

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

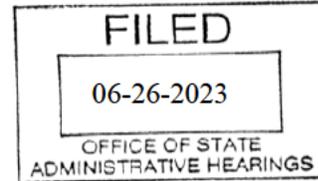
█████ **BY AND THROUGH** █████
Petitioners,

v.

**PAULDING COUNTY SCHOOL
DISTRICT,**
Respondent.

Docket No.: █████
█████-OSAH-DOE-SE-110-Woodard

Agency Reference No.: █████ .



FINAL DECISION

I. INTRODUCTION

Petitioner █████ is a student with a disability who is eligible for special education services under the Individuals with Disabilities Education Act of 2004 (“IDEA”). On July 7, 2022, █████ by and through her mother, Petitioner █████ filed a due process hearing request against the Respondent, the Paulding County School District (“Respondent” or “District”). The evidentiary hearing took place at the Paulding County Justice Center, Dallas, Georgia over three days, April 25, April 26, and May 12, 2023. The District was represented by Tom Cable, Esq., Talley, Richardson & Cable, P.A., Dallas. Petitioner █████ appeared on behalf of her daughter █████ The record officially closed on June 13, 2023, when the Court received the parties hearing exhibits from the court reporter.

After consideration of the evidence, and for the reasons stated below, the Court hereby **DENIES** the Petitioners’ request for relief under the IDEA.

II. FINDINGS OF FACT

Background

1. Petitioner █████ was born on September 15, 2006 and is sixteen years old. Tr. 195. She lives with her family, including her father and her mother, █████ At the time of the █████ H. was in the tenth

grade at ██████████ High School. Tr. 196. ██████ receives special education services under the category of specific learning disability. Tr. 54.

2. The results of ██████ most recent psychoeducational testing shows that while she has average general cognitive ability, she has difficulties in nonverbal memory (the ability to recall visually presented information), broad mathematics, math calculation skills, math fluency, and spelling. Petitioner’s Exhibit D; Tr. 56-60. ██████ also has diagnoses of dyslexia and dyscalculia. Petitioner’s Exhibit C; Tr. 76-77. ██████ also has sensory issues—specifically, she has trouble with both bright light and loud noises. Tr. 116.
3. ██████ has been described as a “well-rounded” student who is well liked by her classmates and teachers. Tr. 271. She is described as a “very self-motivated” and articulate student. Tr. 278, 520. She is assertive and advocates for her educational needs well. Tr. 228, 520.

████████ IEP and Accommodations

4. A new IEP was developed for ██████ in February 2021, when she was in the eighth grade. Respondent’s Exhibit 1. Her IEP included four goals in the areas of math problem solving, math operations, reading comprehension, and written language, as well as ten objectives across these subject areas. Respondent’s Exhibit 1.
5. This IEP included the following educational accommodations to be provided by Respondent:
 - Audio amplification noise buffers and cancelling devices, headphones or other listening devices.
 - Adapted/lined paper, raised line, bold line or large graphing paper
 - Extended time up to 1.5 times. . . the time typically allotted
 - Frequent Monitored breaks
 - Small group instruction
 - Preferential seating-towards point of instruction. If [██████] is experiencing sensory issues, allow her to move to alternate location.
 - Increase white space on printed assignments given to [██████]. Printed materials should be clear and legible with a minimum of 12-point font.
 - When providing initial instruction, use a graphic organizer to help ██████ [understand the material.

- Provide wait time or give [REDACTED] advanced notice before calling on her.
- Graphic organizers for multi-step processes, such as writing or math problem solving.
- Provide a solved math example, with notes, for [REDACTED] to reference. Refer to the notes when [REDACTED] needs assistance.
- Encourage [REDACTED] to take notes, focusing on key points (vocabulary, new topics, etc.), provide completed copy of notes after student attempt.
- Provide a brief unit overview for [REDACTED] no less than 3 days at the beginning of each unit. The overview should include a preview of vocabulary, topics, and estimated assessment date. Email parent with dates for upcoming assignments, tests, and concerns.
- Unit study guides provided 3 days prior to assessment.
- When given assignments, allow space for [REDACTED] to work and put her answers on the paper to reduce back and forth of papers due to transferring weaknesses.
- Use multiple modalities of vocabulary acquisition throughout the unit when new vocabulary is introduced in context.
- Turn on closed caption/subtitles for videos/presentations. If [REDACTED] states that the video is too loud, allow her to move away from the speakers, allow her to view the video in another setting, or provide an alternate assignment.

