

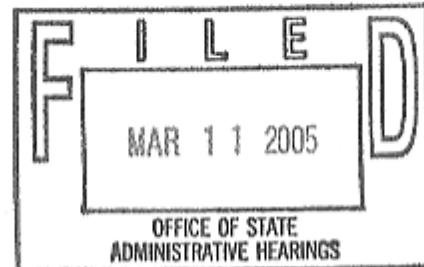
05-0507539

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

<p>█, Petitioner,</p> <p>v.</p> <p>FULTON COUNTY SCHOOL DISTRICT, Respondent.</p>	<p>: : : : : :</p>	<p>Docket No.: OSAH-DOE-SE-0507539-60-Crawfo</p> <p>Agency Reference No.: 0507539</p>
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**FINAL DECISION**

**I. INTRODUCTION**



This matter comes before this administrative court (“the Court”) pursuant to a October 4, 2004, complaint filed by the parents of Petitioner, █. Petitioner alleges that Respondent Fulton County School District failed to provide Petitioner with an appropriate education, in violation of federal and state law. Specifically, Petitioner seeks to have Respondent provide private reading instruction through the Lindamood-Bell program, myofunctional therapy from a private therapist, and occupational therapy. Petitioner also seeks compensatory education and transportation for Petitioner to the private providers, as well as a finding by this Court that an independent mediator or educator is necessary to oversee Petitioner’s IEP meetings.

The administrative hearing was held in Fulton County on November 15 and 16, 2004. The parties completed the remaining testimony by depositions that concluded on January 20, 2005. The record closed on February 18, 2005, with the filing of the parties’ Proposed Findings of Fact and Conclusions of Law.

For the reasons indicated below, it is the decision of the Court that █. has received a Free Appropriate Public Education (FAPE).

**II. FINDINGS OF FACT**

1. █. is a █-year-old student residing in the Fulton County School District. █. has been identified as a student with severe delays in speech language skills, including both oral and verbal apraxia<sup>1</sup>. She has been found to be cognitively delayed. (Joint Exhibit 52, Respondent’s Exhibit 241.) She is also socially immature, with the interests and mannerisms of much younger children. (Transcript<sup>2</sup>, pages 260-261; 521.)

<sup>1</sup> Apraxia is defined as “difficulty with coming up with a plan to complete motor activities, such as speaking, writing, and walking and a difficulty in carrying out that motor plan once it is devised.” (Transcript, page 497)

<sup>2</sup> In all instances, a citation to “Transcript” refers to the transcript for the hearing conducted on November 15-16, 2004. Citations to transcripts of deposition testimony taken at a later date are so noted.

2. [REDACTED] is entitled to special education services from the Fulton County School District under the provisions of the Individuals with Disabilities Education Act (IDEA) and has received services from Respondent since 1993. (Joint Exhibit 204)

3. In May 2004, Respondent agreed to place [REDACTED] for 120 hours during the summer of 2004 at Lindamood-Bell ("LMB"), to have Sharon Wexler provide a myofunctional evaluation, to provide a GPAT evaluation and a neuropsychological evaluation. Petitioner agreed to indemnify Respondent for claims prior to the 2004-2005 school year. (Joint Exhibits 181 through 184) Therefore, this matter is limited to claims for the 2004-2005 school year. (Respondent's Motion for Partial Summary Judgment, filed October 29<sup>th</sup>, and Petitioner's response filed November 9<sup>th</sup>)

4. Although the parties agreed to a neuropsychological evaluation and Respondent offered a contract to an evaluator requested by Petitioner's parent, the parent subsequently changed her mind about the evaluator. Another evaluator has not been chosen and therefore there is no current neuropsychological evaluation for the Court to consider<sup>3</sup>. (Transcript pages 376-378)

5. In May 2004, Respondent convened a meeting to develop [REDACTED]'s required individual education plan ("IEP") for the 2004-2005 school year. (Joint Exhibit 179.) [REDACTED]'s parent received notice of, and attended, this meeting. However, the IEP could not be completed, and the committee (including [REDACTED]'s parent and attorney) agreed that the committee would reconvene on August 3, 2004 to complete the IEP. [REDACTED]'s parent and attorney failed to attend this August 3, 2004 IEP meeting. (Joint Exhibit 204)

