommended that the student be identified as a student with specific learning disabilities, with needs in written expression, reading comprehension, reading fluency, math calculation, and math fluency, along with self-advocacy. (P-15, S-3).
  23. In January 2016, the student's IEP was revised at the annual IEP meeting. (P-17, S-4).
  24. The January 2016 IEP had two goals, one in written expression and one in reading fluency. (P-17, S-4).
  25. The written expression goal in the January 2016 IEP called for the student to score 85% on all five writing domains (focus, style, content, organization, and conventions) with an overall score of 85% on two writing pieces each quarter. (P-17, S-4).
  26. The reading fluency goal in the January 2016 IEP called for the student to read 130 correct words per minute. The baseline in the goal was 127 correct words per minute. (P-17, S-4).
  27. The January 2016 IEP contained program modifications and specially designed instruction in reading support, writing support, and self-advocacy. (P-17, S-4).
  28. The January 2016 IEP recommended that the student again receive learning support in three 45-minute sessions per week. (P-17, S-4).
  29. The January 2016 IEP called for the student to be in special education for 7% of the school day. (P-17, S-4).
  30. The District issued a notice of recommended educational placement ("NOREP") with the January 2016 IEP. Parents approved the NOREP. (P-17, S-4).
  31. In March 2016, due to parents' concerns with the student's progress, the student's IEP team met to revise the January 2016 IEP. (P-19, S-5).
  32. Revisions in the March 2016 IEP included increasing the learning support to five 45-minute sessions per week, and adding

- counseling services for self-advocacy/time-management one 30-minute session per week. (P-19, S-5).
33. With the addition of counseling, the March 2016 IEP indicated additional services in a special education support setting, but the calculation for the amount of time in special education remained the same— 3% of the school day. (P-19, S-5).
  34. The District issued a NOREP with the March 2016 IEP. Parents disapproved the NOREP. (P-20, S-5).
  35. In March 2016, the parents withdrew the student from the District and enrolled the student in a private placement. (P-48 at page 3).
  36. In April 2016, the parents received a private evaluation of the student. The independent evaluator identified the student as a student with the health impairment of attention deficit hyperactivity disorder, inattentive type, and specific learning disabilities in reading fluency and math calculation. (P-23).
  37. In June 2016, the student's IEP team met to revise the student's IEP. (P-36, S-6).
  38. The June 2016 IEP was largely the same as the March 2016 IEP, although there were a handful of significant changes. (P-19, P-36, S-5, S-6).
  39. Present levels of educational performance were updated in the June 2016 IEP to reflect the student's enrollment in the private placement and the April 2016 private evaluation. (P-36, S-6).
  40. The June 2016 IEP contained the same written expression and reading fluency goals as the March 2016 IEP. A math computation/math fluency goal was added, written at the 50<sup>th</sup> percentile on three consecutive attempts for two-digit addition, subtraction, multiplication, and division; addition/subtraction of fractions; conversion of fractions and decimals; and percentages. The math computation/math fluency goal had no baseline, to be determined in the first two weeks of the 2016-2017 school year. (P-36, S-6).
  41. The June 2016 IEP recommended adding an additional five 45-minute sessions per week for delivery of special education in reading and mathematics, and reducing the weekly counseling session to 20 minutes. (P-36, S-6).

42. The June 2016 IEP called for the student to be in special education for 24% of the school day. (P-36, S-6).
43. The District issued a NOREP with the June 2016 IEP. Parents disapproved the NOREP. (P-37, S-6).

### Private Placement

44. The private placement undertaken by the parents in March 2016 is a private school for students with dyslexia, dyscalculia, dysgraphia, auditory processing disorder, and expressive/receptive language disorders, as well as executive functioning disorder and attention deficit hyperactivity disorder. (P-45).
45. The private placement provides research-based individualized instruction in a college-preparatory curriculum. (P-45).
46. The student's grade reports at the private placement for the 2015-2016 school year indicate that the student was successful and made progress. The student earned the following final grades for the 2015-2016 school year: A- in ceramics and in conceptual physics, B+ in English, in American history, in language arts, and B in algebra. (P-47).
47. Given the timing of the hearing, with testimony over September, October, and November 2016, the record is not as fully developed on the student's experience in the 2016-2017 school year. (Notes of Testimony ["NT"] at 244-247).
48. The student drives to and from the private placement each day. (NT at 172-173).

### Witness Credibility

49. All witnesses testified credibly. (NT at 37-98, 101-259, 265-284, 297-416, 419-455, 457-475, 477-515, 527-617).

## **DISCUSSION AND CONCLUSIONS OF LAW**

To assure that an eligible child receives FAPE (34 C.F.R. §300.17), an IEP 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” (Ridgewood Board of Education v. N.E., 172 F.3d 238 (3<sup>rd</sup> Cir. 1999)), not simply *de minimis* or minimal education progress. (M.C. v. Central Regional School District, 81 F.3d 389 (3<sup>rd</sup> Cir. 1996)).