(Respondent's Exhibit 1; Tr. 273-74, 312).

6. [REDACTED] was also encouraged to take notes on her laptop. Respondent's Exhibit 1. Her teachers used dimmers and other tools to accommodate her light sensitivity. Tr. 274.
7. [REDACTED] IEP indicated that she learned best from multimodal instruction. Respondent's Exhibits 1, 2, 3, 5, and 8; Tr. 315. Multimodal instruction refers to instruction that uses a "variety of presentations"—such as movies, computer programs, visual examples, physical manipulatives, and teacher-led instruction—to convey information. Tr. 67-68, 94-95.

Foundations of Algebra

8. In the Fall of 2021, when [REDACTED] was in the ninth grade, she was in Amanda Goode Reed's¹ Foundations of Algebra class. Tr. 84-85. The goal of Foundations of Algebra is to prepare students for Algebra I. Tr. 90.

¹ Ms. Reed is alternately referred to throughout the record as "Ms. Reed," "Ms. Goode," and "Ms. Good."

9. The District utilized a curriculum called Math 180 for Foundations of Algebra, which is a combination of online learning and small group instruction. Tr. 85. During a typical 90-minute class period, 45 minutes would be devoted to the computer portion of the Math 180 curriculum and 45 minutes would be devoted to small group activities. Tr. 111. Ms. Reed says that Math 180 was chosen because it closely aligns with Georgia's standards for Foundations of Algebra. Tr. 91. Fall 2021 was the first semester that [REDACTED] High School implemented Math 180. Tr. 164.
10. Ms. Reed testified that grades in her class were calculated based on a combination of a student's performance on the Math 180 program (which generated a weekly grade), bookwork, small group work, and block assessments. Tr. 132-33. Before each block assessment students would receive a study guide. If they completed the study guide by a certain date, they received 10 bonus points towards their test grades. Tr. 133. Ms. Reed says that was the only opportunity for bonus points in her class. Tr. 133.
11. [REDACTED] contacted Ms. Reed multiple times to express her concerns about the Math 180 program. Tr. 86. Specifically, [REDACTED] was concerned that [REDACTED] was spending too much time in front of a computer, aggravating her sensory issues. Tr. 86-87. She was also concerned that the computer portion of Math 180 was not multimodal. Petitioner's Exhibit M; Tr. 105-06.
12. [REDACTED] Math 180 "Student Analytics" summary showed that her "average session time" on the computer program was 51 minutes. Petitioner's Exhibit 1; Tr. 113. Ms. Reed said that students had the opportunity to work on the program at home, in addition to their in-class work. [REDACTED] denied that [REDACTED] ever used the program at home. Tr. 113.
13. The Math 180 program would generate reports showing each student's progress in different areas. It was not common practice for Ms. Reed to provide those reports to parents, but she would if a parent

requested them. Tr. 139-40. [REDACTED] requested these reports multiple times, and Ms. Reed said that she always provided them when requested. Tr. 141.

14. The Math 180 computer program would give students more problems in their areas of weakness and would not allow them to move on until they had made progress on those topics. Tr. 139. [REDACTED] testified that this aspect of the program meant that Math 180 was not multimodal, “because if a student got stuck it will send them back to the same place and they will do the same thing over and over.” Tr. 233. She says that for teachers to provide multimodal instruction they are required to “differentiate instruction” and not do the same thing every day. Tr. 233.

15. When [REDACTED] first brought her concerns about the lack of multimodal instruction in Math 180 to Ms. Reed in August 2021, Ms. Reed told her that Math 180 “is not something that is multi-sensory because it is all digital. I understand your concern about that not being a multi-sensory learning technique, but it is what the program requires as part of the course.” Petitioner’s Exhibit M; Tr. 106. At the hearing, Ms. Reed clarified that at that point, early in the semester, she had not yet gained access to her teacher account that would have enabled her to thoroughly explore the Math 180 curriculum. She said that as the semester progressed, her opinion about the curriculum changed. Tr. 108-09. She recognized that the Math 180 program included auditory and visual instruction. Additionally, students had the ability to manipulate graphs and equations on the screen. She therefore considered it to be multimodal. Tr. 147-48. She also said that even if the Math 180 program was not multimodal, the rest of the class involved multimodal instruction. Tr. 148.

