JURISDICTION

Petitioner alleges violations of the

PETITIONER'S REQUESTED RELIEF

1. Order CCISD to fund independent Occupational Therapy, Assistive Technology, and Speech Evaluations of Student by an evaluator of the Parent's choosing so as to obtain recommendations relating to Student's programming and services to address Student's *** deficiencies.

2. Order CCISD to fund an independent evaluation of Student for an Auditory Processing Disorder by an evaluator of the Parent's choosing so as to obtain recommendations relating to Student's programming and services, as recommended by Mr. ***, the IEE provider.

3. Order that upon receipt of the above evaluations, CCISD will convene an ARD meeting and develop a new IEP for Student which:

    a. Incorporates and explicitly lists any compensatory services awarded by the Hearing Officer in this proceeding;

    b. Accurately reflects the Student's present levels of academic achievement and functional performance;

    c. Includes appropriate goals and short-term objectives that address the Student's academic and behavior needs;

    d. Includes appropriate related services as recommended by the evaluators referenced above, including:

        i. At least one hour

iii. Direct occupational therapy to address Student's *** deficiencies;

e. Identifies appropriate teaching methodologies that will be employed to address the Student's academic needs;

f. Identifies appropriate behavior methodologies and includes a plan to implement the behavior methodologies;

g. Includes parent training so that the Parents have the skills to support the implementation of the IEP; and

h. Provides services in Student's appropriate least restrictive environment.

4. Order CCISD to provide compensatory educational services to Student including but not limited to:

a. 13 hours of compensatory speech services by a qualified provider of the parent's choosing;

b. 520 hours of compensatory academic language therapy services by a Certified Academic Language Therapist, licensed dyslexia therapist, or licensed dyslexia practitioner, licensed under Chapter 403 of the Texas Occupations Code of the parent's choosing, provided over two (2) years, as recommended by Dr. ***;

c. *** support in the form of occupational therapy and assistive technology by a qualified provider of the parent's choosing, in an amount recommended by the independent evaluator; and

d. Transportation or reimbursement of transportation expenses to/from the compensatory services provider, if the services are not provided on campus.

5. Order CCISD to reimburse Parents in the amount of *** academic tutoring services provided by ***, and *** for the transportation of Student to and from *** 0 Tdnuoi c 0.

The Hearing Officer makes the following findings:

***

1. Student began receiving special education services through an *** when Student was ***. T. 563.

2. Student was diagnosed with autism at the age of ***. T. 562. At the time of Student's diagnosis, Student was *** and had frequent tantrums and behavioral issues. T. 562; 1048.

3. Following Student's Autism diagnosis, Parent enrolled Student in 40 hours per week of private Applie( )Tj

8. Student was able to meet ***' "end of year *** ***" benchmark. J.Ex. 3 at 2.

*** GRADE (***)

9. At the beginning of *** grade, in September 2016, Parent expressed concern about Student's lack of progress during Student's annual IEP team meeting. Student's IEP Team requested additional assessments to determine Student's need for specially designed instruction. J.Ex. 3 at 1.

10. In October 2016 *** created an intervention plan to address weakness in reading comprehension. Student received 15 minutes per week of small group instruction in reading comprehension skills and small-group reading intervention with a reading specialist three times per week. J.Ex. 3 at 2.

11. Student's writing was inconsistently legible, and Student struggled to ***. J.Ex. 3 at 5.

12. *** staff also noted Student had difficulty with ***. J.Ex. 3 at 5.

13. In-class assessment data showed Student struggled with decoding. Student ***. Staff concluded Student required specially designed instruction to address Student's decoding deficits. J.Ex. 12 at 5

14. Parent expressed concern about Student's reading abilities and the IEP Team noted Student was making slow progress and was not "closing the gap." J.Ex. 12 at 12.

15. *** also conducted the Behavior Assessment System for Children, Third Edition (BASC-3), a standardized behavioral checklist to measure Student's problem behaviors and positive adaptive behaviors. J.Ex. 3 at 6-8.

16. Student's November 2016 BASC-3 overall behavior assessment scores fell in the clinically significant range, meaning Student has a tendency to become irritable quickly, has poor

social skills and difficulty communicating, and has trouble concentrating and following directions. Student had trouble concentrating and following directions and difficulty maintaining necessary levels of attention at school. J.Ex. 3 at 7.

17. These assessments indicated a disability was adversely affecting Student's educational performance and suggested Student may benefit from specialized instruction. The evaluator recommended Student's IEP Team consider providing Student with special education services under the eligibility category of Other Health Impairment (OHI). J.Ex. 3 at 9.

18. Based on observation and teac

23. Student's July ***, 2017 IEP provided the following accommodations:
    a. Math: Preferential seating, all items read aloud;
    b. Reading: Preferential seating, modified assignments, spelling tests split into two parts;
    c. Social Studies, Writing, Science: Preferential Seating. J.Ex. 12 at 6.