6. On August 3, 2004, the IEP committee reviewed all currently available information, developed goals and objectives for [REDACTED], and determined [REDACTED]'s placement for the 2004-2005 school year. [REDACTED] would participate in general education for homeroom, lunch, and grade level activities. For the remainder of the day, [REDACTED] would attend small group special education classes and receive one-to-one reading instruction. Further, [REDACTED] would receive 2.25 hours per week of speech language therapy, and an additional one hour per month of consultative speech language services. (Joint Exhibit 204)

7. Ms. Pozen teaches [REDACTED] reading on a one-to-one basis, and has since the 2003-2004 school year<sup>4</sup>. (Transcript, page 42.) Ms. Pozen is a certified teacher, with certifications in the fields of mental retardation, behavioral disorders, and interrelated resource. Ms. Pozen holds a national board certification and is a candidate for reading specialist certification awaiting completion of a required examination. (Transcript, pages 40-41)

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<sup>3</sup> Petitioner's last neuropsychological test, which measures her potential for learning, was conducted when Petitioner was in the third grade. As Petitioner is now in the eighth grade and would be expected to show abstract thinking, which was not expected in the third grade, a re-evaluation of Petitioner's potential for learning is important. (Transcript, pages 292-296)

<sup>4</sup> At the beginning of the 2004-2005 school year, Fulton County School District had a system-wide problem of insufficient staff which prevented [REDACTED] from receiving one-to-one reading instruction until September 27<sup>th</sup>. Prior to September 27<sup>th</sup>, [REDACTED] received group reading instruction. (Transcript, pages 87-88)

8. Ms. Pozen uses the SRA Corrective Reading series in her sessions with █. They use two sets of these materials, to focus on both comprehension and decoding. (Transcript, page 42) Ms. Pozen uses the SRA Corrective Reading series, as it is designed for older students and is content-appropriate for them. The SRA Corrective Reading is also a multi-sensory system, using different stimuli to assist students in improving their reading skills. (Transcript, page 46) During the course of the 2004-2005 school year, █. has become better able to comprehend written language and gather specific information. She has also increased her ability to use more abstract skills, such as making analogies, as well as her ability to read independently. Her rate of decoding has increased, as well. (Transcript, pages 48-50) Ms. Pozen estimates that, based upon her daily sessions with █., she is now reading at nearly the end of a second grade level. (Transcript, page 54) █.'s IEP provides for incremental goals which are measurable but which do not reflect a reading grade level. (Transcript, page 95-99)

9. Ms. Henderson, a certified special education teacher, certified in the area of interrelated resource, teaches █. both science and social studies. She sees █. every day, for two class periods per day. (Transcript, pages 110-111) Ms. Henderson presents class notes on an overhead projector, and students are expected to copy them for their reference. At the beginning of the school year, █. had some trouble with this task. By the time of the hearing, █. had improved after receiving some assistance from Ms. Henderson. █. is able to independently read these classroom notes. (Transcript pages 114-115) These notes are approximately on the second or third grade reading level. (Transcript, page 137) █.'s other classroom materials, such as her textbooks, are on approximately the third grade reading level. (Transcript, page 141) Similarly, █. is able to independently read tests given in Ms. Henderson's class and does not need assistance taking them. (Transcript, pages 115-116) █.'s class did a unit on conversion of measurements. They took a test regarding converting centimeters to and from inches. █. made a perfect score on that test and was the only student in the class to do so. (Transcript, pages 116-117) At the beginning of the school year, █. was very timid in her class and would not engage voluntarily with her peers or even Ms. Henderson. As time has progressed and █. has become more comfortable, █. is conversing more and more. For instance, she will independently initiate a conversation with Ms. Henderson, using complete sentences. (Transcript, pages 120-122)

