

██████████,

STUDENT

v.

HOWARD COUNTY PUBLIC

SCHOOLS

BEFORE MICHELLE W. COLE,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-HOWD-OT-19-22166

## **DECISION**

STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSIONS OF LAW  
ORDER

### **STATEMENT OF THE CASE**

On July 16, 2019, ██████████ and ██████████ (Parents), on behalf of their child, ██████████

██████████ (Student), filed a Due Process Complaint with the Office of Administrative Hearings (OAH) requesting a hearing to review the identification of the Student by Howard County Public Schools (HCPS) under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C.A. § 1415(f)(1)(A) (2017);<sup>1</sup> 34 C.F.R. § 300.511(a) (2018);<sup>2</sup> Md. Code Ann., Educ. § 8-413(d)(1) (2018); Code of Maryland Regulations (COMAR) 13A.05.01.15C(1). The parties agreed to waive the resolution meeting on July 22, 2019.

In the Student's Complaint, the Parents allege that HCPS has violated the IDEA, 20 U.S.C.A. § 1415(f)(1)(A) (2017), by failing to identify the Student as a student eligible for special education and related services under the IDEA, and as a result, failing to provide the Student with a free appropriate public education (FAPE) for the 2018-19 and 2019-20 school

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<sup>1</sup> U.S.C.A. is an abbreviation for United States Code Annotated.

<sup>2</sup> C.F.R. is an abbreviation for Code of Federal Regulations.

years. The Parents' requested remedies are reimbursement for tuition and related services at the [REDACTED] ([REDACTED]) for the 2018-19 and 2019-20 school years and reimbursement for the [REDACTED] Summer Camp for the period of [REDACTED] through [REDACTED] 2019.

I held a telephone prehearing conference on August 2, 2019. The Student and Parents were represented by Paula A. Rosenstock, Esquire. Andrew W. Nussbaum, Esquire, represented HCPS.

A decision in this case is due forty-five days after a defined triggering event. 34 C.F.R. §§ 300.510(b)(2), (c), 300.515(a) (2018); Md. Code Ann., Educ. § 8-413(h) (2018); COMAR 13A.05.01.15C(14). In accordance with these regulations, the decision in this case would normally be due on September 5, 2019, forty-five days after the parties agreed to waive the resolution session. *Id.* §§ 300.510(c), 300.515(a). The attorneys reviewed their hearing and vacation schedules week by week for August, September, and October 2019. Based on identified scheduling conflicts, the parties requested that I extend the timelines to allow the case to be heard on selected dates and to allow sufficient time for me to consider the evidence, evaluate legal arguments, and draft a decision. An extension of the timeline is permitted under the due process procedural safeguards for the reasons expressed by the parties. 34 C.F.R. § 300.515(c) (2018). Thus, pursuant to the parties' request and agreement, the hearing was scheduled for October 15 through 17, 2019, and November 1, 2019, and I agreed to issue my decision thirty days after the conclusion of the hearing. 34 C.F.R. § 300.515(c); Md. Code Ann., Educ. § 8-413(h).

I held the hearing on October 15 through 17, 2019, and November 1, 2019. Michael J. Eig, Esquire, and Paula A. Rosenstock, Esquire, represented the Student and Parents. Andrew W. Nussbaum, Esquire, represented the HCPS. By agreement of the parties, two dates were added to the originally scheduled hearing dates, November 15 and 19, 2019, and the hearing

concluded on November 19, 2019. The parties asked to submit written closing arguments and responses in lieu of oral arguments and again requested that the timeline as set out in the regulations be extended to allow submissions and sufficient time for consideration of the evidence and legal arguments. I granted the parties' requests to hold the record open until November 27, 2019, to allow the parties to submit their closing arguments in writing<sup>3</sup> and to issue my decision by December 27, 2019, thirty days after the record was closed.<sup>4</sup>

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act; the Education Article; the Maryland State Department of Education (MSDE) procedural regulations; and the Rules of Procedure of the OAH. Md. Code Ann., Educ. § 8-413(e)(1) (2018); State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2019); COMAR 13A.05.01.15C; COMAR 28.02.01.

### **ISSUES**

1. Did HCPS fail to offer the Student a FAPE by failing to identify the Student as a student eligible for special education and related services under the IDEA for the 2018-19 and 2019-20 school years?
2. If there was a denial of FAPE, is reimbursement of tuition and related costs at [REDACTED] appropriate?

### **SUMMARY OF THE EVIDENCE**

#### Exhibits

I admitted the following exhibits on behalf of the Parents:

- P. 1 Request for Due Process, 7-16-19
- P. 1A Email between Parents and [REDACTED], 5-5-16, with attachment
- P. 2 HCPS Kindergarten Reading and Writing Data, 2015-16 School Year

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<sup>3</sup> Counsel for the Parents formatted its closing memorandum as proposed findings of fact and conclusions of law. I have considered the arguments contained in the Parents' Closing Memorandum and treat the document as a whole as closing argument. As such, I will not separately respond to each of the Parents' 219 proposed findings of fact, but will address these arguments in my decision.

<sup>4</sup> I also granted the parties' request to submit written responses to closing argument on or before December 4, 2019.

- P. 3 HCPS Kindergarten Final Report Card, June 2016
- P. 4 HCPS First Grade Reading and Writing Data, 2016-17 School Year
- P. 5 HCPS First Grade Final Report Card, June 2017
- P. 6 Email to school staff from parent requesting testing, 10-19-17
- P. 7 HCPS Special Education Referral and Social/Developmental History, 10-19-17
- P. 8 HCPS Teacher Input Forms for Initial Referral, 10-20-17 and 11-3-17
- P. 9 Emails to Parents from HCPS teacher enclosing work samples, 11-15-17 and 11-21-17
- P. 10 HCPS IEP Team Meeting Report, 11-15-17
- P. 11 Email to Parents from HCPS psychologist, 11-28-17
- P. 12 HCPS Behavior Data Collection Forms, 12-5-17 and 12-7-17
- P. 13 Psychological Evaluation by Dr. [REDACTED], 12-19-17
- P. 14 Letters and Emails to HCPS staff from parent, 1-16-18, 1-18-18, 1-24-18, 1-25-18 and 1-26-18
- P. 15 HCPS Behavior Data Collection Forms, 1-23-18 and 2-13-18
- P. 16 HCPS Data Summary, 11-15-17 and 2-7-18
- P. 17 HCPS IEP Team Meeting Report, 2-13-18
- P. 18 Email from HCPS psychologist regarding test scores, 2-13-18
- P. 19 Speech Language Evaluation by [REDACTED], 2-19-18
- P. 20 Emails between Parents and HCPS staff, 2-21-18 to 3-1-18
- P. 21 Supplemental Psychological Evaluation Report, 3-20-18
- P. 22 Email to HCPS staff from parent, 3-21-18
- P. 23 Letter from parent requesting educational records and response letters, 3-21-18; letters from HCPS to Parents, 3-27-18, 4-16-18 and 4-20-18
- P. 24 HCPS Student Work Samples, February and March 2018
- P. 25 HCPS Writing Assessment Record, 9-7-17, 11-8-17, and 4-4-18
- P. 26 HCPS Educational Assessment Report, 4-18-18
- P. 27 HCPS IEP Team Meeting Report, 4-18-18
- P. 28 HCPS IEP Team Meeting Report, 4-25-18
- P. 29 Email and response letter from Parents regarding 4-25-18 IEP meeting, 5-15-18
- P. 30 HCPS Speech and Language Evaluation, 5-22-18
- P. 31 HCPS IEP Team Meeting Report, 6-13-18
- P. 32 HCPS Second Grade Reading and Writing Data, 2017-18 School Year
- P. 33 HCPS Second Grade Final Report Card and MAP Score Report, June 2018
- P. 34 Letters between Parents and HCPS staff regarding IEP objections, 7-6-18, 7-20-18, 8-6-18, 8-17-18, and 8-17-18
- P. 35 [REDACTED] Summer Reports, July 2018
- P. 36 Email from HCPS staff enclosing amended IEP meeting documents, 9-7-18
- P. 37 [REDACTED] Trimester 1 Report Card, 1-12-19
- P. 38 Email from [REDACTED] regarding reading progress, 1-13-19
- P. 39 Letter to [REDACTED] enclosing Request for Due Process, 3-26-19
- P. 40 [REDACTED] Trimester 2 Report Card, 3-31-19
- P. 41 [REDACTED] Speech Language Progress Update, 4-15-19
- P. 42 [REDACTED] Reading and Spelling Data, 3-13-19 and 4-16-19
- P. 43 [REDACTED] LMS Assessment Results Report, Fall 2018 and Spring 2019
- P. 44 Letter to [REDACTED] withdrawing Request for Due Process, 6-3-19
- P. 45 [REDACTED] Trimester 3 Report Card, 6-13-19
- P. 46 HCPS IEP Team Meeting Report, 6-18-19

- P. 47 Letter to Manisha Kavadi, Esq. from Michael J. Eig, Esq. regarding IEP meeting, 6-24-19
- P. 48 Emails between Paula A. Rosenstock, Esq., Michael J. Eig, Esq., and ██████████, 6-27-19 and 6-28-19
- P. 49 Letter to Manisha Kavadi, Esq. from Michael J. Eig, Esq., 7-2-19
- P. 50 Letter to Manisha Kavadi, Esq. from Michael J. Eig, Esq., 7-8-19
- P. 51 ██████████ Summer Reports, July 2019
- P. 52 Letter to ██████████ serving notice, 8-7-19
- P. 53 Letter to Parent from ██████████, 8-27-19
- P. 54 ██████████ Reading and Spelling Data, Fall 2019
- P. 55 ██████████ LMS Assessment Results Report, Fall 2019
- P. 56 National Center on Intensive Intervention, Academic Progress Monitoring
- P. 57 New York Times Opinion: Why Are We Still Teaching Reading The Wrong Way?, 10-26-18
- P. 58 Article by the International Reading Association, April 2005
- P. 59 Whole-Language High Jinks, How to Tell When “Scientifically-Based Reading Instruction” Isn’t
- P. 60 *Literacy: A Civil Right*, Right to Read, Maryland
- P. 61 Resume of Dr. ██████████
- P. 62 Resume of ██████████
- P. 63 2019 Learning A-Z Correlation Chart
- P. 64 Resume of ██████████
- P. 65 Email from HCPS staff to M. Eig, 11-8-17, with attachment
- P. 66 Email from HCPS staff to M. Eig, 1-23-18 and 1-31-18, with attachment
- P. 67 Emails between Parents and HCPS staff, 2-27-18 and 3-1-18, with attachment
- P. 68 Emails between Parents and HCPS staff, 3-21-18
- P. 69 Email from ██████████ to Parents and HCPS staff, 8-9-18, with attachment
- P. 70 Chart, undated; Student work, various dates
- P. 71 Student written work, 10-7-19

I admitted the following exhibits on behalf of HCPS:

- HCPS 1 Referral for a Student Suspected of Having a Disability, 10-19-17
- HCPS 2 IEP Team Meeting Report, 11-15-17
- HCPS 3 IEP Team Meeting Report, 2-13-18
- HCPS 4 OT<sup>5</sup> Consult Info, 1-31-18
- HCPS 5 IEP Team Meeting Report, 4-18-18
- HCPS 6 IEP Team Meeting Report, 4-25-18
- HCPS 7 Evaluation Report – Specific Learning Disability Supplement, 4-24-18
- HCPS 8 Evaluation Report – Attention Deficit Hyperactivity Disorder Supplement, 4-24-18
- HCPS 9 IEP Team Meeting Report, 6-13-18
- HCPS 9A IEP Team Meeting Report, 6-18-19
- HCPS 10 Section 504 – Meeting Notice, 5-11-18
- HCPS 11 Teacher Input for an Initial Section 504 Referral, 5-17-18
- HCPS 12 Psychological Evaluation – ██████████ 12-14-17