24. Student's July ***, 2017 IEP also provided Student with the following related services:
    a. Resource Reading: 5 sessions/week, 15 minutes per session because Student needed support with decoding;
    b. Resource Writing: 5 sessions/week, 30 minutes per session because Student needed to continue working on ***;
    c. Speech Therapy: 12 sessions/grading period, 30 minutes per session. J.Ex. 12 at 6.

ENROLLMENT IN COPPERAS COVE ISD (*** GRADE)

25. On September ***, 2017, Student began attending *** grade in Copperas Cove ISD, after Student's family moved to Texas ***.

26. On September ***, 2017, Student's special education case manager, provided Student's teachers with the July ***, 2017 IEP from ***. All teachers signed that they received the IEP on either September ***, 2017 or October ***, 2017. J.Ex. 31.

27. Student's *** teacher "sat down" with Student's case manager to discuss Student's accommodations an2.p-4(c)4(a)1tTw (***)Tj0 Tc 0 Tw (.)Tj8.22 0 Td( )Tj0.001 Tc 0.003 Tw 0.24 0

29. CCISD provided comparable services to Student's *** IEP from the day after Student's transfer, and "we ended up providing [Student] with more accommodations than what [Student] came with, because [Student] didn't seem to be as far along as the IEP [from ***] made us believe." (Tr. 649:21-23).

30. These services included *** and *** instruction in the amounts specified in Student's *** IEP. (Tr. 650:16-18).

31. Student also received the same amount of speech services as in Student's *** IEP. The ARD on October ***, 2017, reduced Student's speech services slightly to allow Student's speech therapist to monitor Student's generalization of skills. (Tr. 875:2-10).

32. Petitioner believes that Student should have received Response to Intervention ("RtI") services in addition to Student's special education services because Student received such services in ***. (Tr. 438; Tr. 441).

33. CCISD did not provide Student with Tier II interventions in *** and reading comprehension services described in the IEP from ***. T. 438; 487; 732-733; P.Ex. 5.

34. As Student's *** teacher stated about RtI supports, "we are more intense in special education than they are in RTI and we're more individualized to [Student's] needs and goals and [Student's] weaknesses than they are in RTI. What [Student]'s receiving in

37.

44. Parents were expected to track Student's progress towards

was an updated Other Health Impairment form. J.Ex. 13 at 4.

51. CCISD also convened a "Transfer" ARDC meeting for Student on October ***, 2017. J.Ex. 14. CCISD's Reading PLAAFP reported Student was ***, even with Student's "ARDed accommodations." J.Ex. 14 at 2.

52. The Reading PLAAFP included in the October ***, 2017, IEP states three general strengths and 3 general weaknesses but included no objective data regarding Student's reading comprehension or decoding skills. The Reading PLAAFP does not incorporate any information from Student's July ***, 2017 IEP from ***. J.Ex. 14 at 2.

53. The October ***, 2017 Reading PLAAFP states Student is "currently performing on *** level." J.Ex. 14 at 2. The PLAAFP provides *** data for Student demonstrating Student was on a *** level in all assessed skills except for an informational test of comprehension. J.Ex. 14 at 3.

54. The October ***, 2017 IEP lists Student's reading goal as: "In 36 instructional weeks, provided [Student's] accommodations, Student will read grade level text with fluency and comprehension, ***, with 80% accuracy." J.Ex. 14 at 8.

55. Student's case manager who wrote the PLAAFPs and goals was unable to demonstrate where Student's reading PLAAFP contained a baseline for the various components of Student's reading goal such as where Student's baseline for *** was located. T. 725-728.

56. The October ***, 2017 Written Expression PLAAFP states Student had a grade average of ***, with accommodations. J.Ex. 14 at 3.

57. The PLAAFP lists Student's strengths as:
    a. ***.
    b. ***
    c. ***.

58. The PLAAFP lists Student's weaknesses in Written Expression as:

    a. ***

    b. ***

    c. ***.

    J.Ex. 14 at 3.

59. The October ***, 2017 IEP lists Student's language arts goal as: "In 36 instructional weeks, provided [Student's] accommodations and text on [Student's] instructional level, Student will write legibly and use appropriate punctuation conventions, proper capitalization, and word endings (***." J.Ex. 14 at 9.

60. The October ***, 2017 IEP contains a section for "Assessment Results/Considerations." The only assessments listed are "***" for Math and Reading. Id. Student was recorded as being between a *** – *** grade level in Math, and a *** level in Reading. J.Ex. 14 at 6.

61. The October ***

general education, and then each grade that was used to monitor progress on an IEP

*** GRADE: JANUARY- MAY 2018

83. On January ***, 2018, CCISD re-assessed Student in reading ***. J.Ex. 10 at 2.

84. On January ***, 2018, CCISD re-assessed Student's reading skills ***. Student scored *** accuracy, excellent comprehension, and a fluency of ***. A "***" *** . J.Ex. 9 at 1, 10.

85. For the middle of *** grade year, a *** is considered "Does not meet expectations: Needs intensive intervention." R.Ex. 6 at 1.