10. Ms. Hatchette, a certified speech pathologist, has provided speech language therapy to █. during the 2003-2004 school year. (Transcript, pages 157-158) Ms. Hatchette sees █. three times per week for individual and group sessions. In addition, Ms. Hatchette provides consultative services, whereby she consults with █.'s other teachers to promote carryover and generalization of skills that █. learns during their sessions. (Transcript, pages 159-160) Ms. Hatchette does oral-motor exercises with █. to help her with her jaw stability and tongue strength<sup>5</sup>. They also work on █.'s expressive and receptive language skills, so that █. is more effectively able to communicate her thoughts to others. A group of other students attends speech therapy with █. for 15

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<sup>5</sup> Ms. Hatchette opines that "there is a great debate in our field now as to whether or not oral motor therapy is effective and whether or not it has a positive outcome of speech production." (Transcript, page 161)

minutes per week. During this time, [REDACTED] is able to work on her conversational skills with her peers. (Transcript, pages 160-162)

Through her sessions with Ms. Hatchette, [REDACTED] has made progress during the 2004-2005 school year toward her IEP goal of improving her overall communication skills. (Transcript, pages 162-163) During the 2003-2004 school year, [REDACTED] had practiced common greetings. This school year, as [REDACTED] had retained memory of those greetings, she began to work on more complex conversational skills, such as identifying the topic of a conversation and responding appropriately. [REDACTED] has made great progress and a "big improvement" in this area, especially with regards to initiating conversations with her peers during group speech language therapy sessions. (Transcript, page 164) [REDACTED] is also better able to speak in complete sentences, rather than fragments. (Transcript, page 172) Additionally, [REDACTED]'s speech production is improving. She takes more time and puts more effort into pronouncing words to the best of her ability, and [REDACTED] is intelligible to others. (Transcript, pages 86-87, 122-123, 162) In fact, [REDACTED] has become more intelligible as time has progressed.

[REDACTED]'s speech therapist, who consults regularly with her teachers, has received no reports from any of her teachers that [REDACTED] is unintelligible. (Id. page 162) Instead, Ms. Hatchette has learned that [REDACTED] has increasingly become more and more intelligible to others and is better able to communicate. (Transcript, pages 186-187) [REDACTED] has also made great strides in her level of independence. During the 2003-2004 school year, [REDACTED] had been in a self-contained special education class for the majority of the day, and she did not switch classes like other students. This year, however, [REDACTED] switches classes like all other students and has done very well. She is able to transition independently and able to maintain a locker. (Transcript, page 50, 51) [REDACTED] used to be content to let adults do day-to-day tasks for her. This year, however, she has become much more interested and more able to perform these tasks herself. (Transcript, page 51)

Additionally, [REDACTED] has become more social and more willing to initiate interaction with peers and adults. (Transcript, pages 51, 220) She is greeted by peers in the hallway and eats lunch with her peer group. (Transcript, page 51) [REDACTED] used to require an adult with her at lunch, but no longer does. (Transcript, page 25.) [REDACTED]'s spontaneous language also markedly improved during the 2004-2004 school year. While navigating the halls, [REDACTED] will initiate conversations or greeting with teachers or peers. (Transcript, page 52, 164-165, 250-251) [REDACTED] went on a field trip in south Georgia with several other students in her grade. When she returned from this trip, she spontaneously engaged several of her teachers in conversations about the trip, accurately describing what she had done and seen. (Transcript, pages 53, 251)

11. Petitioner's parent contends that [REDACTED] has shown gains when receiving the reading programs requested by the parent (Fast For Word<sup>6</sup> ["FFW"] in 2003-2004 and LMB<sup>7</sup> in summer 2004) and denies that [REDACTED] has shown gains with the SRA series used by Respondent. (Dep. of T.M., pages 13,17-18, 22) Therefore, the parent argues that [REDACTED] requires the LMB program to receive a FAPE.