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<sup>5</sup> Occupational Therapy

- HCPS 13 Review of Independent Assessment – [REDACTED]  
 HCPS 14 Supplemental Psychological Evaluation Report – [REDACTED], 3-19-18  
 HCPS 15 Educational Assessment Report – [REDACTED], 4-18-18  
 HCPS 16 Speech Language Evaluation – [REDACTED], 2-19-18  
 HCPS 17 Review of Independent Assessment – [REDACTED]  
 HCPS 18 Speech-Language Assessment – [REDACTED], 5-22-18  
 HCPS 19 Grade 02 Report Card – 2017-2018  
 [REDACTED]  
 HCPS 20 [REDACTED] and documents [NOTE: there is no 20 or 20.1<sup>6</sup>]  
 HCPS 21 [REDACTED] Team Data Summary  
 HCPS 22 MSDE Technical Assistance Bulletin – Specific Learning Disability and Supplement  
 HCPS 23 MSDE – A Tiered Instructional Approach to Support Achievement for All Students  
 HCPS 24 MSDE – The Role of the School Psychologist in the Identification of Dyslexia, Dysgraphia, and Dyscalculia  
 HCPS 25 MSDE – Technical Assistance Bulletin – Improving Outcomes for Students with Disabilities – Curriculum, Instruction, and Assessment  
 HCPS 26 [REDACTED] Reports  
 [REDACTED]  
 HCPS 27 CV – [REDACTED] – Instructional Facilitator for Nonpublic Services and  
 Special Education Compliance  
 HCPS 28 CV – [REDACTED] – Resource Teacher  
 HCPS 29 CV – [REDACTED] – School Psychologist  
 HCPS 30 CV – [REDACTED] – Resource Teacher  
 HCPS 31 CV – [REDACTED] – Speech-Language Pathologist  
 HCPS 32 CV – [REDACTED] – Speech-Language Pathologist  
 HCPS 33 CV – [REDACTED] – Special Education Teacher  
 HCPS 34 CV – [REDACTED] – Assistant Principal  
 HCPS 35 CV – [REDACTED] – General Education Teacher  
 HCPS 36 CV – [REDACTED] – General Education Teacher  
 HCPS 37 CV – [REDACTED] – Reading Specialist  
 HCPS 38 Email and attachment between Parents and HCPSS enclosing data summary, 11-8-17  
 HCPS 39 Email and attachment from HCPSS to the Parents enclosing data summary, 1-31-2018  
 HCPS 40 Email and attachments from Ms. [REDACTED] (HCPS) to the Parents, 3/1/18

Testimony

Ms. [REDACTED] (Student’s mother) testified on the Parents and Student’s behalf and presented the following witnesses:

- [REDACTED], admitted as an expert in special education at [REDACTED];
- [REDACTED], Ph.D., admitted as an expert in neuropsychology; and

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<sup>6</sup> Throughout the Decision, page numbers are designated as, for example, 10.1.



- [REDACTED], admitted as an expert in special education with an emphasis on reading.

HCPS presented the following witnesses:

- [REDACTED], admitted as an expert in general education;
- [REDACTED];
- [REDACTED], admitted as an expert in special education;
- [REDACTED], admitted as an expert in school psychology;
- [REDACTED], admitted as an expert in special education compliance; and
- [REDACTED], admitted as an expert in special education.

### **FINDINGS OF FACT**

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

1. The Student, who is nine years old, attended [REDACTED] Elementary School ([REDACTED]), a public school in Howard County, in 2015-16 (kindergarten), 2016-17 (first grade) and 2017-18 (second grade).

2. In kindergarten, the Student struggled with listening attentively and exercising self-control. His inattention often interfered with his ability to complete work. The Student's teacher employed strategies to address the Student's behaviors such as fidgets and a timer. However, by the end of the year, he still had difficulty with sitting on the carpet for instruction, being attentive, and controlling impulses.

3. The Student was independent in demonstrating knowledge and skills in math, science, health education, physical education, music, art, and library media. He also was independent in communicating ideas clearly when speaking and understanding number concepts. The Student was able to use beginning reading strategies, comprehend when listening, apply beginning writing skills, and apply problem solving strategies for math with assistance.

4. By the end of the third quarter, the Student was being instructed at a Level D/E (Early Reader)<sup>7</sup> text according to the Fountas & Pinnell Leveled Literacy Intervention (Fountas & Pinnell) benchmark system.

5. Fountas & Pinnell is an informal benchmark system used by HCPS to assess a student's instructional levels for text. This system measures a student's reading rate, accuracy and comprehension while reading short passages of text.

6. The Student's kindergarten teacher informed the Student's first grade teacher of strategies that were successful in kindergarten to address the Student's attentional problems.

7. In first grade, the Student continued to have problems with attention requiring frequent redirection, repetition of directions, and reminders to stay on task.

8. The Parents communicated with the Student's teacher to develop strategies to address the Student's problem behaviors, such as using a timer, instructing the Student to sit on his hands to remain still, and using a daily checklist for behaviors.

9. By the end of the third quarter of his first grade year, the Student mastered the 200 sight word list expected of first grade students. His oral reading skills improved and he eagerly participated in reading discussions. The Student excelled at making connections between the text and himself as the reader and was able to express those connections in his reading group discussions. The Student also showed improvement in writing, but tended to rush his work and make errors in spelling, punctuation, and grammar. The Student mastered third quarter standards for math and was given more rigorous math instruction.

10. By the end of first grade, the Student was able to use sight words and spelling patterns to correctly spell words. The Student demonstrated independence in communicating ideas clearly when speaking, identifying words effectively when reading, applying problem

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<sup>7</sup> The Fountas & Pinnell scoring guide lists the following stages of reading: Emergent (Level A-C); Early (Level D-I); Transitional (Level J-P); and Fluent (Level Q-Z).

solving strategies in math, and demonstrating knowledge and skills in math, science, social studies, health education, physical education, and music. Although he demonstrated independence in reading comprehension the first three quarters, the Student required assistance with this skill for the fourth quarter. He met the first grade expectation for capitalization and punctuation in language arts and was able to meet the expectations for spelling and learning basic math facts with assistance.

11. By the end of first grade, the Student was reading at a Level J text according to the Fountas & Pinnell benchmark assessments. The expectation according to Fountas & Pinnell is that a first grade student will be instructed at a Level J or K by the end of the school year. The Student's reading and math instructional levels were on grade level for first grade.

### **2017-2018 School Year: Second Grade**

12. In second grade, the Student continued to have problems with inattention and self-control. He had difficulty listening to directions, sitting still, and staying quiet in class, and required frequent reminders to demonstrate self-control and listen attentively. The Student was disorganized and failed to complete his work.

13. The Student's teachers used strategies and interventions in the classroom to address the Student's behaviors such as moving the Student's desk closer to the teacher's desk, using a timer to keep the Student on-task, allowing extra time to complete assignments, and using fidgets.

14. In Fall 2017, the Student was administered the Measuring Academic Progress (MAP) test. The MAP test is a formal assessment administered to students in grades kindergarten through 11th grade. For the K-2 MAP test, the student is read the test and pictures are included with the text. For the 2-5 MAP test, the student reads the test on his own without audio support. The difficulty of the MAP test increases each year with grade-level standards.

15. For the Fall 2017 MAP test, the Student was required for the first time to read the test on his own.<sup>8</sup> The Student's Rausch Unit (RIT)<sup>9</sup> score was 170 (38<sup>th</sup> percentile) in language arts and 178 (53<sup>rd</sup> percentile) in math, both average scores.

16. In Fall 2017, the Student was being instructed at Level J, according to the Fountas & Pinnell benchmark assessments, an appropriate level for a student at the end of first grade according to Fountas & Pinnell standards. The Student was above grade level for math and was being taught math in an above-grade-level math class.

17. In the first quarter of second grade, the Student exhibited poor organizational skills. His reading and writing abilities were inconsistent. At times, he demonstrated strong decoding skills, but poor comprehension, and other times, his comprehension skills were strong and he struggled with decoding skills, even with prompting and strategies. He required significant assistance to complete his work, especially in writing.

18. Ms. [REDACTED], the Student's second grade teacher for language arts, social studies, science, and homeroom, noted problems with the Student's distractedness and inattention and academic performance in the first quarter interim report. Upon receiving the report, the Student's mother arranged a meeting with Ms. [REDACTED] to discuss her concerns regarding the Student's behavior and school work.

19. Ms. [REDACTED] and the Student's mother discussed the Student's attention, work completion, performance in reading and writing, and whether medication may be helpful to address the Student's inattention. At this time, the Parents disagreed on whether the Student should be tested for Attention Deficit Hyperactivity Disorder (ADHD). The Student's mother wanted to have the Student tested and the Student's father did not.

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<sup>8</sup> In 2016, the MAP test was read to the Student. The Student scored 167 (69<sup>th</sup> percentile) in language arts and 185 (99<sup>th</sup> percentile) in math.

<sup>9</sup> RIT refers to a unit of measurement of MAP test performance. Based on a Student's performance and the performance of other students in the comparison group, a RIT growth projection is generated representing a student's expected improvement in RIT points.

20. On October 19, 2017, the Student's mother contacted HCPS and requested that the Student be tested for ADD<sup>10</sup>/ADHD. (P. 6). She completed a questionnaire and identified "writing expression" and "attention/learning behaviors" as areas of concern. (HCPS 1).

21. On November 6, 2017, Ms. [REDACTED] observed the Student during a writing activity. She observed off-task behaviors throughout the observation. During that time, the Student had difficulty organizing his ideas for a written narrative. After Ms. [REDACTED] offered assistance with organization and left the Student to complete his work independently, the Student resumed off-task behaviors.

22. An IEP meeting was held on November 15, 2017, to review information and determine the need for additional assessments. The IEP team reviewed the Student's Fountas & Pinnell benchmark assessments, MAP test scores and percentiles, first and second grade writing assessments, pre-tests and post-tests for informative and narrative writing, and second grade math readiness assessment.

23. During the IEP meeting, the Parents and the school-based IEP team discussed and considered the following information:

- The Student's drop in MAP test scores and percentiles from 2016 and 2017 and changes in administration of the MAP test for the Student;
- The Student's off-task behaviors both in and outside of school;
- Strategies and interventions that were being implemented to assist the Student during regular instruction;
- The processes for diagnosing ADHD and making a determination under the IDEA; and
- The Student's present reading and math levels.

(HCPS 2.1).

24. After considering the concerns shared by the Parents and the school-based IEP team, the school-based IEP team determined that assessments were not warranted, as HCPS staff did not suspect the Student of having a disability under the IDEA. Instead, they recommended

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<sup>10</sup> Attention Deficit Disorder

an occupational therapy consultation, an Instructional Intervention Team (IIT) referral,<sup>11</sup> and consultation with a reading specialist, which were all implemented in the Student's general education setting.

25. On January 31, 2018, ██████████ conducted an occupational therapy consultation with the Student. She observed the Student during language arts. During this time, the Student was focused and on-task while he read sight words one-to-one with Ms. ██████████. During the time that he was supposed to be working independently on a written assignment, the Student leaned across his desk and extended his arms in front and around his desk area and attempted to put his pencil in between his desk and the desk next to him. When Ms. ██████████ redirected the Student, he got out his writing materials. The Student's draft was "difficult to read at times," but the final draft was "readable where [the Student] demonstrated the ability to writ[e] in designated areas on/near baseline, space, use readable formation and functional sizing." (HCPS 4.1). The Student tightly gripped his pencil while writing, which may cause fatigue.