86. On January ***, 2018, Student's ARDC convened to hold a Revision ARDC Meeting. J.Ex. 17. The ARDC reviewed Student's present levels of performance and noted "[Student] still struggles with [Student's] reading fluency and often relies on [Student's] teachers reading to [Student] instead of trying to read passages ***self first." J.Ex. 17 at 2.

87. Parent "expressed concerns regarding Dyslexia testing." In response to Parent's concerns, the district agreed to conduct a dyslexia screening and "share findings with the parent." J.Ex. 17 at 2.

88. Parent testified CCISD staff did not explain to her the difference between a screening and an assessment. T. 569. Parent believed CCISD would be conducting a full evaluation for a reading disability. T. 569.

89. On February ***, 2018, CCISD Reading Interventionist conducted the WIST Word Identification and Spelling Tes

98. In May 2018, Student's progress in reading was assessed using ***. Student's final *** assessment score corresponded to a *** level. J.Ex. 10 at 2.

99. Student's End of Year *** results in math indicated Student remained on a *** grade level in all components of the assessment, with only small gains from Student's comprehensive score in October 2017. J.Ex. 10 at 1.

100.

school. T. 435. Eligibility is based on report card grades. T. 435.

105. As CCISD would not provide summer services to Student, Parent sought out academic tutoring for Student on her own in order to prevent Student from falling further behind. T. 1049.

106. Parent enrolled Student in academic reading classes at *** on May ***, 2018. P.Ex. 11. Based on Student's assessment results, *** recommended a 12-week program for Student with 13 hours of instruction per week. P.Ex. 11.

107. The parent testified that that Student "did okay with ***" but Student still had shutdowns and refusal to do work after attending ***, and that Student did not make significant progress in Student's *** reading assessment between EOY in Spring 2018 and

112. On August ***, 2018, the CCISD special education director emailed Parent stating she had "reviewed and summarized the timeline of data," with a list of the evaluations of Student that she had reviewed. P.Ex. 8 at 6.

113. On August ***, 2018 Parent emailed the CCISD special education director with her selection of two evaluators: Mr. *** for the psychoeducational IEE *** for the speech IEE. P.Ex. 8 at 2.

114. On September ***, 2018, Ms. *** informed Parent that the contract with Mr. *** had been completed, but the contract with the speech therapy provider was still in progress. The District provided payment to Mr. *** for the independent psychoeducational evaluation. To date, CCISD has not provided Parent with an independent speech evaluation. P.Ex. 8 at 1.

*** GRADE (AUGUST 2018-PRESENT)

115. Student has made passing grades in all of Student's general education classes, as well as on Student's IEP goals. (J23; J26: J29). Petitioner accused District staff of inflating Student's grades by raising Student's grades on assignments to a *** when Student's true grade was lower. However, this was the grading policy for ALL students in *** grade, to give students the opportunity to recover from failing grades. (Tr. 434:7-16; Tr. 459-460). The grading policy was therefore not a modification of Student's grading in the general education setting. (Tr. 991: 11-15).

116. Student's *** grade teachers also follow a similar policy for recording Student's grades in the gradebook. J.Ex. 26 at 42, 47. Student's case manager claimed she was "not aware of this happening." T. 630, 632.

117. Petitioner made assertions that the grading policy in math in ***-grade was "raising" grades. The math teacher testified that if a student had a failing grade, Student

would be retaught in small group and then would be permitted to retake the test to receive a maximum grade of a 70. (Tr. 632:14-19).

118. Permitting a student to re- do an assignment is another way for the student to show mastery and to pass the class and meet grade-level expectations. (Tr. 996-997) and is permissible in accordance with CCISD policies that permit any student to be retaught and reassessed if they make a failing grade. (Tr. 996:15- 16). This helps students master grade-level concepts in the school environment and find success. (Tr. 997:1-15).

119. Dr. *** testified that based upon the records she reviewed, Student "has made some progress." (Tr. 829:8).

120. Observations from Student's teachers at CCISD indicate that Student's writing skills have improved. (Tr. 440:9-40).

121. Student's case manager also testified that when Student first transferred, "it was very difficult to get [Student] to read willingly and independently" and that Student's first F&P testing took a very long time. (Tr. 656:21-24). She also emphasized that Student is now showing "maturity, growth" and that Student has improved significantly in Student's willingness to write. (Tr. 673:6-10).

122. Student's *** teacher described the progress Student has made through the example of a recent research project, where Student researched ***, put Student's ideas on a graphic organizer, created a *** rough draft, completed the revision/editing process, and is creating a book to read aloud to the class. (Tr. 658-661).

123. Student receives instructional services appropriate to meet Student's educational needs and to create an IEP reasonably calculated for Student to make progress. Student received a number of multi-sensory supports in the *** grade general education classroom, like *** so students could see and hear instruction at the same time. (Tr. 457-

458).

124. When Student first transferred to CCISD, Student's ARD committee included an accommodation to pre-teach *** skills before ***

supports justified an increase in Student's time away from Student's peers. (Tr. 343:3-6; 344:19-24).

131. Student's *** teacher testified she would not increase *** time. Student