<sup>6</sup> Ms. [REDACTED] observed that after FFW, [REDACTED] "took a shorter amount of time to respond and was usually able to respond with a little bit more detail." (Dep. T.M. page 22)

<sup>7</sup> Ms. [REDACTED] observed that, during LMB, [REDACTED]'s interest in reading, her confidence and decoding increased. (Dep. T.M., page 58)

12. Cornelia Fletcher, a licensed speech language pathologist and former teacher, is the director of the Lindamood-Bell Learning Processes clinic in Atlanta and an expert in speech language pathology and reading. (Transcript, page 397, 414) Ms. Fletcher opined that SRA is “not a program to address students with this degree of severity”, citing the slow progress of █. with SRA. (Transcript, page 445) Ms. Fletcher recommended that █. receive additional LMB services (Transcript, page 449) although pre- and post-testing results by LMB showed █. had gains in some areas and regressions in others during her summer program at LMB. (Joint Exhibit 206) Ms. Fletcher believes that █. has severe deficits in all three areas (auditory, word recognition, and concept imagery) and that she needs extensive LMB services, including twelve weeks of one-to-one therapy for six hours a day. (Transcript, page 465-8)

13. LMB administered several tests to █., both before and after she completed the LMB program. (Joint Exhibit 206) LMB administered these tests initially on June 11, 2004. After six weeks of intervention from LMB, these tests were again administered on August 3, 2004. On virtually every one of these tests, █. did not show any statistically significant gain as a result of the provision of LMB services. (Transcript, page 288) In fact, it appears that LMB, the only intervention provided to █. during this time period, may have caused █. to lose skills. For instance, on the Gray Oral Reading Test (“GORT”), █. had achieved a mastery level of 50% at the pre-primer reading level and 25% at the third grade level during the initial June 11, 2004 testing. After six weeks of LMB intervention, however, █. achieved a mastery level of only 25% at the pre-primer level, or half of what she had achieved prior to LMB intervention. Her achievement at the third grade level went from 25% to 0%. (Transcript, page 290)<sup>8</sup>

14. Barbara Pozen, █.'s reading teacher for both the 2003-2004 and 2004-2005 school years, administered a reading inventory to █. in May 2004. At that time, █. tested on the second grade reading level. Ms. Pozen administered the same inventory in August 2004, after █. had received intensive LMB services. █. once again tested on the second grade reading level. (Transcript, pages 47-48)

15. Respondent denies that █. showed gains on the FFW program, relying on Lydia Kopel, an expert witness in the areas of speech language pathology and the education of students with speech and language disorders, who was involved in the provision of the FFW program to █. (Transcript, page 283) Ms. Kopel has received training specifically in the FFW program. (Transcript, page 275) Ms. Kopel kept close communication with the individual who administered the FFW program to █. and monitored █.'s performance, which was unusually slow. (Dep. Lydia Kopel, page 8-9, 11) Data was kept regarding █.'s performance on the FFW program. (Joint Exhibit 219) In Ms. Kopel's expert opinion, the FFW data indicates that the program did not afford █. academic progress. (Transcript, page 283-287)

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<sup>8</sup> The only test on which █. showed any significant improvement was the Lindamood Auditory Conceptualization test, a propriety, non-normed test developed by the LMB organization. (Joint Exhibit 206.)

16. [REDACTED] has always had issues with jaw instability for which [REDACTED] received private therapy from ages three and a half to eleven with Lynn Routenberg. (Dep. T.M., page 29, 89) Ms. Routenberg recommended therapist Sharon Wexler to the parent when Ms. Routenberg was unable to make further improvements with [REDACTED]'s jaw strength. (*Id.*, page 94) However, the parent was not able to afford private therapy after [REDACTED]'s dad was laid off from work. (*Id.* page 6) The parents contend the [REDACTED] regressed in jaw stability as evidenced by a drooling issue that came back last year. (*Id.*, page 29; Transcript page 739) The parent argues that myofunctional therapy by Sharon Wexler is required to address jaw instability and provide [REDACTED] with FAPE (*Id.*, page 74)