### 2014-2015 School Year

In the 2014-2015 school year, the student started the school year under the auspices of an IEP designed the previous school year, in January 2014. The January 2014 IEP did not have a reading goal, but the record does not support a conclusion that this was a denial of FAPE. Later in the student’s educational trajectory, needs and programming related to the student’s reading became more prevalent (see below). But the lack of a reading goal in the January 2014 IEP is not a fatal flaw, especially where the student was provided with reading support.

As of November 2014, the student was making progress on the mathematics goal. As of November 2014, the written expression goal, however, had stalled (84% and 77% on writing pieces with a goal of 95%).

Still, there had been progress on the goal at the end of the previous school year, so through the fall of 2014, the student made meaningful education progress.

In January 2015, the student's IEP was revised. Significant changes resulted for the student's programming in this IEP. The math goal was entirely removed, as was any mathematics support. Based on the record at this point in the student's educational programming, including the testimony of the student's math teachers, removing this goal and these supports did not amount to a denial of FAPE. The IEP team felt, and not without reason, that the student might be ready for less direct support. The reading goal had already been removed (although reading support remained), and the input from the student's teachers was that the student was succeeding academically.

Here, though, the decision was made to go entirely without scheduled special education support—for the student to engage with the learning support teacher would be entirely voluntary during a regular education study hall (i.e., 0% of any school day in direct support). The written expression goal, with progress already stalled through the fall of 2014, was reduced from a 95% scoring level to a 90% scoring level. While defensible, later events would indicate that these choices were harbingers of a marked downward trend in the student's progress.

As an additional matter, on this record there is no indication that the student experienced any issues with recoupment or regression, so

any lack of extended school year programming (“ESY”) in the summer of 2015 is not a denial of FAPE.

Taken all together, then, there was no denial of FAPE through the 2014-2015 school year. There was progress under the terms of the IEPs and a defensible reduction—at that point in time—of goals and services. Accordingly, there will be no award of compensatory education for the 2014-2015 school year.

#### 2015-2016 School Year through March 2016

In the 2015-2016 school year, acts and omission by the District amounted to a denial of FAPE. First, the student’s progress on the written expression goal cannot be measured because there was no progress monitoring in the fall of 2015. Yet the goal benchmark in written expression in the January 2016 IEP was reduced, for the third consecutive time (95% scoring on written work in the January 2014 IEP to 90% scoring in the January 2015 IEP to 85% in the January 2016 IEP). What had been choppy/stalled progress on the written expression goal in the fall of 2014 became a lack of progress through the spring of 2015. Therefore, it is the considered opinion of this hearing officer that, as the 2015-2016 school year began, the District should have realized that the student was not only not making progress in written expression but that goal benchmarking was being consistently reduced in light of a

lack of progress. There will be an award of compensatory education for a denial of FAPE related to written expression.

Second, and at some point in the fall of 2015, the District knew that the student had not achieved a proficient score on a statewide Pennsylvania achievement test in mathematics. While the attempt to see if the student could academically succeed without a goal in mathematics was defensible at the time, by the fall of 2015, the record clearly shows that the student's IEP team should have been re-convened to consider adding back to the IEP a mathematics goal and supports. There will be an award of compensatory education for a denial of FAPE related to mathematics.

Third, the December 2015 RR is substantively flawed. There is no mention whatsoever of the December 2012 RR. The December 2015 RR contains cognitive and achievement testing from December 2009, then goes on to update the student's academic record, teacher input, and additional testing as of December 2015. But, in effect, the December 2015 RR takes no account of the most recent previous RR. This substantive flaw in the December 2015 RR leaves open the question of the comprehensiveness of the December 2015 RR. And without a comprehensive December 2015 RR, the multidisciplinary team's/IEP team's ability to accurately understand how the student has developed over time was impaired. There will be an award of compensatory

education for a denial of FAPE related to the substantively flawed December 2015 RR.

Fourth, the January 2016 IEP is not reasonably calculated to yield meaningful education benefit. The flaws in the written expression goal/programming are outlined above; in sum, no change to the approach or instruction for written expression was made by January 2016 except for consistently reducing the goal (and, for the January 2016 IEP particularly, without any progress monitoring data). The January 2016 IEP added back a reading fluency goal, but this goal is inappropriate. The goal is written for the student to achieve 130 correct words per minute over the course of the IEP (through January 2017) from a baseline of 127 correct words per minute. The special education teacher testified, powerfully and credibly, that the intention was to have the student make initial outsized progress on the goal, so that the student could feel academically successful before the goal benchmark was revised. Again, this testimony is entirely credible; but the record taken as a whole shows that the District did not proactively monitor progress or adjust goal benchmarking as data would indicate. Therefore, based on the history of goal-monitoring on this record, the reading fluency goal must be viewed as a goal to add three correct words per minute over the course of a school year. For this student, that is an inappropriate goal. Indeed, by March 2016, in response to parental concerns about the student's progress, the only substantive change to

the January 2016 IEP was the addition of one 30-minute counseling session geared toward self-advocacy and time-management. At that point the student withdrew from the District.