26. As part of her consultation, Ms. ██████████ talked to Ms. ██████████ regarding Ms. ██████████'s observations of the Student's behaviors during class time and transitions. Ms. ██████████ told her that the Student "continues to have difficulty with focus and attention to task and that [he] continues to have difficulty with task completion and has needed 1:1 prompting." (HCPS 4.1).

27. Following her observation of the Student, Ms. ██████████ recommended having the Student trial a pencil grip to reduce writing fatigue and a weighted vest, wiggly chair, air-filled seat cushion or bands on the chair legs to increase attention.

28. As part of the IIT process, additional informal assessments measuring the Student's ability on specific skill sets, such as similar sounds and blending, were administered by Ms. ██████████ and the ██████████ reading specialist to look at specific skills in reading and writing.

<sup>11</sup> The IIT at ██████ conducts assessments, collects data, and employs strategies and supports in the general education setting to problem-solve student behavior or academic concerns.

29. The IIT implemented several strategies to address the Student's attentional problems, including the weighted vest, wiggly chair, chair bands, stress ball, timer, extra time, and erase board. Although the Student's attention initially improved when the strategies were implemented, they later became a distraction.

30. Independently, the Parents sought a comprehensive psychological evaluation and the Student was referred to [REDACTED], Psy.D.

*Dr. [REDACTED]'s Report*

31. On December 14 and 19, 2017, Dr. [REDACTED] conducted a psychological evaluation and testing of the Student. She administered various tests and assessments, including the following: Achenbach Child Behavior Checklist (Achenbach CBC) and Teacher Report Form (TRF); Beery Development Test of Visual Motor Integration; BASC-3 Child Interview; Behavior Rating Inventory of Executive Functioning, Second Edition; Comprehensive Test of Phonological Processing, Second Edition (CTOPP-2); Peabody Picture Vocabulary Test, Fourth Edition (PPVT-4); Stanford Binet Intelligence Scales, Fifth Edition (SB-5); Test of Word Reading Efficiency, Second Edition (TOWRE-2); Wechsler Individual Achievement Test, Third Edition (WIAT-III); Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V); Wide Range Assessment of Memory and Learning, Second Edition (WRAML2); and Woodcock-Johnson, Third Edition (WJ-III), Normative Update, Tests of Achievement-1 subtest.

32. The ratings on the Achenbach CBC and TRF were based on subjective ratings from the Student, the Parents, and the Student's teachers. The ratings indicated problems at home and at school with sustained attention, initiation and completion of tasks without prompting, impulsivity, difficulty sitting still, following directions, and noisiness.

33. The Student demonstrated high average ability in verbal reasoning and oral language skills, which involve the Student's ability to rely on long-term memory to orally



respond to questions. He showed strengths in defining words and identifying similar words. The Student's receptive vocabulary was superior to same-aged peers, while his expressive vocabulary skills were below average. (HCPS 12.6).

34. The Student's nonverbal ability, which includes puzzle-solving and other visual-spatial perceptual abilities, was in the average to high average range compared to same-age peers. (HCPS 12.7 – 12.8).

35. The Student's reading skills, including reading real words, both timed and untimed, were consistent with same-age peers. The Student had difficulty reading nonsense made-up words.

36. The Student's written language skills were average with Alphabet Writing Fluency in the low average range.

37. The Student's mathematic skills were superior in mathematical reasoning and numerical operations and average in math fluency, which measured the Student's ability to rapidly solve single digit problems.

38. Dr. ██████ chose to administer only certain subtests of the CTOPP-2, including Elision,<sup>12</sup> Blending Words, Phoneme Isolation, Rapid Digit Naming, and Rapid Letter Naming. The Student demonstrated weaknesses in phonological awareness<sup>13</sup> specifically in the areas of decoding<sup>14</sup> and spelling, and rapid symbolic naming. The Student demonstrated difficulty blending sounds and did not consistently start with the correct sound because he skipped the first sound.

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<sup>12</sup> Elision involves deletion of sounds or words.

<sup>13</sup> Phonological awareness refers to the "blending, manipulating, and sequencing [of] sounds." (HCPS 12.13 - 12.14).

<sup>14</sup> Decoding refers to an individual's ability to break apart the sound components of words and match letters to their sounds.

39. Dr. ██████ diagnosed the Student with a specific reading disorder and a disorder of written expression (dyslexia<sup>15</sup> and dysgraphia<sup>16</sup>).

40. Dr. ██████ suspected a mild language disorder and ADHD, but ruled out diagnoses based on inconclusive findings at the time of testing.

41. On January 16, 2018, the Parents provided Dr. ██████'s report and recommendations to HCPS.

42. On January 23, 2018, Ms. ██████ conducted an observation of the Student while he engaged in a writing assignment. She observed 0% on-task behaviors by the Student. Instead, the Student looked at other students, kneeled on the floor, engaged in imaginative play, wrote on the desk with his eraser, and played with his pencil and eraser.

43. In January 2018, the Parents submitted an application to ██████. Following the Student's visit in February 2018, the Parents were informed that the Student was accepted.

44. On February 12, 2018, the IEP team reviewed Dr. ██████'s report and recommendations.

45. An IEP team meeting was held on February 13, 2018 to review outside assessments and existing information. At that time, the Student was being instructed at a Level L text (Transitional Reader<sup>17</sup>). The IIT completed observations and started interventions such as a behavior checklist and privacy board, but the Student continued to demonstrate off-task behaviors and required frequent redirection and reminders.

46. The IEP team determined that additional assessments were warranted to determine if the Student was eligible for an IEP, including ADHD rating scales, behavioral

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<sup>15</sup> Dyslexia is a language-based learning disability rooted in phonological processing that impacts reading and writing skills. Students with dyslexia often experience problems with decoding and spelling.

<sup>16</sup> Dysgraphia is a learning disability involving written language. Students with dysgraphia often have difficulty converting the sounds of language into written form or difficulty performing the fine motor skills necessary to write.

<sup>17</sup> The expectation according to Fountas & Pinnell is that a second grade student will be instructed at a Level L or N by the end of the school year.

observations, and additional tests from the CTOPP-2 specifically related to phonological processing.<sup>18</sup>

47. The school-based IEP team reviewed Dr. ██████'s recommendations and responded to each recommendation. The IEP team implemented the following interventions:

- Administer a pre-assessment to determine if there is a phonics deficit and if attentional problems are a contributing factor, and to develop an intervention;
- Continue small group reading instruction;
- Continue pre-writing strategies in general education setting;
- Consult with an occupational therapist to evaluate the Student's writing grip to facilitate handwriting;
- Collect data to determine appropriate strategies for organizational supports;
- Continue general education supports through the IIT;
- Continue to provide mental and movement breaks throughout the day;
- Continue positive intervention strategies in the general education setting; and
- Allow additional time for all graded classwork and tests.

(P. 17-8 – 17-13; HCPS 13.2-13.7).

48. The school-based IEP team determined that the Student's scores on the PPTV-4, WISC-5, and WIATT-III, combined with teacher observations and student performance, did not support a diagnosis of a speech-language impairment and rejected Dr. ██████'s recommendations for a private speech/language evaluation. The team also determined that the data did not support Dr. ██████'s recommendation for assistive technology.

*Ms. ██████'s Speech and Language Evaluation*

49. On their own, the Parents sought a Speech-Language Evaluation.

50. On February 19, 2018, ██████, M.S., CCC-SLP, reviewed Dr. ██████'s report, met with the Student for two hours, and administered the following assessments: The Clinical Evaluation of Language Fundamentals – Fifth Edition (CELF-5); Test of Language

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<sup>18</sup> When measuring a student's phonological awareness, a battery of three tests is typically administered. Dr. ██████ administered two of three tests: Phonological Awareness; and Rapid Symbolic Naming. Ms. ██████ selected the third composite test: Phonological Memory. She did not retest the Student on the tests previously administered by Dr. ██████

Development – Primary:4 (TOLD: P-4); and Detroit Test of Learning Aptitude-3 (DTLA-3). (P. 19).

51. The Student demonstrated above average receptive vocabulary skills and average expressive vocabulary skills.

52. When asked questions requiring a higher level of vocabulary skill, the Student had difficulty expressing the meaning of words that he knew.

53. The Student demonstrated average ability in auditory memory and processing, which measured the Student's ability to follow directions based on a series of directions that increased in length and complexity. Sometimes the Student responded to prompts too quickly, resulting in an incorrect response.

54. The Student's ability to understand basic concepts such as location, timing, shape, and size was in the average range. He had difficulty with location, time, and quality. He also had difficulty deciphering which item was first in a row, but resolved this on his own.

55. The Student demonstrated average ability to recall stories and answer questions involving skills related to recall, prediction, and inferences.

56. The Student demonstrated high average to above average ability in grammatical skills, which measured the Student's ability to understand sentence structure, use appropriate word tense and structure, and create grammatically correct sentences.

57. The Student demonstrated high average ability in receptive syntax, which measured the Student's ability to determine the correct word form and to understand a variety of sentences.

58. The Student demonstrated average ability in expressive syntax, which measured the Student's ability to create a grammatically correct sentence about a picture.

59. The Student had difficulty explaining tasks, describing events, and telling stories.

His stories omitted important details that would be expected in a narrative of a same age peer.

The Student's storytelling skills improved with the addition of visual cues, but still were limited.

60. In retelling "The Three Little Pigs," the Student responded:

Three little pigs built a house. Then the first little piggy got eaten by the wolf.  
The third piggy was peaceful in the house that he built out of bricks. He survived  
and had a happy life.

(P. 19-7). The Student left out important information such as the beginning of the story, reasons why the pigs left their homes, the materials the pigs used to build their houses, and encounters with the wolf.

61. The Student had difficulty with word retrieval<sup>19</sup> during the Oral Vocabulary subtest. He struggled to name items from pictures and verbal prompts and used general vocabulary such as "thing" or "thingy" instead of more specific words.

62. The Student had difficulty hearing the difference between the sounds "f" and unvoiced "th" and between "d" and voiced "th."

63. The Student did not exhibit any difficulties with voice or fluency skills.

64. Ms. ██████ diagnosed the Student with a Mixed Expressive/Receptive Language Disorder.

65. Ms. ██████ made recommendations based on her assessments and in response to problem areas identified by Dr. ██████ in his report.

66. On February 22, 2018, Ms. ██████ administered an informal assessment of the Student's phonological awareness, which measured the Student's ability to match sounds to letters. He scored 8 out of 8 on initial sounds, 8 out of 10 on blending, 9 out of 10 on segmenting, and 10 out of 10 on rhyming.

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<sup>19</sup> Word retrieval is the ability to recall specific words while talking or writing on demand.

*Ms. [REDACTED]'s Report*

67. In March 2018, the Student was referred for additional assessments, including the Woodcock-Johnson IV (WJ-IV), the Phonological Awareness Test 2 (PAT2), Conners 3<sup>rd</sup> Edition (Conners 3), and additional subtests for the CTOPP-2.

68. The Student demonstrated average achievement for the Broad Reading Cluster on the WJ-IV. He accurately read consonant-vowel-consonant words with short vowel sounds and consonant-vowel short vowel syllables in multisyllabic words. The Student was able to provide words to complete passages with and without pictures. As the difficulty of the passage increased, the Student occasionally provided a word that demonstrated a moderate understanding of the passage, but that was more general (i.e. “insect” instead of “bee”), preventing the Student from receiving credit for the response. The Student demonstrated effective strategies such as reading to the end of the passage before providing a response to the question.

69. The Student demonstrated average ability to decode nonsense words, which reflected improvement from his score on the WIATT-III for pseudo word decoding, a subtest measuring the same skill administered three months earlier by Dr. [REDACTED].