17. Sharon Wexler is a privately-practicing licensed speech language pathologist with special training and experience in myofunctional therapy, a therapy that seeks "to correct the oral facial muscles specifically in relationship to the swallowing position in the mouth." (Transcript, page 705) Ms. Wexler evaluated [REDACTED] and found that a possible explanation for [REDACTED]'s difficulty with three syllable words was muscle weakness, apraxia and tongue position. (Joint Exhibit 211; Transcript, pages 708-714) Ms. Wexler believes that if she works with [REDACTED] for six months for one-half hour per week that she could determine whether [REDACTED] can build oral muscle strength. (Transcript, pages 716-717) While there are other ways to address oral motor skills, Ms. Wexler opined that myofunctional therapy is "likely to be the best method". (Transcript, page 728)

18. One of [REDACTED]'s speech issues is the ability to be understood by others or "intelligibility". (Transcript, page 86) [REDACTED]'s speech intelligibility overall in the classroom was rated "appropriate" and "understandable" and her conversational speech was rated "intelligible" by [REDACTED]'s teachers. (Transcript, pages 212, 216, 86, 195) Although [REDACTED] has shown definite improvement this school year in /s/ blend words in structured conversation, [REDACTED] still struggles with the /r/ sound and with three syllable word production which indicate to [REDACTED]'s expert witness that [REDACTED] has significant intelligibility, oral motor and some apraxia issues. (Transcript, pages 231, 185-186, 175, 186 and 570) [REDACTED] speaks slowly and laboriously. (Transcript, pages 66, 67, 135, 351, 357) However, [REDACTED]'s intelligibility in the testing setting was fine. (Transcript, page 516)

19. [REDACTED] has not received occupational therapy ("OT") since she was in third grade although she has received consulting services. (Dep. T.M., page 65) [REDACTED] has fine motor skill weaknesses that are apparent in her inability to open her locker at school and in her handwriting, which is legible but labored. (Transcript, pages 67, 135; Dep. T.M., pp 64-65) [REDACTED] has had mobility issues including impaired balance in the past but has been "more able to navigate the hallways and the school grounds this year." (Transcript, page 256) Petitioner presented a privately-practicing occupational therapist who observed Petitioner for a one-hour evaluation and opined that Petitioner needs thirty minutes of OT twice a week to address sensory issues and handwriting. However, the occupational therapist did not observe Petitioner in a school setting or consult her teachers about whether the sensory issues or handwriting issues he noted were problematic in the school setting. (Transcript, pages 494-502) I find the occupational therapist's opinion that [REDACTED] needs therapy in the school setting to be unpersuasive.

### III. CONCLUSIONS OF LAW

The pertinent laws and regulations governing this matter include the IDEA (20 U.S.C. § 1400 *et seq.*), 34 C.F.R. § 300 *et seq.*, O.C.G.A. § 20-2-152, and Ga. Comp. R. & Regs. at Chapter 160-4-7 *et seq.* (DOE Rules)

█'s parent did not agree to the proposed IEP for the 2004-2005 school year and have raised the following legal issues:

- A. Did Respondent design a program for Petitioner that offers a free appropriate public education in the least restrictive environment?
- B. Is the IEP drafted for Petitioner on August 3, 2004, and the services provided therein reasonably calculated to enable Petitioner to receive educational benefits?
- C. Is Respondent legally responsible to provide Petitioner with compensatory services?

Specifically, █'s parent seeks the following:

- to have █ receive reading instruction through the LMB methodology rather than the SRA methodology used by Respondent,
- to have Respondent provide myofunctional therapy from private therapist rather than therapy by the school's certified speech pathologist, and
- to add occupational therapy to █'s special services.

The first issue this administrative court must decide is whether the IEP developed by the IEP team on August 3, 2004, offered █ a free appropriate public education in the least restrictive environment.

A "free appropriate public education" is defined in § 1401(8) of the IDEA as special education and related services that 1) have been provided at public expense, under public supervision and direction, and without charge, 2) meet the standards of the State educational agency, 3) include an appropriate education in the state involved, and 4) are provided in conformity with the IEP prepared as prescribed in §1414(c) of the Act. Of these criteria, the only ones at issue here require this Court to determine whether the special education and related services described in the IEP developed for █ on August 3, 2004 were "appropriate" to address the educational deficits associated with █'s disabilities.