16. Ms. Reed said that, in response to [REDACTED] concern about [REDACTED] spending too much time in front of the computer and aggravating her sensory sensitivities, she gave [REDACTED] the option of spending less time on the computer and more time doing group work. Tr. 115-16.

17. Per [REDACTED] IEP, Ms. Reed made accommodations for [REDACTED] in her classroom, including frequent breaks and extra time. Tr. 154.
18. [REDACTED] received a “high A” in Ms. Reed’s class. Tr. 156. [REDACTED] was the highest achieving student in the class, according to Ms. Reed. Tr. 157. [REDACTED] alleged that [REDACTED] Foundations of Algebra grade was inflated and that there is an email that would prove it, but that she did not include the email in her exhibits. Tr. 253. The following semester, [REDACTED] received an A in Algebra I. Tr. 157.

Study Skills Class

19. Rafael Tolentino taught [REDACTED] ninth grade Study Skills class in the Spring of 2022.² Tr. 481, 488. Study Skills is a course for students with disabilities who struggle to get their course work done. Tr. 275. It is designed to address each student’s individual needs. For example, one student might get help with math, while another might need extra help with English. Tr. 275. However, it might also provide more general help to teach a student organizational skills, study habits, and time management skills. Tr. 275, 482. That semester, there were less than ten students in Mr. Tolentino’s Study Skills class. Tr. 518. Mr. Tolentino is certified to teach special education. Tr. 516.
20. [REDACTED] was enrolled in Study Skills as part of her IEP, which stated that she would receive 90 minutes of weekly special education classes in “Social Skills/Study Skills.” Respondent’s Exhibits 1, 2, 3, 5, and 8.
21. Mr. Tolentino explained that at the beginning of the semester, when students were typically not yet receiving many assignments from teachers, his focus was to introduce students to “new ways of taking notes, memory building skills. . . , study strategies, [and] time management skills.” Tr. 489-90.
22. Throughout the semester, students were responsible for filling out a sheet listing all of their class assignments on a weekly basis, which allowed Mr. Tolentino to make sure they were on track with

² Mr. Tolentino is no longer employed with the District; he is currently a teacher in Hall County. Tr. 480.

their other schoolwork. Tr. 490. He said that some students had trouble with motivation, but that [REDACTED] was not one of them. Tr. 490. He added that he created assignments based on what students were doing in their other classes—he used those times in the semester where students had a light workload to provide assignments in his course. Tr. 514.

23. Mr. Tolentino says there were a few times that [REDACTED] did not turn in assignments on time, but that extra time was built into her IEP. Tr. 492. He added there were times in his class where [REDACTED] did not want to do her schoolwork, and he would need to encourage her to work on her assignments. Tr. 521.

24. Mr. Tolentino says that while he did make a syllabus for Study Skills, his course plan was not “set in stone,” but rather depended on how a particular student was progressing in his or her classes. Tr. 483. Because [REDACTED] had IEP goals related to reading and math, Mr. Tolentino was in “constant communication” with [REDACTED] math and English teachers regarding her goals. Tr. 485. Beyond this, there was not much in the way of course “content” in the class, as the goal was to support students in their other classes. Tr. 499. Mr. Tolentino adjusted his instruction with each student based on his or her weaknesses; he estimated that in [REDACTED] case, he spent around 40 percent of his work with her on math. Tr. 520.

25. During class, [REDACTED] would typically work on her homework from her other classes. Tr. 505. Mr. Tolentino said that he did not generally use multimodal instruction in his course because the primary point of his class was for students to bring in and work on their assignments from other classes. Tr. 508. While he acknowledged that [REDACTED] IEP provided for tools like graphic organizers that would “break down” the steps in her homework problems, he maintained that the “content teachers” were required to provide those. Tr. 508. He explained that [REDACTED] teachers formed a “team” to come together and provide her the accommodations required by her IEP, and that his role was to “bridge

the gaps” by working closely with her content teachers, but not to provide direct content instruction.

Tr. 510.