70. The Student demonstrated average achievement on the Broad Written Language Cluster of the WJ-IV.

71. The Student demonstrated high average achievement on the Broad Mathematics Cluster of the WJ-IV.

72. The Student demonstrated average ability on the CTOPP-2 Phonological Memory Composite. He demonstrated average ability for phonological awareness, with high average ability in rhyming and low average ability in blending and segmenting nonsense words.

73. The Student demonstrated average ability on the PAT2, which measures the Student’s knowledge of sound segments that make up words and includes subtests involving

rhyming, segmentation, isolation, deleting, substitution, blending, identifying sounds associated with letter combinations, and decoding of visual letter combinations. The Student's rhyming ability was in the high average range.

74. On the Conners 3, which uses ratings about a Student's behavior to gain information on a student's attention, impulsivity, and activity levels, the Student's ratings for restlessness, impulsivity, inattention, and hyperactivity were in the Elevated and Very Elevated range.

75. On March 12, 13, 14, 20, and 23, Ms. [REDACTED] observed the Student during instruction and various school activities. On March 12, 2018, the Student was on-task 88% of the 16 minute observation. Off-task behaviors included rocking back and forth, picking at the Student's shoe, picking his nose, and putting his hand up his pants leg. On March 13, 2018, the Student was on-task 57% of the 15 minute observation. Off-task behaviors included singing to himself, painting on the table, bumping into someone, going to the in-class water fountain twice, and making extra prints (not following directions). On March 14, 2018, the Student was on-task 40% of the 10 minute observation. Off-task behaviors included squirming and animated behavior, engaging a peer in off-topic conversation, rubbing his hands on the edge of the chair, and bouncing his legs on the chair band. On March 20, 2018, the Student was on-task 50% of the 10 minute observation. Off-task behaviors included fidgeting, yawning, picking his nose, pulling on his shirt, playing with his shoe, and animated behavior. On March 23, 2018, Ms. [REDACTED] observed the Student during physical education class. She did not report percentages for on-task behaviors. (HCPS 14.1).

76. On April 18, 2018, the IEP team met to review supplemental assessment results and determine eligibility for special education services.

77. During the IEP meeting, the Parents and the school-based IEP team discussed and considered the following information:

- Observations of the Student;
- The process for diagnosing ADHD;
- The process for determining eligibility for special education services under a Specific Learning Disability (SLD) or as Other Health Impaired;
- Supplemental assessments by HCPS;
- The speech language assessment by Ms. [REDACTED];
- The Student's present levels of performance compared to same-age peers;
- The Student's psychological processing deficit in the area of phonological processing; and
- Recommendations for additional testing.

(HCPS 5).

78. The school-based IEP team reviewed the questions on the Evaluation Report Specific Learning Disability Supplement. In order to qualify as a student eligible for special education services, the Student must meet all criteria as set forth on the form. The team discussed the Patterns of Strengths and Weaknesses section of the form and determined that the Student did not meet the criteria for showing a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards, or intellectual development in the areas of oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, and/or mathematics problem solving. In the category of patterns of strengths and weaknesses, the team checked Mathematics Problem Solving as an area of strength, but failed to identify any weaknesses. The team also determined that the Student achieved adequately for his age, met State-approved grade level standards, and did not require specialized instruction. The Student did not meet the criteria under SLD.

79. The school-based IEP team reviewed the questions on the Evaluation Report Attention Deficit Hyperactivity Disorder Supplement. In order to qualify as a student eligible for special education services, the Student must meet all criteria as set forth on the form. The team



discussed the quality and quantity of the Student's work and whether the Student's behaviors impacted his learning ability. The team determined that there was an adverse impact on the Student's educational performance due to his ADHD, but that the Student did not require re-teaching or specially designed instruction in order to maintain a similar rate of progress as his same-age peers. The Student did not meet the criteria under the educational disability of Other Health Impairment.

80. On April 25, 2018, an IEP meeting was held to review supplemental assessments, complete the evaluation process, and determine eligibility for special education services.

81. During the IEP meeting, the Parents and the school-based IEP team discussed and considered the following information:

- Dr. [REDACTED]'s report;
- Ms. [REDACTED]'s speech-language assessment and report;
- The Student's present levels of performance;
- Observations of the Student;
- Supplemental testing related to word recall and retrieval;
- Supplement forms for ADHD and Specific Learning Disability; and
- Referral to the 504 team to determine eligibility for a Section 504 Accommodation Plan.

(HCPS 6).

82. The school-based IEP team determined that the Student had ADHD and a mild speech-language impairment, but concluded that the Student did not meet the criteria for special education services under the categorical eligibility of SLD, Other Health Impairment, or Speech Language Impairment. The school-based IEP team also determined that additional testing related to word recall/retrieval by a HCPS speech-language pathologist and a referral to consider eligibility for a 504 Accommodation Plan was warranted.

83. For the Spring 2018 MAP test, the Student exceeded his RIT growth projection of 15 points.

84. On May 17, 2018, Ms. [REDACTED] completed the Teacher Input for an Initial Section 504 Referral based on her concerns regarding the Student's problems with self-control, listening attentively, and sometimes needing extra time to complete tasks. She was using supports such as partnering the Student with positive role models, seating the Student near the teacher, monitoring his test responses, and giving extra time on assignments "if necessary." (HCPS 11 – 11.1). Despite these interventions, the Student was having difficulty with work completion, organization, and communication. Ms. [REDACTED] rated the impact of the Student's disability on his access to instruction and to the learning environment, and on his ability to seek appropriate assistance as substantial.

*Ms. [REDACTED]'s Speech-Language Assessment*

85. On May 22, 2018, [REDACTED], M.S., CCC-SLP, performed a speech-language evaluation and administered the following tests to the Student: HCPS Teacher Survey: Listening and Speaking: K – 3<sup>rd</sup> Grade; Test of Word Finding Third Edition (TWF-3); and Language Sampling.

86. Ms. [REDACTED] completed the teacher survey for the speech-language assessment. She reporting using several interventions to assist the Student with speaking activities in the classroom, including oral prompting to begin and stay on task and a timer.

87. The Student was able to produce complete sentences in order to provide requested detail.

88. The Student was able to tell a story or recount an experience with appropriate facts and relevant descriptive details.

89. The Student demonstrated average ability on the Word Finding Index, which measured the Student's ability to accurately name targeted words within a time interval.

Supplemental measures were added to the test to gain more information, including the

Comprehension Check, and Additional Time Accommodation, and Phonemic Cueing. The Student demonstrated 100% comprehension of words tested. During the added time, the Student produced only 4 of 46 words within eight seconds. Phonemic cueing, giving the student the first consonant-vowel combination or syllable as a cue, was an effective strategy for the Student, prompting the Student to recall the target word in 2 out of 3 opportunities (67%).

90. During speaking tasks, the Student used longer sentences than same age peers. Errors commonly associated with word finding difficulties (such as excessive non-specific words, phonemic and semantic errors, self-correction, and circumlocution<sup>20</sup>) were not observed. However, the Student had an excessive use of fillers and revisions such as “like” or “um,” which is consistent with word finding difficulties. With visual prompts, the Student’s use of fillers decreased.

91. From January to June 2018, the Student received tutoring services twice weekly.

92. By the end of second grade, the Student demonstrated independence in communicating ideas clearly when speaking, identifying words effectively when reading, demonstrating reading comprehension, demonstrating an understanding of math concepts, and demonstrating knowledge and skills in physical education, art, and library media. The Student met the second grade expectation for capitalization and punctuation in language arts, and was able to meet the expectations for spelling and learning basic math facts with assistance. Likewise, the Student was able to communicate ideas clearly when writing, apply problem solving strategies in math and demonstrate knowledge and skills in science, social studies, health education, and music with assistance.

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<sup>20</sup> Circumlocution refers to a student’s “talk[ing] around or describ[ing] the target word, without using it.” (P. 30-5).

93. The Student was being instructed at a Level M text according to the Fountas & Pinnell benchmark assessments with a reading rate of 62 words per minute.<sup>21</sup>

94. The Student struggled with learning behaviors throughout his second grade year. At the end of the fourth quarter, the Student had ratings of “3” defined as “Needs Improvement – Inconsistently” in the areas of exercises self-control, takes appropriate risks, listens attentively, persists when thinking through problems, works with accuracy and precision, and completes classwork assignments. (P. 33).

95. An IEP meeting was held on June 13, 2018, to review additional speech-language testing and to determine if this information affected eligibility for special education services.

96. Following the June 13, 2018 meeting, the school-based IEP team determined that the Student was eligible for supports and accommodations under a 504 Plan, which the Parents rejected.

### **2018-2019 School Year: Third Grade**

97. For the 2018-19 school year, the Student attended [REDACTED].

98. [REDACTED] is an independent private day school for children with language-based learning differences, including students with dyslexia. It is not approved by the MSDE and its teachers are not required to have any certification in special education. The Orton-Gillingham methodology for instruction is embedded in every subject area at [REDACTED].

99. Orton-Gillingham is a structured, multi-sensory approach to teaching language. This methodology is used in both public and non-public schools.

100. The Student attended [REDACTED] Summer Camp from [REDACTED], 2018 through [REDACTED], 2018.

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<sup>21</sup> According to the Fountas & Pinnell scoring guide, a Student at the end of second grade should be reading at a Level L- N text with an appropriate reading rate of 100 – 120 words per minute.

101. At the ██████ Summer Camp, the Student had problems with following directions consistently and rushing through his work. He needed reminders to slow down. Because handwriting was challenging for the Student, direct instruction for the formation of letters was utilized at camp.

102. Ms. ██████ recommended to the Parents that they consider medication to address the Student's attentional problems.

103. On July 6, 2018, the Parents informed HCPS of their decision to move the Student to ██████ and gave notice that they were seeking reimbursement for tuition and costs.

104. The Student started taking medication for ADHD prior to starting third grade at ██████, and showed an improvement in problem behaviors.

105. At ██████, the Student was being instructed on Learning A-Z.<sup>22</sup> At the beginning of his third grade year, the Student was reading at a Level F (1<sup>st</sup> Grade text). He progressed to a Level L (2<sup>nd</sup> Grade text).

106. In Fall 2018, the Student was helpful to peers and provided "assistance with reading or spelling a word" in his classes. (P-37-2 – 37-3).

107. IEP meetings were held on June 13 and June 18, 2019, to review additional assessments, complete the evaluation process, and determine if the Student was eligible for special education services.

The Student continues to take medication for ADHD, but this medication has been changed since he started taking it in 2018 and continues to be adjusted to address side-effects.

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<sup>22</sup> Learning A-Z is an informal benchmark system used by ██████ to assess a student's instructional level for reading text. This system measures a student's rate and accuracy while reading short passages of text. It does not measure comprehension.

## DISCUSSION

The identification, evaluation, and placement of students in special education are governed by the IDEA. 20 U.S.C.A. §§ 1400-1482; 34 C.F.R. pt. 300; Md. Code Ann., §§ 8-401 through 8-417 (2018); COMAR 13A.05.01. The IDEA requires “that all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.” 20 U.S.C.A. § 1400(d)(1)(A); *see also* Md. Code Ann., § 8-403(a).

To be eligible for special education and related services under the IDEA, a student must meet the definition of a “child with a disability” as set forth in section 1401(3) and the applicable federal regulations. The statute provides as follows:

(A) In General

The term “child with a disability” means a child –

- (i) with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance...orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
- (ii) who, by reason thereof, needs special education and related services.

