XXXX XXXX, [1]	*	**BEFORE DAVID HOFSTETTER,**
STUDENT	*	**AN ADMINISTRATIVE LAW JUDGE**
v.	*	**OF THE MARYLAND OFFICE**
BALTIMORE COUNTY	*	**OF ADMINISTRATIVE HEARINGS**
PUBLIC SCHOOLS	*	**OAH No.: MSDE-BCNY-OT-17-18305**

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DECISION

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STATEMENT OF THE CASE

On June 14, 2017, XXXX XXXX (Parent), on behalf of her child, XXXX XXXX (Student), filed a Due Process Complaint with the Office of Administrative Hearings (OAH) requesting a hearing to review the identification, evaluation, or placement of the Student by Baltimore County Public Schools (BCPS) under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C.A. § 1415(f)(1)(A) (2017).[2]

I held a telephone prehearing conference on July 11, 2017. The Parent represented the Student. J. Stephen Cowles, Esquire, represented the BCPS. By agreement of the parties, the hearing was scheduled for July 20, 2017. The telephone prehearing conference occurred immediately after a mediation session which did not resolve the matter.

[1] The Student's name has been masked in the Decision to protect the Student's privacy and facilitate eventual publication of the decision.
[2] U.S.C.A. is an abbreviation for United States Code Annotated.

I held the hearing on July 20, 2017. The Parent represented the Student. Mr. Cowles represented BCPS.

The hearing date requested by the parties fell within 45 days of the triggering events described in the federal regulations (in this case, the mediation), and therefore the decision is due on or before the forty-fifth day, which is August 25, 2017. 34 C.F.R. § 300.510(b) and (c); 34 C.F.R. § 300.515(a) and (c) (2016).[3]

The legal authority for the hearing is as follows: IDEA, 20 U.S.C.A. § 1415(f) (2017); 34 C.F.R. § 300.511(a) (2016); Md. Code Ann., Educ. § 8-413(e)(1) (Supp. 2016); and Code of Maryland Regulations (COMAR) 13A.05.01.15C.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act; Maryland State Department of Education (MSDE) procedural regulations; and the Rules of Procedure of the Office of Administrative Hearings (OAH). Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2016); COMAR 13A.05.01.15C; COMAR 28.02.01.

ISSUES

The issues are as follows:

1. Whether BCPS failed to offer the Student an individualized education program (IEP) for the 2017-2018 school year that would provide him with a free appropriate public education (FAPE); and
2. What, if any, relief is appropriate.

[3] C.F.R. is an abbreviation for Code of Federal Regulations.

SUMMARY OF THE EVIDENCE

Exhibits

The Parent offered no exhibits for admission into evidence.

I admitted the following documents on behalf of BCPS:

BCPS Ex. 1 Parent Notification of IEP Team Meeting, dated May 25, 2017

BCPS Ex. 2 IEP Team Summary, dated May 26, 2017

BCPS Ex. 3 Parent Notification of IEP Team Meeting, dated May 31, 2017

BCPS Ex. 4 IEP Team Summary, dated June 5, 2017

BCPS Ex. 5 [School 1] Teacher Report, dated May 15, 2017

BCPS Ex. 6 IEP, dated June 5, 2017

BCPS Ex. 7 Grade 1 Report Card for marking period ending June 13, 2017

BCPS Ex. 8 School Attendance Information, printed July 5, 2017

BCPS Ex. 9 Least Restrictive Environment document, [School 1], undated

BCPS Ex. 11[4] Resume of XXXX XXXX, undated; Resume of XXXX XXXX, undated

Testimony

The Parent testified.

BCPS presented the following witnesses:

- XXXX XXXX, Assistant Principal, [School 1], accepted as an expert in special education
- XXXX XXXX, Coordinator of Compliance, Behavior, Birth to Five, Compliance, and Placement, BCPS, accepted as an expert in Special Education

[4] BCPS Ex. 10 was not offered in evidence.