26. Study Skills grades were determined based on attendance, class participation, and assignment completion (both the assignments Mr. Tolentino gave and the assignments from students’ other classes). Tr. 517.

27. [REDACTED] alleged that the Study Skills class did not constitute appropriate special education services. Tr. 240. She said that the class should have addressed [REDACTED] areas of need, which, according to her, was primarily math. Tr. 241. She said that [REDACTED] did not need assistance with completing her schoolwork, or with any other subject but math and language. Tr. 241, 243.

Progress on [REDACTED] IEP Goals

28. In addition to the standard Foundations of Algebra curriculum, Ms. Reed would work with [REDACTED] on her IEP goals once or twice a week, usually early in the morning before school. Tr. 117. She explained that [REDACTED] IEP goals were not necessarily connected the Foundations of Algebra curriculum, which is why this extra time was necessary. Tr. 135. Ms. Reed testified that these sessions would start at around 7:50 a.m. and that [REDACTED] was “welcome to stay all the way until 8:35.” Ms. Reed did not recall how long [REDACTED] would typically stay in those sessions. Tr. 136. Part of this time was devoted to conducting “probes,” which allow a teacher to understand how a student is progressing toward her goals and what her areas of weakness are. Tr. 151. Ms. Reed stated that she and [REDACTED] would go over what she had missed on previous probes and then work on the material she was weak in. Tr. 137.

29. The records from [REDACTED] IEP Amendment Meeting on October 22, 2021, show that Ms. Reed did “probes” on August 23, September 2, September 29, and October 6. Respondent’s Exhibit 3, Petitioner’s Exhibit 20; Tr. 126. Ms. Reed tried to collect probes of [REDACTED] on a weekly basis. Tr. 127. Nicole McVey, the special education coordinator for the District, testified that probes are usually

collected weekly. Tr. 289. Ms. Reed testified that she believed she collected more probes during that period but did not have any records at the hearing to verify that. Tr. 128, 152. She also stated that she is constantly gathering information about a student's performance in the classroom. Tr. 152.

30. █████ IEPs have required that █████ be provided with progress reports detailing her progress towards her IEP goals on a monthly basis. Respondent's Exhibits 1, 2, 3, 5, and 8. From the record, it seems that during the 2021-2022 academic year, reports were provided on September 3, 2021, October 6, 2021, November 19, 2021, February 8, 2022, March 10, 2022, April 15, 2022, and May 13, 2022. Respondent's Exhibits 7 and 8, Petitioner's Exhibit Y.

█████ *Testing and Academic Performance*

31. At the time of the hearing, which took place during the second semester of █████ tenth-grade year, █████ had received all A's, except for one B in physical science, in her high school career. Respondent's Exhibits 19, 20. Her GPA is 3.9. Respondent's Exhibit 19.
32. As of the time of the hearing, █████ was ranked 112th of 750 students in her class at █████ Tr. 271. According to █████ High School's Vice Principal, Dr. Laura Lynn Harrell, around 99 of the students ranked ahead of her are in the "gifted" program. Tr. 271. Dr. Harrell believed █████ might be the "top student with disabilities" at █████ Tr. 273. She has been recommended for honors-level classes. Tr. 222.
33. █████ received one of the highest scores on the End of Course (EOC) test for Algebra I among special education students, and her score was the same as the average score among all general education students. Respondent's Exhibit 17; Tr. 157-58. She received a score of 502, while the average for general education students was 505. Tr. 273. Ms. Reed testified that the Math EOC test is "a very difficult test that most students struggle with." Tr. 158. A score of 502 puts █████ in the "developing

learner” range. Respondent’s Exhibit 17. Dr. Harrell explained that this is one level below “proficient,” meaning █████ still needs work in that area. Tr. 287.

34. While █████ score on the EOC test was lower than her grade in Foundations of Algebra, Ms. Reed explained that this is not surprising. Students tend to have more anxiety with standardized tests, and the tests tend to cover a larger amount of material. Tr. 158-59. She said that most students have a higher in-class grade than an EOC test grade. Tr. 160.