20 U.S.C.A. § 1401(3)(A); *see also* Md. Code Ann., § 8-401(a)(2); 34 C.F.R. § 300.8; COMAR 13A.05.01.03B(78).

Local education agencies are mandated under the IDEA Child Find provisions to ensure that “[a]ll children with disabilities residing in the State . . . and who are in need of special education and related services are identified, located, and evaluated . . . .” 20 U.S.C.A. § 1412(a)(3); 34 C.F.R. § 300.111(a)(1)(i). Locating children in need of special education and related services may occur as a result of various circumstances. For instance, a student’s teacher may observe that a child’s academic performance continuously falls below grade level or that the student’s behaviors are consistently unusual or unexpected. Similarly, a parent may suspect that

a student has a disability based upon the child’s academic or behavioral performance at home or notice the student’s grades have significantly decreased without explanation.

A request for an initial evaluation may be initiated by either the parent of a child or by the public agency. 34 C.F.R. § 300.301(b). Once the public agency receives parental consent for evaluation, the public agency must conduct the evaluation within sixty days. As applicable to this matter, “assessment” is “the process of collecting data in accordance with Regulation .05 of this chapter, to be used by the IEP team to determine a student’s need for special education and related services.” COMAR 13A.05.01.03B(3).

Under section 300.301 of the federal regulations, before a local education agency may begin providing special education services to a child with a disability, it “must conduct a full and individual initial evaluation” to establish whether a disability exists and the nature of the suspected disability. 34 C.F.R. § 300.301(a); *see also* 20 U.S.C.A. § 1414(a)(1)(A). Once the local education agency determines that it is appropriate to evaluate a student, it must use:

- (2) A variety of assessment tools and strategies . . . to gather sufficient relevant functional, cognitive, developmental, behavioral, academic, and physical information, and information provided by the parent to enable [an] IEP team to determine:
  - (a) If the student is a student with a disability;
  - (b) The student’s educational needs;
  - (c) The content of a student’s IEP, including information related to enabling the student to be involved in and progress in the general curriculum . . . ; and
  - (d) Each special education and related service needed by a student, regardless of whether the need is commonly linked to the student’s disability.

COMAR 13A.05.01.05B(2).

Other Health Impairment is defined as:

Having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that –

- (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
- (ii) Adversely affects a child's educational performance.

34 C.F.R. § 300.8(c)(9). Moreover, SLD is one of the thirteen categories of disability recognized by the IDEA. 20 U.S.C.A. § 1401(3)(A)(i), (30); 34 C.F.R. pt. 300. It is the only disability category for which the IDEA establishes special evaluation procedures in addition to the general evaluation procedures that are used for all students with disabilities. 34 C.F.R. § 300.309.

In order to assist IEP teams with evaluation of students, MSDE issued a Technical Assistance Bulletin to provide a brief overview of the relevant evaluation procedures, as well as illustrative examples of academic difficulties that may form the basis of a SLD determination if a student meets all other criteria under the IDEA and requires the provision of specially designed instruction. The following are the relevant excerpts from the Technical Assistance Bulletin issued November 7, 2016:

By definition, specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, consistent with [MSDE] criteria. A full explanation of the criteria to be used for a SLD determination is contained in A Tiered Instructional Approach to Support Achievement for All Students: Maryland's Response to Intervention Framework (June 2008).

SLD includes, but is not limited to, conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Given that this is not an exhaustive list, other conditions may also form the basis for a SLD determination if all other criteria under the IDEA are met and the student requires the provision of specially designed instruction. With regard to one item that is on the list, brain injury, please note that "traumatic brain injury" is a distinct disability category under the IDEA. Lastly, the definition of SLD does not include learning problems, which are primarily the result of visual, hearing, or motor impairments, intellectual disability, emotional disability, or environmental, cultural, or economic disadvantage. Authority: 34 CFR § 300.8; COMAR 13A.05.01.03B(73).



The IEP team determines whether a student has a SLD by completing the evaluation process and carefully considering the eligibility criteria under the IDEA, with input from all members of the team. As is the case with any other disability determination, the IEP team consists of various school personnel, the student's parent or guardian, and, as appropriate, the student. . . .

...

The IEP team may determine that a student has a SLD if the student does not achieve adequately for the student's age or meet State-approved grade level standards when provided with learning experiences appropriate for the student's age and ability levels in one or more of the following areas:

- 1) oral expression;
- 2) listening comprehension;
- 3) basic reading skills;
- 4) reading fluency skills;
- 5) reading comprehension;
- 6) written expression;
- 7) mathematics calculation; or
- 8) mathematics problem solving.

In short, the IEP team is looking for inadequate achievement, despite appropriate instruction, in listening, speaking, reading, writing, and math.

Authority: 34 CFR § 300.309; COMAR 13A.05.01.06D(2)(a).

Maryland has adopted two processes through which an IEP team can determine that a student's achievement is inadequate and forms the basis for a SLD. The IEP team may consider evaluative data and appropriate assessments to determine whether the student:

- 1) does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the 8 academic areas when using a process based on the student's response to evidence-based intervention; or
- 2) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development.

The IDEA allows for alternative research-based procedures to identify a SLD, but the MSDE has not identified any such alternatives at this time. Thus, response to intervention (RTI) or a pattern of strengths and weaknesses are the two options that are available in Maryland.

...

The IEP team is required to consider both:

- 1) data demonstrating that prior to, or as part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and
- 2) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during

instruction, that was provided to the student's parent. In other words, the IEP team must review the student's general education record with regard to both instruction and assessment in the areas of reading, math, and written expression.

One important consideration when evaluating data is that a timely evaluation must not be delayed or denied on the basis that a LSS<sup>23</sup> is implementing a RTI<sup>24</sup> strategy. Additional guidance on this topic is contained in Memorandum 11-07, issued by the United States Department of Education, Office of Special Education and Rehabilitative Services (OSERS). Authority: 34 CFR § 300.309; COMAR 13A.05.01.06D(4).

The IEP team must ensure that the student has been observed in the student's learning environment (including the general education classroom setting) to document academic performance and behavior in the areas of difficulty. The IEP team may:

- 1) use information from an observation before the student was referred for an evaluation; or
- 2) have at least one member of the IEP team, other than the student's general education teacher, conduct an observation after the referral was made.

...

When a student is suspected of having a SLD, the IEP team must prepare a written report that includes:

- 1) A statement of whether the student has a SLD;
- 2) The basis for making the determination;
- 3) The relevant behaviors, if any, noted during the observation of the student;
- 4) The relationship of the behaviors to the student's academic functioning;
- 5) The educationally relevant medical findings, if any;
- 6) The determination of the IEP team concerning the effects of visual, hearing, or motor disability, intellectual disability, emotional disability, cultural factors, environmental or economic disadvantage, or limited English proficiency on the student's achievement level; and
- 7) The written certification of each IEP team member as to whether the written report reflects the member's conclusion. If the written report does not reflect an IEP team member's conclusion, the team member must submit a separate statement presenting the team member's conclusions.

If the student participated in a process to assess the student's response to evidence-based intervention, the written report must also include:

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<sup>23</sup> Local school system

<sup>24</sup> Response to intervention

- 1) The instructional strategies used and the student-centered data collected;
  - 2) Documentation that the student's parents were notified of the MSDE's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
  - 3) Strategies for increasing the student's rate of learning; and
  - 4) The parents' right to request an evaluation.
- Authority: 34 CFR § 300.311; COMAR 13A.05.01.06D(5) & (6).

The IEP team must determine what special education and related services, supplementary aids and services, modifications, and accommodations are appropriate based on the individual student's needs. A SLD, regardless of the underlying condition (e.g. perceptual disability, brain injury, minimal brain dysfunction, dyslexia, or developmental aphasia), may manifest itself in a number of ways, with varying degrees of severity. Therefore, the IEP team must rely upon multiple sources of information and data, and plan for specially designed instruction that targets the identified needs of the student. A determination that a student fits into a particular disability category – SLD or otherwise – does not dictate a particular placement, nor does it guarantee a particular set of services. No single measure or assessment can be used as the sole criterion for determining an appropriate educational program for a student. Authority: 34 CFR § 300.304; COMAR 13A.05.01.05B(3).

(HCPS 22).

Upon conclusion of the assessments, the local education agency must provide the student's parent(s) with a written report of the procedures and assessments it used to determine whether the student has a disability and the "[i]nstructional implications for the student's participation in the general curriculum." COMAR 13A.05.01.05D.

The substantive requirements of the IDEA mandate, as stated above, that state and local education agencies make a FAPE available to children with disabilities. 20 U.S.C.A. § 1412(a)(1). As the Supreme Court detailed in *Hendrick Hudson District Board of Education v. Rowley*, because special education and related services must meet the state's educational standards, the scope of the benefit required by the IDEA is an IEP reasonably calculated to permit the student to meet the state's educational standards and generally, to pass from grade-to-grade on grade level. 458 U.S. 176, 204 (1982); *see also* 20 U.S.C.A. § 1401(9). The Supreme Court further refined the meaning of a FAPE in *Endrew F. v. Douglas County School District*,

137 S. Ct. 988 (2017), holding that for an educational agency to meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a student to make progress appropriate in light of the student's circumstances.

In addition to the IDEA's requirement that a disabled child receive appropriate educational benefit, the child must be placed in the least restrictive environment to achieve FAPE, meaning that, ordinarily, disabled and non-disabled students should be educated in the same classroom. 20 U.S.C.A. § 1412(a)(5); 34 C.F.R. §§ 300.114(a)(2)(i) and 300.117. Yet, placement in the general education environment may not be appropriate for every disabled child. Consequently, 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).

#### Parties' Contentions

The Parents argue that HCPS incorrectly determined that the Student was ineligible for special education services under the IDEA and failed to provide the Student with a FAPE. They claim that the Student met the criteria as a student with a SLD based on the Student's diagnoses of dyslexia, dysgraphia, and oral expression and as a student with an Other Health Impairment based on the Student's ADHD diagnosis. The Parents contend that the Student did not meet grade level standards as a result of his learning disabilities and that the record demonstrates an adverse educational impact in several areas, including written expression, basic reading skills, reading fluency skills, reading comprehension, and oral expression. The Parents also argue that

HCPS denied the Student a FAPE by denying them parental participation in the IEP process.<sup>25</sup> (Parents' Closing Argument Memorandum at 57).

HCPS argues that, based on multiple sources of data, it correctly determined that the Student did not meet the criteria for special education services under the IDEA. It maintains that the Student did not qualify as a student with a SLD, Speech-Language Disorder, or as a student with an Other Health Impairment, that there was no evidence that the Student suffered an adverse educational impact, that the record fails to establish a pattern of strengths and weaknesses as a result of a disability, and that the Student did not require specially designed instruction. It states that the Student was achieving adequately for his age to meet State-approved grade-level standards in all areas without specially designed instruction.

#### Analysis

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, in this matter the Parents have the burden of proving that HCPS should have identified the Student as a student eligible for special education and related services under the IDEA. The parties in this case agree that the Student has ADHD and dyslexia and areas of relative weakness. They disagree on whether the Student has met the criteria to establish eligibility for special education services under the IDEA. Both parties rely on the data considered at the IEP meetings and the testimony of their respective expert witnesses to demonstrate the impact of the Student's disabilities on his education. Based on the record, I conclude that the record supports HCPS' determination that the Student was

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<sup>25</sup> This issue was not raised in the Parents' due process complaint, and, thus, is not properly before me. *See* 34 CFR § 300.511(d) ("the party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint, . . . unless the other party agrees otherwise."). At the prehearing conference, I reviewed the issues as set forth in the due process claim and confirmed the issues to be decided at the hearing. I then recorded the issues in the prehearing conference report and order. The Parents did not move to amend the due process complaint or ask that the prehearing conference report and order be amended to reflect an additional claim. Therefore, I will limit my decision to the issue raised in the Student's due process complaint.

ineligible for special education and related services under the IDEA for the 2018-19 and 2019-20 school years.