Accordingly, an award of compensatory education will be made for denial of FAPE over the course of the 2015-2016 school year through the end of February 2016.

#### Compensatory Education

Compensatory education is an equitable remedy that is available to a claimant when a school district has been found to have denied a student FAPE under the terms of the IDEIA (Lester H. v. Gilhool, 916 F.2d 865 (3d Cir. 1990); Big Beaver Falls Area School District v. Jackson, 615 A.2d 910 (Pa. Commonw. 1992)).

Furthermore, there are two methods by which a compensatory education remedy may be calculated. G.L. v. Ligonier Valley School Authority, 801 F.3d 602 (3d Cir. 2015). One method 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 a quantitative/hour-for-hour calculation, compensatory education accrues from a point where a school district knew or should have known that it was failing in its obligation to provide a FAPE. (Ridgewood; M.C.). The second method is the qualitative/make-whole calculation, where, having

proven a denial of FAPE, the compensatory education remedy is calculated based on a qualitative determination whereby the compensatory education remedy is gauged to place the student in the place where he/she would have been absent the denial of FAPE.

Here, evidence that would allow the hearing officer to fashion a qualitative/make-whole remedy is absent. Therefore, a quantitative/hour-for-hour calculation will be employed to calculate the compensatory education remedy.

In Pennsylvania, 990 hours of schooling over a minimum of 180 school days are the minimum amount of school hours for a student in grades 7-12. (22 PA Code §§11.1, 11.3(a)). This amounts to a minimum of 5.5 hours per school day. The compensatory education award is based on denial of FAPE, as set forth above, related to written expression, mathematics, and the December 2015 RR. By the outset of the 2015-2016 school year, the District should have been monitoring the written expression goal given the way the student's progress on the ever-diminishing goal benchmark has stalled. Therefore, it is the considered opinion of this hearing officer that by mid-October 2015 the District should have been taking action to convene the IEP team to consider revising the written expression goal and writing support, a process which should have had that issue addressed in the IEP by the end of October 2015. This did not happen. As a matter of equity, then, the student will be awarded 50 hours of compensatory education for the approximately

four months (November 2015-February 2016) where the District failed to provide FAPE in written expression.

Likewise, at some point in the fall of 2015, the District knew or should have known that the lack of a mathematics goal or any math support was inappropriate, especially when the results of the statewide Pennsylvania assessment in algebra revealed that the student was not proficient and would need to re-test. The same equitable approach will be utilized, and the student will be awarded 50 hours of compensatory education for the approximately four months (November 2015-February 2016) where the District failed to provide FAPE in mathematics.

Finally, the December 2015 RR is substantively flawed. Data and insight from the December 2012 RR is entirely missing. To read the evaluation history of the student, one would think that after an initial evaluation in December 2009, the triennial re-evaluation in December 2012 was skipped, and the next collection of data and input was gathered six years later. This is highly problematic as comprehensive evaluation data are critical snapshots of a student at a moment in time and, when taken all together, provide a mosaic of the student's development over time. To overlook the data and input from a required, comprehensive evaluation amounts to a denial of FAPE. As a matter of equity, then, the student will be awarded 100 hours of compensatory education, as the multidisciplinary team/IEP team had faulty information as it attempted to understand how the student was surfacing

in December 2015 and to design programming for the student in January 2016.

2015-2016 School Year after March 2016 & 2016-2017 School Year

Long-standing case law and the IDEIA itself provide for the potential for private school tuition reimbursement if a school district has failed in its obligation to provide FAPE to a child with a disability (Florence County District Four v. Carter, 510 U.S. 7 (1993); School Committee of Burlington v. Department of Education, 471 U.S. 359 (1985); *see also*, 34 C.F.R. §300.148; 22 PA Code §14.102(a)(2)(xvi)). A substantive examination of the parents' tuition reimbursement claim for the 2016-2017 school year in this matter proceeds under the three-step Burlington-Carter analysis, which has been incorporated into IDEIA. (34 C.F.R. §§300.148(a),(c),(d)(3)).

In the three-step Burlington-Carter analysis, the first step is an examination of the school district's proposed program, or controlling program, at the time the family made the decision to seek a private placement and whether it was reasonably calculated to yield meaningful education benefit (34 C.F.R. §300.17; Rowley; Ridgewood; M.C.)

