

## Hypothetical

- Parent filed a due process complaint alleging that the district denied Student with resource room services as required under Student's IEP.
- Parent is requesting 60 hours of one-on-one tutoring as compensatory education.
- The hearing has concluded and you are in the process of writing the decision.
- You have determined that Student was denied FAPE.
- Student's IEP requires that Student be provided with one hour per school day of resource room services in a group setting not to exceed five children to one resource room teacher (5:1).
- The record evidence establishes that the resource room teacher fell ill and required an indefinite leave of absence; teacher's supervisor was not able to immediately find a replacement; and that Student missed 30 school days of RR services.
- Supervisor credibly testified that the LEA required two weeks (approximately 10 school days) to find a replacement.
- Although the IEP indicated that Student could be placed in a group not to exceed five children, Student shared the hour with only two other students (i.e., 3:1).
- The RR substitute credibly testified that he continued the same instructional model as what was in place before his arrival. Specifically, students were provided with a group lesson for 15 minutes and then worked one-on-one with the teacher for approximately 15 minutes each.
- Student had five unexcused absences.
- General education teacher credibly testified that RR teacher primarily worked on reinforcing key lessons from the day and, because she knew Student was not being provided with RR, she provided extra one-on-one support each day.
- General education teacher estimated that Student would have made one month's progress had he been pulled out. Parent's expert agreed with this assessment.
- General education teacher also testified that Student is "pretty much" able to keep up with his peers when he is provided with resource room. Student is able to make one month's progress every six weeks.
- Parent's expert testified that Student is due 60 hours of one-on-one tutoring to make up for 30 missed hours. The expert opined that for every one hour Student missed, he requires two hours of tutoring because of the impact the missed services had in Student's general education classes.
- The school district believes that Student is not deserving of any compensatory education because the general education teacher provided extra one-on-one support during the day and because Student is not so far behind. The district further argued that, should you find a denial of FAPE and are inclined to provide compensatory education, Student should only be provided with 7 1/2 hours (i.e., 15 minutes per hour of 1:1 resource room services x 30 school days).