35. The Math Inventory is typically given once at the beginning of the semester and once at the end. Tr. 178. On the Math Inventory given in January of 2021 (when █████ was in the eighth grade), █████ received a score of 789, which would put her in the sixth-grade level and the 18th percentile. Petitioner’s Exhibit 2; Tr. 179. On the Math Inventory given in August 2021 (the beginning of ninth grade), █████ scored a 960, which put her at the seventh-grade level. Petitioner’s Exhibit 3; Tr. 180. On the Math Inventory given in December 2021 (the end of the first semester of ninth grade), she received a score of 978, which would have put her somewhere between the seventh and eighth grade level. Petitioner’s Exhibit 3; Tr. 180.

█████ *IEP Meetings*

36. █████ had a total of four IEPs over the course of the 2021-2022 school year. Respondent’s Exhibits 2, 3, 5, 8; Tr. 268. According to Dr. Harrell, it is unusual for a student to have more than one IEP in one year. Tr. 269.

37. █████ testified that she did not receive a “full complete record” for █████ when she requested it prior to her various IEP meetings. Tr. 212. Specifically, she stated that she did not receive all records requested, and that some records she received were incomplete. Tr. 216. She said it made it hard for her to participate in an IEP meeting when she did not have enough information. Tr. 213. However, she conceded that she never asked the District for additional time to prepare for an IEP meeting. Tr.

216. In a Prior Written Notice (PWN) sent to █████ in June 2022, the District denied her request to provide her with █████ completed Algebra I exams, but she was allowed to review those records in person. Respondent's Exhibit 9.

38. █████ also had concerns about the minutes from the IEP meetings. Tr. 332. Minutes are not required to be taken at IEP meetings, although the District typically records them anyway. Tr. 383. When someone, such as the parent, disputes the content of the minutes, they can write a statement setting out their disagreement, which then becomes part of the student's record. Tr. 383, 419.

39. Dr. Harrell testified that, despite █████ strong academic performance, the District has been unable to alleviate █████ concerns. Tr. 275. She explained that because of the "influx of communication" from █████ which may have included three to five emails per week, the school established that all communications from █████ should go to Dr. Harrell rather than directly to teachers. Tr. 276. █████ has largely complied with that requirement. Tr. 276.

40. Ms. McVey testified that █████ is making adequate progress towards her IEP goals. Tr. 311. █████ testified that she did not believe █████ had made appropriate progress. Tr. 219.

III. CONCLUSIONS OF LAW

1. This case is governed by the enabling act for the IDEA found at 20 U.S.C. § 1400, et seq.; its implementing federal regulations, 34 C.F.R. § 300.01, et seq.; and the Rules of the Georgia Department of Education, Ga. Comp. R. & Regs. 160-4-7-.01, et seq.
2. The IDEA enables a parent to bring challenges to the "identification, evaluation, or educational placement of the child, or the provision of a free appropriate education to [the] child" by filing a due process complaint. 20 U.S.C. § 1415(b)(6)(A); see also Schaffer v. Weast, 546 U.S. 49, 53-54 (2005). In this case, the Petitioners bear the burden of proof and must produce sufficient evidence to support the allegations raised in the Due Process Complaint. Schaffer, 546 U.S. at 62; see also Ga. Comp. R.

& Regs. 160-4-7-.12(3)(n) (“The party seeking relief shall bear the burden of persuasion with the evidence at the administrative hearing.”). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

3. Claims brought under the IDEA are subject to a two-year statute of limitations. 20 U.S.C. § 1415(f)(3)(C); 34 C.F.R. § 300.507(a)(2). Here, because the Petitioners’ complaint was filed on July 7, 2022, only IDEA violations occurring between July 7, 2020, and July 7, 2022, are at issue in this proceeding.
4. This Court’s review is limited to the issues the Petitioners presented in their Amended Complaint. 20 U.S.C. § 1415(f)(3)(B); 34 C.F.R. § 300.511(d); Ga. Comp. R. & Regs. 160-4-7-.12(3)(j); see also B.P. v. New York City Dep’t of Educ., 841 F. Supp. 2d 605, 611 (E.D.N.Y. 2012). A petitioner who files a due process complaint may raise no other issues at the hearing unless the opposing party agrees. 20 U.S.C. § 1415(f)(3)(B); 34 C.F.R. § 300.511(d).
5. Under the IDEA, students with disabilities have the right to a free appropriate public education. (“FAPE”). 20 U.S.C. § 1412(a)(1); 34 C.F.R. §§ 300.01, 300.100; Ga. Comp. R. & Regs. 160-4-7-.01(1)(a). “The purpose of the IDEA generally is ‘to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.’” C.P. v. Leon County Sch. Bd., 483 F.3d 1151 (11th Cir. 2007) (quoting 20 U.S.C. § 1400(d)(1)(A)). The IDEA requires school districts to provide an eligible student with FAPE in the least restrictive environment (“LRE”). 20 U.S.C. § 1412; 34 C.F.R. §§ 300.17, 300.114-300.118.
6. The United States Supreme Court has developed a two-part inquiry to determine whether a school district has provided FAPE. The first inquiry is whether the school district complied with the