There are two phases to the tuition reimbursement claim— reimbursement for the period March 2016 through the end of the 2015-

2016 school year and the 2016-2017 school year.<sup>5</sup> In this case, the January 2016 IEP was approved by the parents. It is, in large measure, the same program as the March 2016 IEP, proposed almost contemporaneously with the student's withdrawal from the District and, as indicated, are nearly identical in terms of the substantive programming. Therefore, the January 2016/March 2016 IEPs are the last-offered programming/last-operational program for the end of the 2015-2016 school year. For the reasons set forth above (see page 13), these IEPs are inappropriate.

The June 2016 IEP, however, was the last-offered program prior to the 2016-2017 school year. The inappropriate written expression and reading fluency goals from the March 2016 IEP remained in the June 2016 IEP, but a math calculation goal was added. The most significant proposed changes to the student's programming, though, was an increase to 90 minutes per day of learning support. In fact, in the fall of 2016 the student was receiving no direct special education support (0% in special education settings), in January 2016 the student was receiving 7% of daily instruction in special education settings, and by June 2016, the District was proposing that the student spend 24% of each school day in special education settings. The addition of a mathematics goal and

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<sup>5</sup> Again, on this record there is no indication that the student experienced any issues with recoupment or regression, so there is no denial of FAPE related to summer 2015 programming. Therefore, there will be no reimbursement for summer 2015 programming at the private placement.

the increase in special education instruction render the IEP more appropriate but not wholly appropriate. Further discussion of how the levels of appropriateness/inappropriateness may affect remedy will be considered below.

When the school district's last-offered or last-operational program is inappropriate, as is the case here with the January 2016/March 2016 and June 2016 IEPs, the Burlington-Carter analysis moves to a second step, namely the appropriateness of the private placement selected by parents. Here, the private placement is wholly appropriate. The student is provided with individualized instruction in areas of need in all academic classes. And the student made progress at the private placement. Granted, the evidence as to progress is explicit for the 2015-2016 school year after March 2016 and sparse for the 2016-2017 school year. But the record as a whole related to the private placement—including exhibits, the testimony of parent, the testimony of the student, and the testimony of the private school administrator—supports a finding that the placement is appropriate on this record as to both school years.

Under the Burlington-Carter analysis, when school district programming is found to be inappropriate and private placement programming is found to be appropriate—both of which are the case here—the third step of the analysis is a weighing of the equities between the parties to see if those equities potentially impact the tuition

reimbursement remedy. Here, the equities do not weigh decisively one way or the other in terms of reimbursement for the tuition from March 2016 through the end of the 2015-2016 school year. The tuition for the 2016-2017 school year, however, is different. Because the June 2016 IEP contains markedly more intensive programming and goals in all three long-identified areas of need, it is more appropriate—albeit not wholly appropriate—than any prior IEP. The flaws in the written expression and reading goals render the IEP inappropriate, but the equities will be slightly adjusted because the June 2016 IEP markedly and, as drafted, appropriately addresses the student’s needs in mathematics and for special education support overall.

Accordingly, tuition reimbursement will be awarded entirely for the period March 2016 through the end of the 2015-2016 school year (excluding summer 2016) and to a degree for the 2016-2017 school year.

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## **ORDER**

In accord with the findings of fact and conclusions of law as set forth above, the District denied Student a free appropriate public education in the 2015-2016 and 2016-2017 school years.

The student is awarded 200 hours of compensatory education for denial of a free appropriate public education for the 2015-2016 school year, through the time the student dis-enrolled in March 2016.

The parents are awarded 100% of out-of-pocket tuition and fees for the 2015-2016 school year (excluding the cost of summer 2016 programming) at the private school where they have undertaken a unilateral private placement for the student.

The parents are awarded 80% of out-of-pocket tuition and fees for the 2016-2017 school year at the private school where they have undertaken a unilateral private placement for the student.

Parents are also awarded out-of-pocket expenses incurred for transportation to the private placement, one round-trip for every school day the student attended in the period March 2016 through the end of the 2015-2016 school year (excluding transportation to summer 2016 programming) and for every school day the student has attended in the 2016-2017 school year through the date of this order. Mileage shall be calculated using a mapping/trip-calculation website for the shortest trip possible from the student's home address to the business address of the private school. Mileage reimbursement shall be as allowable under

Internal Revenue Service mileage reimbursement rates for the period(s) in question. Proof of payment for tolls, where applicable, must be verified by receipt or transactional statement.

Any claim not specifically addressed in this decision and order is denied.

*Michael J. McElligott, Esquire*

Michael J. McElligott, Esquire  
Special Education Hearing Officer

January 18, 2017