In order to determine whether special education and related services are "appropriate," the United States Supreme Court, in the seminal case of Board of Education of the Henrik Hudson Central School District v. Rowley, 458 U.S. 176, 102 S. Ct. 3034 (1982), established a two-part test. First, has the school district complied with the procedures set forth in the Act? Second, is the IEP "reasonably calculated to enable the child to receive educational benefits?" Id. at 206-207. If these requirements are met,

the school district has complied with the obligations prescribed by the IDEA and, as Rowley holds, is required to do no more. Both parts of this test, and the subsequent case law that has interpreted it, are discussed below.

#### **A. Compliance with Procedural Requirements of IDEA.**

The Court concludes that in developing the August 3, 2004 IEP, the school district complied with all the procedural requirements of the IDEA. Specifically, the parents were provided with sufficient prior notice of the meeting and its purpose. Neither the parent nor her attorney attended the August 3rd IEP meeting. 20 U.S.C. § 1415(b). Petitioner identified no procedural violations<sup>9</sup> associated with the August 3, 2004 IEP, the only IEP at issue in this matter.

#### **B. Provision of Educational Benefits.**

The second prong of the Rowley analysis requires the court to determine whether [REDACTED] has been provided with an IEP “reasonably calculated to enable her to receive educational benefits” in the least restrictive environment. The “least restrictive environment” requirement dictates that a student be educated with his non-disabled peers to the maximum extent appropriate. In this regard, there is no dispute that the IEP provided a placement for [REDACTED] in the least restrictive environment: general education for homeroom, lunch, and grade level activities. For the remainder of the day, [REDACTED] attends small group special education classes and receive one-to-one reading instruction.

Since Rowley, which held that school districts were not required to “maximize” a disabled child’s educational potential, the Eleventh Circuit has had several opportunities to refine further the meaning of “educational benefits.” In JSK v. Hendry County School Board, 941 F.2d 1563 (11<sup>th</sup> Cir. 1991), the court rejected the argument that the IDEA required the school district to provide “meaningful” educational benefit. The court explained:

We disagree to the extent that “meaningful” means anything more than “some” or “adequate” educational benefit. In Drew P. [Drew P. v. Clarke County School District], 877 F. 2d 927 (11<sup>th</sup> Cir. 1989)], we held that “The state must provide a child only with a ‘basic floor of opportunity.’ ... Our decision in Drew P. was not based on whether Drew P. was receiving “meaningful” educational benefits, but was based on whether he was receiving *any* educational benefits.

J.S.K., 941 F.2d at 1572 (italics in original). The court further explained that the benchmark for measuring educational benefit was the “basic floor of opportunity” discussed in the Supreme Court’s decision in Rowley. Finally, the court held:

If the educational benefits are adequate based on surrounding and supporting facts, [IDEA] requirements have been satisfied. While a trifle might not represent “adequate” benefits, *see, e.g., Doe v. Alabama State Department of Education*, 915 F. 2d at 665, maximum improvement is never required. Adequacy must be determined on a case by case basis in the light of a child’s individual needs. Id.

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<sup>9</sup> Petitioner argues that the IEP process is broken and requested that this Court require that a neutral third party conduct future IEP meetings involving [REDACTED]. Petitioner’s argument is not supported by the evidence and is unpersuasive.

Applying these principals to the present case, it is evident that the August 3, 2004 IEP was reasonably calculated to enable [REDACTED] to receive educational benefit. The IEP itself contained appropriate academic goals and objectives, namely that [REDACTED] would improve current speech, math, reading and written expression skills by the end of the school year. Petitioner's argument that these goals are inappropriate because they are not measured in specific grade-level numbers is without merit. [REDACTED]'s teachers described the objective measures used to determine progress. [REDACTED]'s speech intelligibility is at least adequate for the school setting. The IEP also contained significant related services to address [REDACTED]'s speech/language needs and the goals drafted to address them. The services included four weekly thirty-minute sessions of one on one speech/language services, and one weekly fifteen minute group session as well as one hour a month of consultation with [REDACTED]'s other teachers to generalize her therapy. This IEP and the related services it required the school district to provide were reasonably calculated to achieve educational benefits for [REDACTED].