FINDINGS OF FACT

Based upon the evidence presented, I find the following facts by a preponderance of the evidence:

1. The Student was born on XXXX, 2009.

2. The Student is identified as a person with autism spectrum disorder and is eligible for services under IDEA.

3. The Student entered 1st Grade at the start of the 2016-2017 school year (SY) at [School 2], part of the Baltimore City Public Schools.

4. An evaluation of the Student's needs was conducted by the Baltimore City Public Schools in the spring of 2016. The evaluation consisted of an educational assessment, an occupational therapy assessment, a psychological assessment, a speech/language assessment, as well as a review of classroom performance. Following this evaluation, the Student's eligibility for IDEA services was changed from developmental delay to autism.

5. On or about March 23, 2017, the Student enrolled in and began attending [School 3] ([School 3]), a BCPS school.

6. At [School 3], the Student was in a large class setting with at least 20 students and the Student exhibited severe behavioral difficulties. The behavioral difficulties included destroying property, assaulting teachers, throwing books, and knocking over stools.

7. On April 5, 2017, an IEP meeting was convened at [School 3], with the Parent participating by telephone.

8. The purpose of the April 5, 2017 IEP meeting was to discuss the Student's transition to [School 3] and placement options. The IEP team recommended [School 1] ([School 1]). The Parent agreed with the placement at [School 1]

9. [School 1] is a BCPS public separate day school. All the students at [School 1] have IEPs. There are no general education students at [School 1]. Most students at [School 1] have serious behavioral issues, including aggression and manifestations of severe anxiety.

10. On April 18, 2017, the Student began attending [School 1]. He attended [School 1] until the end of the school year on June 13, 2017.

11. At [School 1], the Student was in a class of five students with a teacher, an instructional assistant and an additional adult support person.

12. The first week of school at [School 1], the Student exhibited some behavioral problems. After the first week at [School 1], the Student participated appropriately in class and did not engage in disruptive behavior.

13. The IEP team at [School 1] convened on May 26, 2017 and June 5, 2017 to revise the IEP and determine the Student's placement for the 2017-2018 SY. The Parent received proper notice of the meetings.

14. The Parent was present at and participated in both meetings.

15. At the May 26, 2017 IEP meeting, the team discussed the Student's progress at [School 1], including the fact that his behavior had markedly improved compared to his behavior at [School 3].

16. At the end of the May 26, 2017 meeting, the IEP team, agreed to reconvene prior to the end of the school year to discuss placement for the Student for the 2017-2018 SY.

17. While at [School 1], the Student, by his behavior, indicated that he was seeking interaction with non-disabled peers. Such interaction was not available, however, because [School 1] only has students with IEPs.

18. On June 5, 2017, an IEP meeting was held. The Parent participated.

19. At the June 5, 2017 IEP meeting, representatives of [School 3] and [School 4] ([School 4]) were present.

20. [School 4] has a behavioral support learning program for students on the autism spectrum, which is similar to the program at [School 1].

21. The behavioral support learning program at [School 4] is taught by a special educator, with an instructional assistant and an additional adult assistant also present in the classroom.

22. [School 4] has a social worker as well as behavior intervention specialists on staff.

23. The behavioral learning support classroom which the Student would attend at [School 4] has fewer than ten students. The staff-student ratio for this classroom is approximately the same as that for the Student's [School 1] classroom.

24. Most students at [School 4] are general education students.

25. At [School 4], the Student would have opportunities to react with non-disabled peers in the hallways, at lunch, at recess, and during "specials," such as physical education, art, and music.

26. As the Student's behavior and coping skills improved at [School 4], he would gradually be placed in general education classes, probably beginning with social studies.

27. The Student's behaviors and educational needs do not require a placement as restrictive as [School 1].

28. At the June 5, 2017 IEP meeting, the Parent was adamant that she did not want the Student to go to [School 4] and did not want to hear anything from the representative from that school.

29. Prior to the IEP meeting of June 5, 2017, the BCPS Office of Placement, considered school placements for the Student based on the Student's needs, the least restrictive environment appropriate for the Student, transportation availability and the Student's home address. Based on these considerations, the Office of Placement recommended [School 4].

30. At the June 5, 2017 IEP meeting, the IEP team, with the exception of the Parent, recommended placement at [School 4].