I consider the following facts in weighing the evidence in this case. Even though the Student's mother is very knowledgeable about her son, she is not an educator. On the issue of achievement, I find the expert testimony more persuasive than the Student's mother's testimony. I also consider the fact that the Parents' expert witnesses have little direct knowledge of the Student. Dr. ██████ testified that the Student's mother hired him to "[e]valuate [the Student's] records, determine if he needed additional testing, and help secure services for him." (T. 10/16/19 at 297). He spent one hour with the Student and participated in the June 18, 2019 IEP meeting. Ms. ██████ did not meet the Student. She was hired just before the hearing to provide expert testimony in this case. Neither Dr. ██████ nor Ms. ██████ performed assessments or observed the Student in the public school setting, or at ██████.

I compare this testimony to that of the HCPS witnesses, who include the Student's second grade teacher, his resources teacher, and HCPS staff who conducted assessments and observations. The witnesses described their interactions with the Student and provided reasonable explanations for their actions and determinations. Most of the witnesses had daily contact with the Student in the public school setting and observed him with his same age peers. These witnesses completed the teacher input forms, participated in IEP meetings, and were involved in the eligibility determination in this case.

To the extent that certain of the HCPS witnesses have direct knowledge of the Student, his achievement and behavior, and the processes followed by HCPS, I give more weight to their testimony than to the Parents' experts, who reviewed data with limited exposure to the Student. I do not agree with the Parents' argument that the school system witnesses should be afforded less deference than the Parents' witnesses because the HCPS witnesses "failed to 'offer a cogent and

responsive explanation for their decisions. . . .” (Parents Closing Memorandum at 62). To the contrary, I find that the HCPS witnesses clearly explained the process for determining eligibility, described the information considered by the IEP team, and articulated the reasons that the Student was determined ineligible for special education services.

The Student was ineligible for special education services because he was achieving adequately for his age and meeting State-approved grade-level standards.

On the issue of Student achievement, I found the testimony of both the Parents’ experts and HCPS experts to be helpful. As already stated, I assigned more weight to the testimony of the Student’s teachers who observed him daily in his educational setting, were directly involved in the assessments and observations of the Student, and had first-hand knowledge of the Student’s ability as compared with same age peers. Regarding formal assessments, I assigned greater weight to Ms. ██████’s and Ms. ██████’s opinions as they not only interpreted the test results, they conducted assessments and observations of the Student and were able to discuss their conclusions at the hearing. Dr. ██████, Ms. ██████ and Ms. ██████ did not testify at the hearing. Moreover, Ms. ██████ actually contacted Dr. ██████ to discuss questions she had based on her review of his report.

#### *Diagnoses of Dyslexia and ADHD*

The Student’s mother testified on the Parents’ behalf. She reported being informed of the Student’s attentional problems since preschool and recounted her discussions with HCPS teachers and staff regarding what could be done to address the Student’s needs. She expressed her frustration at the school’s failure to identify the Student as a student in need of services under the IDEA and detailed her efforts to have the Student evaluated and found eligible. The Student’s mother reported that she asked that the Student be tested for ADHD after she met with Ms. ██████ the Student’s second grade teacher, to discuss attentional problems and lack of work

completion. She stated that Ms. [REDACTED] and she had discussed the topic of medication for ADHD,



but that she and the Student's father disagreed on the administration of medications at that time. When HCPS denied her request for ADHD testing, the Student's mother reported consulting with the Student's pediatrician and seeking a psychological assessment by Dr. [REDACTED], which she provided to HCPS.

The Student's mother agreed that the Student had problems with attention, but indicated that he required special education services to address his weaknesses associated with his dyslexia. She indicated that the Student was offered services through a 504 Plan under the Americans with Disabilities Act and that she declined those services because she believed services under the IDEA were more appropriate to the Student's needs. The Student's mother indicated that she believes the Orton-Gillingham methodology has addressed many of her concerns and that the Student is making progress at [REDACTED]. While she acknowledged that he still continues to struggle at [REDACTED], she reported improved confidence and marked progress in reading and writing.

Dr. [REDACTED] reviewed the Student's records, met with the Student for one hour, and participated in the IEP team meeting on June 18, 2018. He noted that the Student was "restless," "fidgety," and "inattentive," "struggles a little bit with oral language . . . [j]ust retrieving his words," and is "just a little slow in his verbal expression. (T. 10/16/19 at 301). He characterized the Student's dyslexia as moderate to severe. Likewise, Ms. [REDACTED] concluded, based on her review of the Student's work, assessments, evaluations, and reports, that the Student has dyslexia.

Ms. [REDACTED], a resource teacher at [REDACTED] who evaluated the Student and whom I accepted as an expert in school psychology, described her observations of the Student. She reported that the Student's behaviors were indicative of ADHD. She agreed with Dr. [REDACTED]'s diagnosis of dyslexia, but found it to be in the mild or moderate range. She explained that the

severity can vary and that the data in this case failed to establish a need for specially designed instruction based on the Student's diagnosis.

The expert testimony in this case clearly establishes that the Student has dyslexia and ADHD. The witnesses disagree on the degree of impact of the Student's disabilities on the Student's educational performance. I will discuss the parties' contentions regarding the impact of the Student's diagnoses on his achievement and whether the Student requires specially designed instruction separately.

#### *Formal Assessments – Evaluation Reports*

Dr. ██████ based most of his opinions on the Student's formal testing as set out in Dr. ██████'s report. He disagreed with HCPS that the Student was performing at grade level, and suggested that he was "progressing at a rate of a child with a learning disability," which he characterized as "a much more shallow[] rate of progression." (T. 10/16/19 at 341). He reviewed the Student's results on the WIAT-III, TOWRE, and WJ-IV, which included scores mostly in the average range, and pointed to low scores on subtests involving decoding and fluency. Dr. ██████ also noted weaknesses in the Student's rhyming ability, which he indicated was a significant indicator for problems with phonological awareness. Regarding his initial observations of the Student, he stated:

One of the things I asked [the Student] to do was simply tell me a nursery rhyme, like Humpty Dumpty. You know the children with dyslexia, particular bright kids, moves the sensitivity of rhyme pairs. We know that rhymes are absolutely the best predictors of emerging literacy.

So he couldn't do Humpty Dumpty and he couldn't do Jack and Jill. Now I would describe that a[s] anecdotal piece of observation, but it gives you an idea about the brain's capacity to pull apart sound and language. And when you look at his developmental history, slow recognition of letters and numbers, diminished rapid naming, errors in phonemic awareness, and inability when sensitivity to rhyme, those are cardinal or pathognomonic features for the neurologic disorder of dyslexia.

(T. 10/16/19 at 300-01). Dr. ██████ agreed that there were inconsistencies between Dr.

██████████'s report and supplemental reports, and that the Student performed better in areas previously identified as areas of weakness such as decoding and fluency, which he attributed to the influence of the Student's tutor.

Ms. ██████████ reviewed the Student's records and assessments. She stated that the Student showed an early pattern of weaknesses in decoding and fluency. She identified learning disabilities in reading fluency and written language, and stated that "there was no question in [her] mind" that the Student should have been found eligible for special education services. (T. 10/16/19 at 406). She identified deficits in phonological processing on formal assessments that she believes can only be remedied through an educational program with an Orton-Gillingham methodology at its foundation, like ██████████

████████████████████, a resource teacher at ██████████ whom I accepted as an expert in special education, testified regarding her involvement in the Student's testing. She noted that additional assessments were required because Dr. ██████████ administered limited testing. For instance, she reported that Dr. ██████████ did not test reading comprehension. She administered the WJ-IV to the Student in March 2018 and reported his scores in the average range for reading and written language and above average on some of the subtests for math. She noted that during the Sentence Writing Fluency subtest, even though the Student was instructed to work quickly, he wanted to stop and talk about the picture in the passage. He received credit for the sentences that he wrote during the five minute test, but did not include ending punctuation for his sentences or capitals in the beginning of six of his seven sentences. For Editing, Ms. ██████████ reported that the Student did a good job of self-correcting and was able to identify the error, even though as the text became more complex he was unable to explain how to correct the error.

Ms. ██████████ agreed that additional assessments were needed to supplement Dr. ██████████'s report. She explained that in reviewing Dr. ██████████'s report, she considered

whether the assessment data was consistent with the data collected by the school team, which she determined was not. She reported that she talked to Dr. [REDACTED], but still had questions, particularly related to Dr. [REDACTED]'s decision to rule out ADHD even though he indicated in his report that he suspected it. Ms. [REDACTED] also indicated that she believed it was important to give the full battery of tests for phonological awareness under the CTOPP-2 and also consider the PAT-2, which she believed was a good measure of phonological awareness and basic reading skills.

Looking only at the formal assessments, I conclude that the Student presents a very average picture of achievement across all areas. I also note that the Student's scores on the assessments conducted by Ms. [REDACTED], Ms. [REDACTED] and Ms [REDACTED], only a few months after Dr. [REDACTED]'s assessments, show improvement in areas previously identified as areas of concern such as decoding and fluency. Likewise, the Student's rhyming skills improved, which were an area of concern noted by Dr. [REDACTED]. The formal assessments show that the Student was achieving adequately to meet State-approved grade-level standards.

#### *MAP Test Data*

The Parents witnesses identified the Student's drop in MAP test scores and percentiles as evidence that the Student was not meeting State or grade-level standards. Ms. [REDACTED] stated:

[H]e went steadily up throughout that school year of '16 to spring of '17, but then came back down. In fact, scored worse in the fall of '17 than he did in the fall of '16. So '16 was 185, and '17 was 178. And what's important, while standards are important, it's important to look at the student's individual performance and what those trends tell you. So he's got this real pattern of strength and then comes back and there's a weakness.

(T. 10/16/19 at 429). When asked if she had any information to explain the drop in scores, she stated: "I don't have an answer for that." (*Id.*). Further, Ms. [REDACTED] informed that a student who scores less than 190 on the MAP test is supposed to take the K – 2 MAP test, which provides audio support. She indicated that a Student who scores less than 190 has not yet demonstrated

reading proficiency. She reported that the Student scored a 186 in Spring 2017 and suggested that the Student should not have taken the higher level MAP test, which the Student must read on his own, but rather should have taken the K-2 MAP test, which is read to the Student and contains easier reading passages. She agreed that the Student's scores should have been higher had he taken the K-2 MAP test.

Ms. [REDACTED] reviewed the Student's MAP test data and disagreed with the Parents' experts' opinions that the MAP data suggested that the Student was not meeting grade level standards. She agreed that the Student did less well from Fall 2016 to Fall 2017, but reported that his raw scores were still in the average range and that the Student exceeded his growth projection for his score. She reported that the MAP test data provided the following information on the Student's performance:

Well, it tells me that his earned score was not as strong as it was in comparison to peers from fall '16 to fall '17.

But so, both scores were within the average range. So, looking at – when we use MAP data as one data point for determining if a student should be marked below grade level, neither the 69[percentile], obviously, or the 38 would be a flag to meet that criteria . . . [b]ecause they're within the average range.

...

Well, this is aligned with the core curriculum. And so, by his scores – earning scores within the average range and for – for reading, in all three of the reading goal performance, was in the average range, he should be able to access general curriculum or he is accessing it.

(T. 11/1/19 at 953-54). Regarding the Student's RIT growth projection, Ms. [REDACTED] explained, "his growth projection was 15 and that he met – or he actually exceed his growth projection because he grew 18 points." (*Id.* at 954).

Ms. [REDACTED] suggested that the Student's scores may also have been impacted by a change in the way in which the test was administered. She explained that the Student received

audio support with the K–2 MAP test. The 2 -5 MAP test did not have audio support, meaning that the Student was required to read the test on his own rather than have the test read to him.