Petitioner contends that [REDACTED] cannot receive a FAPE without myofunctional therapy from a private therapist. Petitioner contends that the oral motor therapy provided by the school speech language therapist is insufficient. However, there is debate as to whether oral motor therapy increases speech production, and even the private therapist chosen by the parent was unable to state that myofunctional therapy would be effective for [REDACTED].

The parties introduced competing expert testimony as to the gains that [REDACTED] made using the SRA reading program offered by the school and the LMB privately taught program. Clearly both programs allowed [REDACTED] to make progress in at least some areas but neither program achieved the gains that the parent seeks. Because there was no current neuropsychological evaluation, there was no reliable data to indicate that [REDACTED] is or is not capable of making such gains.

In any case, the use of a particular methodology to address a disabled student's educational needs is within the discretion of the educators who develop the IEP. This is so, as the Supreme Court explained in Rowley, because courts "lack the specialized knowledge and experience" necessary to resolve "persistent and difficult questions of educational policy." Rowley, 458 U.S. at 208, 102 S. Ct. at 3052. The Court cautioned that "courts must be careful to avoid imposing their view of preferable educational methods on the states." Id. at 207, 102 S.Ct. at 3051. Reinforcing this point, the Eleventh Circuit has held that "it seems highly unlikely that Congress intended courts to overturn a state's choice of appropriate educational theories in a proceeding conducted pursuant to Section 1415(e)(2)." Todd D. v. Andrews, 933 F.2d 1576, 1581 (11th Cir. 1991)(citing Rowley, 102 S. Ct. at 3051) Rowley cautioned that great deference must be paid to the educators who developed the IEP. As the Court noted, "once a court determines that the requirements of the Act have been met, questions of methodology are for resolution by the states." 458 U.S. at 208.

On its face, the IEP met the substantive requirements for providing a "free appropriate public education." The school district also demonstrated that Petitioner made some measurable and adequate gains in the classroom during the beginning of the 2004-2005 school year, according to the educators responsible for implementing her IEP. For example, [REDACTED] made some progress in comprehending written language and gathering specific information. She has also increased her ability to use more abstract skills, such as making analogies, as well as her ability to read independently. Her rate of decoding has increased. While [REDACTED] continues to have intelligibility, oral motor and apraxia issues, her intelligibility is adequate in the classroom setting and she has made significant improvement in conversations with her peers and teachers.

Both the school and the parents would like to see [REDACTED] make greater progress and gains in every area. However, the evidence before this Court does not show that measurable gains would be achieved by use of different learning programs or speech therapies due to the complexity of [REDACTED]'s disabilities.

This administrative court, therefore, concludes that the IEP was reasonably calculated to achieve adequate educational benefit and [REDACTED] did, in fact, make sufficient progress that demonstrated the efficacy of the IEP and related services offered.

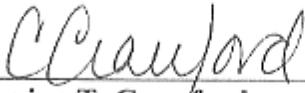
Because the Court has already concluded that the school district had, in fact, offered [REDACTED] a FAPE, it is unnecessary to reach the issue of compensatory services. Burlington School Committee v. Department of Education, 471 U.S. 359, 105 S. Ct. 1996 (1985).

This Court concludes that Respondent has established that it developed an IEP for [REDACTED] in accordance with the requirements of the IDEA and that such was reasonably calculated to enable [REDACTED] to make educational progress. Respondent also established that the IEP was implemented in [REDACTED]'s classroom according to its terms and that [REDACTED], in fact, made at least adequate educational progress toward her IEP goal. Petitioner is not entitled to compensatory services.

#### IV. DECISION

**IT IS HEREBY ORDERED** that [REDACTED] received a free, appropriate public education from the Fulton County School District, that any relief or remedy sought by Petitioner is unwarranted and is denied.

SO ORDERED, this 11<sup>th</sup> day of March, 2005.

  
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Catherine T. Crawford  
Administrative Law Judge