31. The IEP developed at the June 5, 2017 IEP meeting includes specific behavioral supports, methodologies, and accommodations for progress with social skills, reading, mathematics, written language, work habits, and other areas.

32. The IEP developed at the June 5, 2017 IEP meeting calls for 27 hours of special education services for the Student per week and five hours and thirty minutes of general education services per week.

33. [School 5] ([School 5]), a BCPS facility, has a behavioral learning program for autistic students similar to the program at [School 4].

34. Due to the Parent's address and transportation patterns, the Office of Placement recommended [School 4], rather than [School 5].

35. At the IEP meeting on June 5, 2017, the Parent did not ask about possible placement at [School 5] but did ask about [School 6] ([School 6]) as a possible placement for the Student. [School 6] has a communication learning program for children on the autism spectrum with severe communication needs. The communication learning program at [School 6] is not consistent with the Student's needs or his IEP. [School 6] does not have a behavioral program for autistic children, such as the program at [School 4], and placement at [School 6] was deemed inappropriate by the IEP team.

36. The Parent first asked about the possibility of placement at [School 5] during the mediation on July 11, 2017.

37. The IEP developed at the June 5, 2017 IEP meeting provides a FAPE to the Student.

38. The Student's IEP can be implemented at [School 4].

39. The Parent works from 12:00 p.m. to 8:30 p.m.

40. The Parent's child care provider formerly offered evening hours, but currently offers no services past 6:00 p.m.

41. There is no other adult available in the Parent's household to care for the Student.

42. The Parent investigated other child care providers in the area of [School 4] and none provided hours that could accommodate the Parent's work schedule.

43. The Parent has identified a child care provider in the area of the [School 5] that stays open until 11:00 p.m.

DISCUSSION

Legal Principles

The identification, assessment and placement of students in special education is governed by the IDEA, 20 U.S.C.A. §§ 1400-1487, 34 C.F.R. Part 300, Md. Code Ann., Educ. §§ 8-401 through 8-417 (2014 and Supp. 2016), and COMAR 13A.05.01. The IDEA provides that all children with disabilities have the right to a FAPE. 20 U.S.C.A. § 1412(a)(1).

FAPE is statutorily defined as "special education and related services" that are provided "in conformity with the individualized education program required under section 1414(d)" of the IDEA. 20 U.S.C.A. § 1401(9).[5] In 2017, the United States Supreme Court ruled that FAPE

[5] In *Endrew F.*, the Court observed that it remains "[m]indful that Congress (despite several intervening amendments to the IDEA) has not materially changed the statutory definition of a FAPE since *Rowley* was decided."

"requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 1001 (2017). Rejecting the "'merely more than *de minimis*' test applied by the Tenth Circuit, *see id.* at 1000, the Court reiterated and clarified principles originally set forth in *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982).

Directly adopting language from *Rowley*, and expressly stating that it is not making any "attempt to elaborate on what 'appropriate' progress will look like from case to case," the *Endrew F.* Court instructs that the "absence of a bright-line rule … should not be mistaken for 'an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review.'" *Endrew F.*, 137 S.Ct. at 1001 (citing *Rowley*, 458 U.S. at 206). At the same time, the *Endrew F.* Court wrote that in determining the extent to which deference should be accorded to educational programming decisions made by pubic school authorities, "a reviewing court may fairly expect [school] authorities to be able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances." *Endrew F.*, 137 S.Ct. at 1002.

An IEP is the "primary vehicle" through which a public agency provides a student with a FAPE. *M.S. ex rel Simchick v. Fairfax Cty. Sch. Bd.*, 553 F. 3d 315, 319 (4th Cir. 2009). To comply with the IDEA, an IEP must, among other things, allow a disabled child to advance toward measurable annual academic and functional goals that meet the needs resulting from the child's disability or disabilities, by providing appropriate special education and related services, supplementary aids, program modifications, supports, and accommodations. 20 U.S.C.A.

Id. (comparing 20 U.S.C. § 1401(18) (1976 ed.) with 20 U.S.C. § 1401(9) (2012 ed.)).