The Student’s MAP test scores are in the average range. While the scores and percentiles decreased between 2016 and 2017, I found HCPS’ explanation for this occurrence to be reasonable and not necessarily related to a decline in the Student’s progress. In 2017, the Student was administered the test without audio support; in other words, the Student had to read the test without having the directions read to him. The parties agreed that reading fluency was a weakness for the Student; therefore, it is not surprising that his scores declined when he had to read the test to himself. Ms. ██████ testified that if the Student had been administered the K-2 MAP test, it is more likely than not that the Student’s scores would have looked similar to his scores in 2016. Therefore the “drop” in scores between 2016 and 2017 is, more likely than not, due to the difference in the way the test was administered as opposed to any actual decline in the Student’s skills. Even without this explanation, however, the Student’s scores remained in the average range and he met or exceeded the projected growth that was expected in comparing his scores.

#### *Informal Assessments – Reading*

Ms. ██████ reviewed the Student’s informal assessments and opined that the Student was not making sufficient progress, particularly in reading and writing. She reviewed the Fountas & Pinnell data and discussed the Student’s reading rate at the end of second grade, which she noted was below the rate associated with second-grade Level M text according to the Fountas & Pinnell guide. She was critical of his rate of progress in progression of levels throughout the second grade school year.

Dr. ██████ criticized the Student’s slow reading rate. He reported that a student must be able to read fast and accurately and the data shows that the Student is accurate but slow. He

opined that the Student may read at average fluency by the eighth grade with the [REDACTED] program, but may never close the gap because HCPS missed the window for providing the Student with needed skills.

Ms. [REDACTED] reviewed the Student's assessments and written work showing improvement in reading and writing over the second grade school year. She noted that the Student completed a phonological awareness assessment in February 2018, involving matching sounds to letters and scored 8 out of 8 on initial sounds, 8 out of 10 on blending, 9 out of 10 on segmenting, and 10 out of 10 on rhyming. (T. 10/17/19 at 563-64). On another assessment, she noted improvement in short vowels, blends, inflected endings, and spelling. She stated that the Student was in the middle of the class in reading, was working on areas of weakness, and was making progress.

She explained that the Student was being instructed on grade-level text and his fluency, according to State standards and formal assessments, was on grade level. She also stated that, when looking at multiple sources of data, fluency was not a weakness. Regarding reading rate, Ms. [REDACTED] stated:

Rate can tell us a lot of different things. It can tell us how sometimes invested a child is in the book. Sometimes these books are kind of boring for kids. Sometimes they are different layouts that a child is unfamiliar with. For instance, the higher level text you go, the more maybe dialogue would be in there. And sometimes students might get hung up on figuring out what a quotation mark is or why a word is bolded. It can tell us that that's a teaching point that we need to increase fluency within our small reading groups. It's not like a one size fits all[.]

(T. 10/17/19 at 546). She reported that the IIT was working with the Student to improve his reading rate. She pointed to the Student's assessments, indicating improvement over the school year. At the beginning of the school year, the Student's reading rate was 33 words per minute, and, at the end of the year, the Student's highest reading rate was 70 words per minute.

Ms. [REDACTED] also reported that the IEP team looked at whether the Student was reading and understanding, not looking at the reading rate in isolation. She reviewed the Student's

formal assessments and noted that the Student used his skills and knowledge about phonics for spelling and executed effective strategies for reading comprehension. Ms. [REDACTED] further explained that HCPS standards consider reading comprehension—whether the student is gaining meaning—to determine a student’s appropriate reading level, and that the Student’s work and assessments showed improvement in this area.

The record supports the Student’s teachers’ assertions that the Student was achieving adequately to meet State-approved grade-level standards. Ms. [REDACTED] agreed that the Student’s reading rate was below the Fountas & Pinnell rate for Level M texts, but noted that Fountas & Pinnell is a system used by HCPS to assign a student to his or her appropriate instructional level text, not a State or grade-level standard.<sup>26</sup> In addition, the record shows that the IIT and the Student’s teachers were working with the Student to increase his reading rate, which improved over the second grade year.

The Student also showed improvement in his level of text. At the beginning of second grade, the Student was reading and receiving instruction on a Level J or K text. By the end of second grade, the Student was being instructed on Level M, a second grade-level text. While his reading rate was below the rate identified for Level M texts, the Student’s benchmark assessments show improved reading rates, accuracy, and comprehension. Further, the Student’s more recent assessments, measuring fluency and reading comprehension, fail to support the Parents’ claim that reading rate adversely affected his achievement. Accordingly, based on evidence to the contrary, I do not credit Dr. [REDACTED]’s or Ms. [REDACTED]’s opinions that the Student was not achieving based on his slow reading rate.

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<sup>26</sup> Ms. [REDACTED] explained the process for determining a Student’s instructional level text using Fountas & Pinnell as follows:

Instructional just means that these components are what we’re hoping to work on and fine tune with a student during instruction so that they can progress to an independent level.

When they go through these levels, they do not have to be independent in order to move on to the next



level. So we continue assessing and continue working to find their hard level.  
(T. 10/17/19 at 538).

### *Oral Expression*

Dr. [REDACTED] and Ms [REDACTED] identified areas of weakness involving oral expression. They indicated that the Student was not achieving based on deficits in language for reading, writing, and oral expression.

As already noted, the Student's formal and informal assessments indicate average scores in many skills that relate to language, both spoken and written. This was also an area in which the IIT and Ms [REDACTED] were working with the Student to improve the Student's speaking ability in the classroom, and noted improvement. Further, when the Student was tested in May 2018, the Student was able to produce complete sentences and provide detail, was able to tell a story or recount an experience with appropriate facts and relevant descriptive details, and used longer sentences than same age peers. On this record, I conclude that the Student was achieving adequately in the area of oral expression.

### *Writing*

Ms. [REDACTED] looked at the Student's writing samples and reported that his simplistic word choices are consistent with a diagnosis of dyslexia. She observed "lots of erasing, underlining, [and] write overs" in the Student's written work. (T. 10/16/19 at 431). She noted errors in the Student's assessments which she characterized as "classic dyslexia errors." Based on her years of experience, she was able to immediately diagnose this disability with the information provided to her by the Parents. She reported that the Student's assessments also support such a diagnosis and suggest that the Student requires specialized instruction such as the program at [REDACTED]

Ms. [REDACTED] reported that the Student's writing was weaker than in other areas, but that he continued to improve throughout the year. She compared two of the Student's writing samples, one completed in September 2017 and one completed in November 2017. She stated:

It's showing improvement. There are more sentences. You can see that he uses punctuation still, capitalizes the beginning of the sentences, phonetically spelling out different words, giving – again, this is informative, so he's giving facts about the moon which we don't teach.

(T. 10/17/19 at 577). According to Ms. [REDACTED], the Student was able to do second grade work in a second grade classroom.

The Student's scores on formal and informal assessments also suggest that the Student was achieving adequately in writing. Ms. [REDACTED] also reported that the Student demonstrated average ability in expressive syntax ability, which measured the Student's ability to create a grammatically correct sentence about a picture. She noted that expressive syntax is "an important skill to have for written expression." (P. 19-5).

I again credit the Student's teachers' testimony regarding their observations of the Student's progress comparable to same age peers. While writing was identified by the Student's teachers as an area of relative weakness, they agreed that he was improving. This testimony was supported by the record.

The Student did not require specially designed instruction to make progress and meet State-approved grade-level standards.

Specially designed instruction is defined as "adapting, as appropriate to the needs of an eligible child . . . the content, methodology, or delivery of instruction – (i) To address the unique needs of the child that results from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children." 34 C.F.R. § 300.39 (b)(3). Further, Technical Assistance Bulletin 19-01 distinguishes specially designed instruction from other interventions or supports. Included as specially designed instruction is instruction that is: received by only students with IEPs; "[i]nstruction that allows a student to make progress in the enrolled grade level standards AND changes the trajectory of growth to narrow/close the gap";

“[a]n individually designed plan of services and supports”; “[u]niquely designed instruction that is designed to promote progress towards IEP goals”; “[t]he consideration of learner characteristics, high-leverage practices, intensive instruction, accommodations, program modifications, and supplementary aids & services for the student to access the general education curriculum”; and “[c]o-planned, co-implemented, and co-evaluated by a collaborative IEP team. (HCPS 25.7). According to the Bulletin, specially designed instruction is not “instruction for all students.” (*Id.*).

Dr. [REDACTED], Ms. [REDACTED], and Ms. [REDACTED], testified that the Student has weaknesses as a result of his dyslexia, which they perceived as his primary disability. They contend that the Student requires specialized instruction to meet his needs, which they believe is being provided at [REDACTED]. Dr. [REDACTED] and Ms. [REDACTED] both testified that the Student requires specialized instruction, which they specifically identified as a multisensory structured literacy approach to reading, such as Orton-Gillingham. Dr. [REDACTED] opined that the [REDACTED] program, including the [REDACTED] Orton-Gillingham methodology, constitutes specially designed instruction, which the Student requires in order to meet the Student’s language needs. He stated, “So understanding his history of dyslexia and associated language and [executive] functioning difficulties, the uniqueness of his needs require the application of a science-based reading program.” (T. 10/16/19 at 317). He further opined that the Student’s needs could not be met in a general education setting, even though he acknowledged that the Orton-Gillingham methodology can be used to teach children who are not dyslexic outside of special education. He ranked ADHD as secondary to the Student’s dyslexia, and expressed his frustration at HCPS’ referral to consider accommodations under a Section 504 Accommodation Plan because “it would have masked the learning disability resulting in a failure to intervene,” preventing the Student from receiving Orton-Gillingham

instruction within the window “in which the science-based instruction would have had its greatest impact.” (T. 10/16/19 at 320-21).

Ms. [REDACTED] explained the benefits of a multi-sensory approach, and opined that the Student was making progress at [REDACTED] because the Orton-Gillingham methodology is embedded across all academic areas. Both witnesses suggested that the Student received specially designed instruction, though limited, at [REDACTED] and currently receives specially designed instruction at [REDACTED]. They credited the Student’s tutor, who was trained in the Orton-Gillingham methodology, with the Student’s improved formal assessment scores.

Ms. [REDACTED] described the [REDACTED] program as a program for students with learning differences such as dyslexia. She agreed that [REDACTED] is not approved by the MSDE and does not require its teachers to have certification in special education. Accordingly, she was unaware of the number of certified teachers currently teaching at the school. She reviewed Dr. [REDACTED]’s report and noted that the Student’s profile is consistent with other students at [REDACTED] and that [REDACTED] was capable of providing the services recommended by Dr. [REDACTED]. Regarding the Student’s progress at [REDACTED], she stated that he has made progress, but is still behind in reading.

[REDACTED], Principal at [REDACTED] explained the various processes utilized at [REDACTED] to address students’ academic and behavioral needs, including the IIT, IEPs and 504 Plans. Beginning in kindergarten, the Student’s teachers implemented various strategies and accommodations in the Student’s general education classroom to address the Student’s problem behaviors and to work with the Student on improving his skills. In regard to the Student, Ms. [REDACTED] stated that staff was implementing interventions through the IIT process. A 504 Plan was offered but rejected by the Parents.

Ms. [REDACTED] discussed strategies that teachers may utilize in the general education setting, such as repetition to address a weakness in reading rate. In this case, she reported that

interventions were implemented through the IIT process to address behaviors and to work on skills. She reported that the Student was benefitting from strategies that can be implemented under a Section 504 Plan, such as allowing extra time to complete tasks. She compared State and grade-level standards to the Student's assessments to show that the Student was making progress and meeting State-approved and grade-level standards at [REDACTED]. She agreed that the Student's achievement was sometimes inconsistent, but pointed to progress comparable to same age peers in all areas.