procedures set forth in the IDEA. The second is whether the IEP developed through these procedures is “reasonably calculated to enable the child to receive educational benefits. Board of Educ. Of the Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176, 206-07 (1982).

7. Under the first prong of the Rowley test, the Eleventh Circuit has held that a “violation of any of the procedures of the IDEA is not a per se violation of the Act.” Weiss v. Sch. Bd., 141 F.3d 990, 996 (11th Cir. 1998). Rather, FAPE is only denied if the procedural inadequacy (1) impeded the child’s right to FAPE; (2) significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to the child; or (3) caused a deprivation of educational benefits. 20 U.S.C. § 1415(f)(3)(E)(ii); 34 C.F.R. 300.513(a).
8. Important procedural rights for the student and parents include the right to give informed consent and the right to participate in the decision-making process. See 20 U.S.C. § 1415(b), (f). Parents also have the right to be members of “any group that makes decisions on the educational placement of their child.” 20 U.S.C. § 1414(e); 34 C.F.R. § 300.322. In Weiss, the Court held that where a family has “full and effective participation in the IEP process,” the purpose of the procedural requirements is not thwarted. Weiss, 141 F.3d at 996. Moreover, the Eleventh Circuit has held that in order to recover for a procedural error, Petitioners would need to show what “would have been different but for the procedural violation.” J.N. v. Jefferson Cty. Bd. of Educ., 12 F.4th 1355, 1366 (11th Cir. 2021) (quoting Leggett v. District of Columbia, 793 F.3d 59, 68 (D.C. Cir. 2015)).
9. The Supreme Court clarified the Rowley standard in 2017, providing that “[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” Endrew F. v. Douglas Cty. Sch. Dist., 137 S. Ct. 988, 999 (2017).

10. Also, under the second prong of the Rowley test, a school district is not required to provide an education that will “maximize” a disabled student’s potential. Instead, the IDEA mandates only “an education that is specifically designed to meet the child’s unique needs, supported by services that will permit him to benefit from the instruction.” Loren F. v. Atlanta Indep. Sch. Sys., 349 F.3d 1309, 1312 n.1 (11th Cir. 2003) (quotation and citations omitted); see also JSK v. Hendry Cty. Sch. Bd., 941 F.2d 1563, 1573 (11th Cir. 1991); Doe v. Ala. State Dep’t of Educ., 915 F.2d 651, 655 (11th Cir. 1990). However, as Andrew F. made clear, this standard is “more demanding than the ‘merely more than *de minimis*’ test.” Andrew F., 137 S. Ct. at 1000.
11. The IDEA does not require a school district to “guarantee a particular outcome.” W.C. v. Cobb Cty. Sch. Dist., 407 F. Supp. 2d 1351, 1359 (N.D. Ga. 2005) (citing Rowley, 458 U.S. at 192).
12. The parent of a child with a disability must be afforded an opportunity to inspect and review all educational records with respect to the “identification, evaluation, and educational placement of the child” and “the provision of FAPE to the child.” 34 C.F.R. § 300.501(a). While [REDACTED] has alleged that the District did not provide all records as requested, she failed to specify the specific records that she requested, and the District refused to provide. And while she was not allowed to receive copies of certain records, such as in-class assessments, she was given the option to inspect them in person, as is required under the IDEA regulations. There is no indication that [REDACTED] lacked the information that would have allowed her to fully participate in the IEP development process. See Weiss, 141 F.3d at 996.
13. The Eleventh Circuit has held that there is a “second species of IDEA claim” that arises when schools “fail to meet their obligation to provide a free appropriate public education by failing to implement the IEP in practice.” L.J. v. Sch. Bd., 927 F.3d 1203, 1211 (11th Cir. 2019). An implementation claim turns on whether a school district failed to implement “substantial or significant provisions” of the

IEP. Id. A court should look to “the proportion of services mandated [by the IEP] to those actually provided, viewed in context of the goal and import of the specific service that was withheld.” Id. at 1214 (citations omitted). This requires an examination of both quantitative and qualitative failures, “to determine how much was withheld and how important the withheld services were in view of the IEP as a whole.” Id. “[T]he materiality standard does not require that the child suffer demonstrable educational harm in order to prevail,” though “the child’s educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided.” Id.