§ 1414(d)(1)(A)(i)(II), (IV), (VI).

An IEP shall include "[a] statement of the child's present levels of academic achievement and functional performance, including" and, specifically, "[h]ow the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children)." 34 C.F.R. § 300.320(1). If a child's behavior impedes his or her learning or that of others, the IEP team, in developing the child's IEP, must consider, if appropriate, development of strategies, including positive behavioral interventions, strategies and supports to address that behavior, consistent with 34 C.F.R. § 300.324(a)(2)(i). A public agency is responsible for ensuring that the IEP is reviewed at least annually to determine whether the annual goals for the child are being achieved and to consider whether the IEP needs revision. 34 C.F.R. § 300.324(b).

Burden of Proof

The burden of proof in an administrative hearing under the IDEA is placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49 (2005). Accordingly, the Parent has the burden of proving that the Student's IEP was not reasonably calculated to provide educational benefit to him, and that placement at a separate/special education day school is inappropriate.

Analysis

In this case, the Parent participated in both IEP meetings at issue, (May 26 and June 5, 2017.) At the June 5, 2017 IEP meeting, the IEP team recommended that the Student attend a behavioral learning support classroom at [School 4]. The recommendation was based on the team members' familiarity with the Student and his needs, the nature of the program at [School 4], and the recommendation of the BCPS Office of Placement.

At both the IEP meetings, as well as at the hearing, the Parent made clear that she does

not disagree with the goals and objectives, accommodations, services, or any other educational matter set forth in the IEP. Her only objection is to the proposed location of the services to be offered, that is, the location of the school ([School 4]) which the IEP team proposes that the Student attend. The basis of her objection to [School 4] is that she is unable to find child care in that area that is compatible with her work schedule.

Least Restrictive Environment

Although the Parent does not dispute the conclusion that the program at [School 1] does not provide the least restrictive environment for the Student, it is worthwhile to briefly review the factual and legal basis for the IEP team's conclusion in this regard.

The services available to the Student at [School 1] and at [School 4] are identical in most regards. Both include classrooms with only approximately 5-9 students, favorable teacher/adult – student ratios, support services such as social work, behavioral intervention specialists, and various types of therapies. Testimony of XXXX. The difference between the two programs is that at [School 1], all students have an IEP, i.e., all students receive special education services. There are, therefore, no opportunities at [School 1] for the Student to interact with non-disabled peers. At [School 4], by contrast, the Student would have many opportunities outside his primary classroom to interact with non-disabled peers. Such opportunities include, lunch, recess, travel in the hallways, field trips, and "specials," including physical education, art, and music. *Id*. As Ms. XXXX testified, as the Student continues to progress, [School 4] would be able to provide the Student with opportunities for interaction with non-disabled peers in academic subjects such as math, science, social studies, and English.

In addition to mandating a FAPE, the IDEA directs that children be placed in the "least restrictive environment" to achieve a FAPE, meaning that children with disabilities must be

educated with children without disabilities in the regular education environment to the maximum extent appropriate; separate schooling or other removal from the regular educational environment should occur only when the nature or severity of the child's disability prevents satisfactory education in regular classes with the use of supplementary aids and services. 20 U.S.C.A. § 1412(a)(5)(A); *see also* 34 C.F.R. § 300.114(a)(2)(i) and 300.117.

The IDEA has always expressed a statutory preference for educating children with learning disabilities in the least restrictive environment with their non-disabled peers, concerning which the IDEA provides at 20 U.S.C.A. 1412(a)(5)(A) as follows:

> To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

At a minimum, the IDEA calls for school systems to place children in the "least restrictive environment" consistent with their educational needs. 20 U.S.C.A. § 1412(a)(5)(A). To this end, the IDEA requires public agencies like BCPS to offer a continuum of alternative placements that meet the needs of children with disabilities for special education and related services. 34 C.F.R. §§ 300.114-16. The continuum must include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, and make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. 34 C.F.R. §§ 300.114- 116, 300.38; COMAR 13A.05.01.10B.

