

ABSTRACT
NM SEA DPH No. 1011-28
On Remand from D.N.M. No. CV 12-30 MV/CG

On remand from United States District Court, District of New Mexico, adopting Magistrate Judge's Proposed Findings and Recommended Disposition on issue of qualitative compensatory education services. An evidentiary hearing was reopened on the limited remand issue of compensatory education.

Significant weight given to the Student's two experts in their analysis in the determination of the Student's unique educational needs, which includes his present educational services and considers the Student's specific educational deficits, which resulted from the District's failure to fully implement his IEP, as found in the first Due Process hearing. The Student's experts had a long standing relationship with the Student and his needs, with one expert acting as a service provider to the Student (much like a treating physician with a patient). The Student's experts both formed opinions, based on data and on personal knowledge of the Student and his needs, that of 201.6 hours of compensatory services (as awarded at the first Due Process hearing) were appropriate to remedy the Student's lost sixth grade year of services in math, reading and writing, while considering his deficits and his present educational services. Limited weight was given to the District's expert, who was the opinion the Student was not entitled to any qualitative compensatory services, based on a statistical analysis under his raw data review – among other things, he undertook his analysis three weeks before the remand hearing, did not speak with teachers or the Student, and his research and underlying data were questionable.

Although the Student's experts believed that summer services should be provided more intensively, there was no evidence as to what number of summer school hours were required to meet the need. Summer services greater than two hours were denied.

201.6 hours of compensatory education services were awarded for two hours a week (one hour in math, and one hour in reading and writing) during the regular school semesters and during the summer, until the hours are completed, with credit for compensatory hours provided by the District under the order from the first Due Process hearing.

The methodology for providing the compensatory education services was left to the District.

DPHO Morgan Lyman
10.18.2013