14. █████ first issue with the provision of █████ IEP is that data was collected inconsistently. Specifically, she points to the evidence suggesting that Ms. Reed only conducted academic data probes for █████ four times during a roughly three-month period when █████ was taking Foundations of Algebra. However, even █████ conceded in her complaint that “[e]ducator only started to collect probes consistently” once █████ complained to the District, indicating that the problem was resolved. See Due Process Complaint. Given such a relatively small deviation between the amount of data collection required and the amount completed, the Court cannot find that any failure to complete and record weekly probes early in the Fall 2021 semester constitutes a denial of FAPE.
15. █████ next complaint is that the instruction that █████ received in her Foundations of Algebra course was not “multimodal” as is purportedly required in her IEP. First, the IEPs only indicate that █████ benefits from multimodal instruction. The IEP does not necessarily require that every aspect of █████ instruction must be presented in multiple modes. Second, █████ did not demonstrate that █████ instruction in Foundations of Algebra was not multimodal. At a minimum, the course appears to be multimodal in that █████ received instruction both through a computer program, Math 180, and through small group instruction, during which Ms. Reed testified that she utilized multimodal instructional techniques. Further, despite Ms. Reed’s initial confession that the Math 180 program

was not multimodal, she later presented evidence that the program’s mixture of audio, visuals, and manipulative activities constituted a multimodal learning tool. [REDACTED] simply did not meet her burden of showing that the Math 180 program forced [REDACTED] to sit in front of the computer for “hours” as she claimed. In short, [REDACTED] dissatisfaction with the Foundations of Algebra curriculum does not constitute an IDEA violation. See Lachman v. Illinois Bd. of Educ., 852 F.2d 290, 297 (7th Cir. 1988) (“*Rowley* and its progeny leave no doubt that parents, no matter how well-motivated, do not have a right under the statute to compel a school district to provide a specific program or employ a specific methodology in providing for the education of their handicapped child.”).

16. [REDACTED] also argues that [REDACTED] Study Skills class fails to address her specific educational needs. Her issue with that course seems to primarily be that Mr. Tolentino did not spend enough time working with [REDACTED] in math, her weakest area. She argued that, given [REDACTED] strong work ethic and organizational skills, she was not benefiting from the instruction Mr. Tolentino provided. However, there is at least some evidence that [REDACTED] benefitted from her enrollment in study skills. For instance, Mr. Tolentino testified that he sometimes needed to encourage [REDACTED] to do her schoolwork during the period. Moreover, [REDACTED] IEPs all clearly demonstrate that she was to receive 90 minutes of study skills work, *in addition to* [REDACTED] special education instruction in math. In other words, the District was already providing [REDACTED] with special education services in mathematics—therefore, [REDACTED] argument seems to be that the District is forbidden from providing [REDACTED] with help in any other educational area. The Court cannot find any legal support for this assertion.

17. Ultimately, Petitioners’ claims, under *Andrew F.*, hinge on whether [REDACTED] IEP was “reasonably calculated” to enable [REDACTED] to make progress “appropriate in light of [her] circumstances.” Andrew E., 137 S. Ct. at 999 (2017). [REDACTED] academic achievement indicates that her progress has been outstanding across all subjects, including math. Thus, there is nothing in the record to show that,

even if the District had implemented the changes [REDACTED] wanted, that [REDACTED] educational attainment would have been different. See J.N., 12 F.4th at 1366.

IV. DECISION

Respondent Paulding County School District offered Petitioner [REDACTED] a free appropriate public education under the IDEA. Accordingly, Petitioners' request for relief under the IDEA is **DENIED**.

SO ORDERED, this 26th day of June 2023.



M. Patrick Woodard
Administrative Law Judge