Although the IDEA requires specialized and individualized instruction for a learning or educationally disabled child, it also mandates that "to the maximum extent appropriate, children

with disabilities, including children in public or private institutions or other care facilities," must be "educated with children who are not disabled[.]" 20 U.S.C.A. § 1412(a)(5)(A). "Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled." 34 C.F.R. §§ 300.116(b). "In selecting the [least restrictive environment], consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs." 34 C.F.R. §§ 300.116(d). "A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum." 34 C.F.R. § 300.116(e).

The IDEA further mandates that the school system segregate disabled children from their non-disabled peers only when the nature and severity of their disability is such that education in general classrooms cannot be achieved satisfactorily. *Honig v. Doe*, 484 U.S. 305 (1988); *Hartmann v. Loudon Cty. Bd. of Educ.*, 118 F.3d 996 (4th Cir. 1997). Removal of a child from a regular educational environment may be necessary when the nature or severity of a child's disability is such that education in a regular classroom cannot be achieved. 34 C.F.R. § 300.114(a)(2)(ii).

It is thus clear that BCPS is obligated to provide the Student with a placement that affords him at least an opportunity to interact with nondisabled peers, if he will receive educational benefit in that placement. As indicated above, in determining the educational placement of a student with a disability, the public agency must ensure that the placement decision is made by the IEP team in conformity with the least restrictive environment provisions, determined at least annually, based on the student's IEP, and as close as possible to the student's home. 34 C.F.R. §300.116. This is exactly what the IEP team did.

As set forth above, the Parent agrees that the Student should go to school where he has

contact with nondisabled peers and that the Student's former placement at [School 1] is no longer appropriate due to the complete lack of such contact. It is thus clear that [School 4] fulfills the requirements for placement in the least restrictive environment practicable.

Issues Regarding "Placement"

The Parent agrees with the IEP in all particulars, except as to the recommended "placement" at [School 4]. Although the term "placement" is often used informally to refer to the school which a student will attend, "placement" and "location" are not synonymous. A student's placement is the totality of the services, accommodations, and so on, specified in the student's IEP; it is not the geographical location where those services are provided. Educational placement, as used in the IDEA, means educational program—not the particular institution where the program is implemented.

In *A.W. v. Fairfax County School Board*, 372 F.3d 674 (2004) (4th Cir.) (2004), the court considered the parents' argument that "'educational placement' extends to the particular building to which their child was assigned." *Id*. at 682. The Court found that "[c]onsideration of the structure and the goals of the IDEA as a whole, in addition to its implementing regulations, reinforces our conclusion that the touchstone of the term 'educational placement' is not the location to which the student is assigned but rather the environment in which educational services are provided." *Id*. The court continued: "In light of our conclusion that 'educational placement' fixes the overall instructional setting in which the student receives his education, rather the precise location of that setting, we conclude that [the student's] transfer between . . . materially identical settings does not implicate the 'stay-put' provisions" of the IDEA.[6] *Id*. at 683. *See also, White ex rel. White v. Ascension Parish Sch. Bd*., 343 F.3d 373, 379 (5th Cir.

[6] Although the instant case does not concern "stay-put," the principles articulated by the *A.W.* court are nonetheless applicable.

2003), (citing *Sherri A.D. v. Kirby*, 975 F.2d 193 (5th Cir. 1992) (educational placement is not a place, but a program of services); 71 Fed. Reg. 46687 (comment by Department of Education upon reauthorization of IDEA regulations: "The Department's longstanding position is that placement refers to the provision of special education and related services rather than specific place, such as a specific classroom or specific school.")[7]

Although there is a requirement under 34 C.F.R. §300.116, that services be provided as close as possible to the Student's home, no clear evidence was presented to me concerning the distance from the Student's home to [School 4]. Nor was there evidence presented by either party as to the distance from the Student's home to [School 5]. (Although not specifically stated, the clear implication of Ms. XXXX's testimony was that [School 4] was in fact closer to the Student's home than [School 5].) What is clear, based on the Parent's testimony is that she would prefer that the student attend [School 5] because that would be closer to her identified child care provider. In other words, there is no evidence before me that [School 4] is not the closest school to the Student's home that can provide the services set forth in the IEP.[8] The Parent has simply not produced evidence of any procedural or substantive violation regarding the identification of [School 4] as the appropriate school to implement the IEP.

In addition, it is worth noting that the evidence is clear that the Parent did not mention her preference for [School 5] until the mediation on August 11, 2017. Testimony of Parent;

[7] Similarly in *Letter to Trigg*, 50 IDELR 48, OSEP, 2007, OSEP (Office of Special Education Programs) determined that when two or more equally appropriate locations are available, a district may assign a child with disabilities to the school or classroom of its choosing. While OSEP opinions are not legally binding, courts have deferred to OSEP guidance in resolving issues where the IDEA is ambiguous, and the United States Supreme Court has also been guided by OSEP policy.

[8] Ms. XXXX testified that a parent may apply for a Special Permission Transfer to permit a student to attend other than the assigned school. Although there was vigorous dispute between the parties about the availability of this tool, that issue is not before. As set forth in the body of this decision, I conclude that the Parent has not met her burden to establish that the Student's assignment to [School 4] denies him a FAPE. Nevertheless, I note that if placement at [School 5] is possible and such placement is overwhelmingly more convenient to the Parent than placement at [School 4], it is reasonable to hope that the parties may amicably resolve the matter.

Testimony of XXXX.[9] At the IEP meeting on June 5, 2017, the Parent did not ask about [School 5] but only asked about [School 6] as a possible placement for the Student. However, [School 6] does not have a behavioral program for autistic children and it was deemed inappropriate by the IEP team. Rather, [School 6] has a communication learning program for children on the autism spectrum with severe communication needs. The type of program at [School 6] is not appropriate for the Student.

The law recognizes that "once a procedurally proper IEP has been formulated, a reviewing court should be reluctant indeed to second-guess the judgment of education professionals." *Tice v. Botetourt Cty. Sch. Bd.*, 908 F.2d 1200, 1207 (4th Cir. 1990). Therefore, absent any evidence to persuasively dispute the well-reasoned judgment of the BCPS witnesses, I agree with BCPS that the IEP and placement developed by the public agency is appropriate and reasonably calculated to meet the individualized needs of the Student.

In conclusion, after carefully reviewing all of the evidence presented by the Parent and BCPS, I find that BCPS developed an appropriate IEP and placement for the 2017-2018 SY.

CONCLUSION OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude, as a matter of law that the IEP and placement developed for the Student by the Baltimore County Public Schools for the 2017-2018 school year is reasonably calculated to offer the Student a free and appropriate public education based on his circumstances. 20 U.S.C.A. §§ 1400 - 1487 (2010 & Supp. 2016); *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1,* 137 S. Ct. 988 (2017); *A.W. v. Fairfax Cty. Sch. Bd.*, 372 F.3d 674 (2004) (4th Cir.) (2004).

[9] Although matters discussed in mediation are normally not admissible in due process hearings, both parties testified regarding this fact. I do not exclude this testimony because it does not go to any offer of settlement but only establishes that the IEP team was not able to discuss placing the Student at [School 5] because the Parent did not raise the issue at the IEP meeting.

ORDER

I **ORDER** that the due process request filed by the Parent is hereby **DENIED** and **DISMISSED**.

August 23, 2017
Date Decision Issued

David Hofstetter
Administrative Law Judge

DH/cj

REVIEW RIGHTS

Any party aggrieved by this Decision may file an appeal with the Circuit Court for Baltimore City, if the Student resides in Baltimore City, or with the circuit court for the county where the Student resides, or with the Federal District Court of Maryland, within 120 days of the issuance of this decision. Md. Code Ann., Educ. § 8-413(j) (Supp. 2016). A petition may be filed with the appropriate court to waive filing fees and costs on the ground of indigence. Should a party file an appeal of the hearing decision, that party must notify the Assistant State Superintendent for Special Education, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, in writing, of the filing of the court action. The written notification of the filing of the court action must include the Office of Administrative Hearings case name and number, the date of the decision, and the county circuit or federal district court case name and docket number. The Office of Administrative Hearings is not a party to any review process.