Some of the interventions used by [REDACTED] staff included fidgets, chair bands, a timer, redirection, moving the Student's desk closer to the teacher's desk, redirection, prompting, repetition, working in small groups, working individually with the teachers and support staff, and extra time on assignments. These methods were implemented in the Student's general education classroom. HCPS witnesses agreed that none of the interventions or strategies constituted specially designed instruction or special education services. The witnesses also agreed that the Student did not require specially designed instruction to access his general education curriculum, and that the Student was achieving adequately and meeting State-approved grade-level standards without specially designed instruction.

I am not persuaded by the Parents' arguments that the Student requires specially designed instruction or that the accommodations and strategies implemented at [REDACTED] or [REDACTED] constitute specially designed instruction. First, the accommodations provided by the teachers at [REDACTED] do not constitute specially designed instruction under the above definition. The teachers at [REDACTED] implemented various strategies to address the Student's problem behaviors and to work on skills as part of general instruction. The Student was determined eligible for accommodations under a 504 Plan, which also is not specially designed instruction. Orton-Gillingham is a methodology for teaching reading to all students. It is not specially

designed instruction. Second, as previously discussed, the Student was achieving adequately on grade-level and meeting State-approved, grade-level standards. Thus, the evidence supports a conclusion that the Student does not require specially designed instruction in order to achieve adequately on grade-level and to meet State-approved grade-level standards.

The Student failed to meet the criteria to establish eligibility for special education services under the IDEA.

The Parents claim that the Student met the criteria to establish eligibility for special education services as a student with a SLD based on the Student's diagnoses of dyslexia, dysgraphia, and oral expression and as a student with an Other Health Impairment based on the Student's ADHD diagnosis. The record fails to support this contention.

The school-based IEP team agreed that the Student had dyslexia and ADHD and relative weaknesses in phonological processing and writing. However, each witness expressed an opinion that the Student's behavior was causing the Student's unavailability in the classroom. Ms. [REDACTED] described her observations and concerns regarding the Student's lack of attention in the classroom. She reported discussing these issues with the Student's mother. She identified interventions and strategies that were helpful to the Student, including working in small groups and one-to-one, using a timer, and sitting at a desk close to the teacher. She also identified strategies to address the Student's inattention that were temporarily helpful or not helpful at all, including weighted lap books, a wiggle stool, and fidgets. Ms. [REDACTED] described characteristics of a child whom she would identify as a child in need of special education such as a student who is unavailable because of emotional needs or behavior and requires modification of the instruction to access education. She did not believe the Student required special education services because the Student was able to work and understand components and did not require that she re-teach or modify her teaching.

The HCPS witnesses recounted the process for making an eligibility determination in this case, beginning with observations by the Student's teachers of the Student's problem behaviors and the Parents' request for ADHD testing. All witnesses described a history very much centered around interventions to address the Student's inattention and problems with self-control. All witnesses agreed that, notwithstanding problem behaviors, the Student was making progress comparable to same age peers and meeting the State-approved grade-level standards for a second grade student in HCPS.

Ms. [REDACTED], instructional facilitator for non-public services and special education compliance for HCPS, whom I accepted as an expert in special education, described the process for evaluating a student's eligibility for special education services. She recounted the events surrounding the Student's request for testing and his eligibility determination. Ms. [REDACTED] stated that the IEP team used multiple data points to determine whether the Student had learning disabilities, demonstrated a pattern of strengths and weaknesses, and if he needed specialized instruction. She stated that the team considered the concerns raised by the Parents and Ms. [REDACTED]. According to Ms. [REDACTED] the team agreed that the Student had skills that needed improvement and needed supports in the general education setting, but that the data did not establish a pattern of weakness. She further stated that the data showed that the Student was achieving without the need to modify teaching or to re-teach material.

[REDACTED] also described the process for determining whether a Student is eligible for special education services, which she reported was followed by HCPS. She stated that the IEP team considered multiple sources of data, including Student observations, teacher and evaluation reports, and assessments in order to determine whether the Student satisfied the criteria for eligibility for special education services in this case. She testified that the team also considered whether the Student was eligible for special education services under the categories



of Other Health Impairment for ADHD and SLD. Ms. [REDACTED] reviewed the checklists completed by the IEP team and explained why the Student was not eligible for special education services.

The Student is diagnosed with dyslexia and ADHD. These diagnoses do not automatically qualify a student for special education services. The school-based IEP team is tasked with considering multiple sources of data and making a determination regarding eligibility under set regulations and guidelines. Based on proper review and evaluation, it determined that the Student was achieving adequately to meet State-approved grade-level standards. After completing the checklists and supplement forms, it also determined that the Student was not eligible under the categories of Other Health Impairment or SLD. The record comports with the requirements as outlined in the MSDE Technical Assistance Bulletin, which indicates what an IEP team should consider and what it should document when making a determination regarding whether a student has a SLD and is eligible for special education services. On this basis, it determined that the Student was not eligible for special education services. I find no error in this determination.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Parents have failed to establish that Howard County Public Schools did not offer the Student a free appropriate public education by failing to identify the Student as a student eligible for special education services. 20 U.S.C.A. §§ 1400-1482; 34 C.F.R. pt. 300; Educ. §§ 8-401 through 8-417; COMAR 13A.05.01.

As I have concluded that the Student received a free appropriate public education at [REDACTED] Elementary, I further conclude that the Parents are not entitled to receive

reimbursement for tuition and related costs as a result of their unilateral placement of the Student at the [REDACTED] for the 2018-19 and 2019-20 school years. 34 C.F.R. § 300.148 (2018).

### **ORDER**

I **ORDER** that the July 16, 2019 Due Process Complaint filed by the Parents on behalf of the Student is hereby **DISMISSED**;

I further **ORDER** that the Parents' request for reimbursement of tuition and related costs at the [REDACTED] be **DENIED**.

December 26, 2019  
Date Decision Issued

Michelle W. Cole  
Administrative Law Judge

MWC/emh  
#183742

### **REVIEW RIGHTS**

A party aggrieved by this final decision may file an appeal with the Circuit Court for Baltimore City, if the Student resides in Baltimore City; with the circuit court for the county where the Student resides; or with the United States District Court for the District of Maryland, within 120 days of the issuance of this decision. Md. Code Ann., Educ. § 8-413(j) (2018). A petition may be filed with the appropriate court to waive filing fees and costs on the ground of indigence.

A party appealing this decision 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 appeal. The written notification must include the case name, docket number, and date of this decision, and the court case name and docket number of the appeal.

The Office of Administrative Hearings is not a party to any review process.

**Copies Mailed To:**

[REDACTED]  
[REDACTED]  
[REDACTED]

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██████████,

STUDENT

v.

HOWARD COUNTY PUBLIC

SCHOOLS

BEFORE MICHELLE W. COLE,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-HOWD-OT-19-22166

### **FILE EXHIBIT LIST**

I admitted the following exhibits on behalf of the Parents:

- P. 1 Request for Due Process, 7-16-19
- P. 1A Email between parents and ██████████, 5-5-16, with attachment
- P. 2 HCPS Kindergarten Reading and Writing Data, 2015-16 School Year
- P. 3 HCPS Kindergarten Final Report Card, June 2016
- P. 4 HCPS First Grade Reading and Writing Data, 2016-17 School Year
- P. 5 HCPS First Grade Final Report Card, June 2017
- P. 6 Email to school staff from parent requesting testing, 10-19-17
- P. 7 HCPS Special Education Referral and Social/Developmental History, 10-19-17
- P. 8 HCPS Teacher Input Forms for Initial Referral, 10-20-17 and 11-3-17
- P. 9 Emails to Parents from HCPSS teacher enclosing work samples, 11-15-17 and 11-21-17
- P. 10 HCPS IEP Team Meeting Report, 11-15-17
- P. 11 Email to Parents from HCPS psychologist, 11-28-17
- P. 12 HCPS Behavior Data Collection Forms, 12-5-17 and 12-7-17
- P. 13 Psychological Evaluation by Dr. ██████████, 12-19-17
- P. 14 Letters and Emails to HCPS staff from parent, 1-16-18, 1-18-18, 1-24-18, 1-25-18 and 1-26-18
- P. 15 HCPS Behavior Data Collection Forms, 1-23-18 and 2-13-18
- P. 16 HCPS Data Summary, 11-15-17 and 2-7-18
- P. 17 HCPS IEP Team Meeting Report, 2-13-18
- P. 18 Email from HCPS psychologist regarding test scores, 2-13-18
- P. 19 Speech Language Evaluation by ██████████, 2-19-18
- P. 20 Emails between Parents and HCPS staff, 2-21-18 to 3-1-18
- P. 21 Supplemental Psychological Evaluation Report, 3-20-18
- P. 22 Email to HCPSS staff from parent, 3-21-18
- P. 23 Letter from parent requesting educational records and response letters, 3-21-18; letters from HCPS to Parents, 3-27-18, 4-16-18 and 4-20-18
- P. 24 HCPS Student Work Samples, February and March 2018
- P. 25 HCPS Writing Assessment Record, 9-7-17, 11-8-17, and 4-4-18
- P. 26 HCPS Educational Assessment Report, 4-18-18
- P. 27 HCPS IEP Team Meeting Report, 4-18-18

- P. 28 HCPS IEP Team Meeting Report, 4-25-18
- P. 29 Email and response letter from parents regarding 4-25-18 IEP meeting, 5-15-18
- P. 30 HCPS Speech and Language Evaluation, 5-22-18
- P. 31 HCPS IEP Team Meeting Report, 6-13-18
- P. 32 HCPS Second Grade Reading and Writing Data, 2017-18 School Year
- P. 33 HCPS Second Grade Final Report Card and MAP Score Report, June 2018
- P. 34 Letters between parents and HCPS staff regarding IEP objections, 7-6-18, 7-20-18, 8-6-18, 8-17-18, and 8-17-18
- P. 35 ██████████ Summer Reports, July 2018
- P. 36 Email from HCPS staff enclosing amended IEP meeting documents, 9-7-18
- P. 37 ██████████ Trimester 1 Report Card, 1-12-19
- P. 38 Email from ██████████ regarding reading progress, 1-13-19
- P. 39 Letter to ██████████ enclosing Request for Due Process, 3-26-19
- P. 40 ██████████ Trimester 2 Report Card, 3-31-19
- P. 41 ██████████ Speech Language Progress Update, 4-15-19
- P. 42 ██████████ Reading and Spelling Data, 3-13-19 and 4-16-19
- P. 43 ██████████ LMS Assessment Results Report, Fall 2018 and Spring 2019
- P. 44 Letter to ██████████ withdrawing Request for Due Process, 6-3-19
- P. 45 ██████████ Trimester 3 Report Card, 6-13-19
- P. 46 HCPS IEP Team Meeting Report, 6-18-19
- P. 47 Letter to Manisha Kavadi, Esq. from Michael J. Eig, Esq. regarding IEP meeting, 6-24-19
- P. 48 Emails between Paula A. Rosenstock, Esq., Michael J. Eig, Esq., and ██████████, 6-27-19 and 6-28-19
- P. 49 Letter to Manisha Kavadi, Esq. from Michael J. Eig, Esq., 7-2-19
- P. 50 Letter to Manisha Kavadi, Esq. from Michael J. Eig, Esq., 7-8-19
- P. 51 ██████████ Summer Reports, July 2019
- P. 52 Letter to ██████████ serving notice, 8-7-19
- P. 53 Letter to parent from ██████████, 8-27-19
- P. 54 ██████████ Reading and Spelling Data, Fall 2019
- P. 55 ██████████ LMS Assessment Results Report, Fall 2019
- P. 56 National Center on Intensive Intervention, Academic Progress Monitoring
- P. 57 New York Times Opinion: Why Are We Still Teaching Reading The Wrong Way?, 10-26-18
- P. 58 Article by the International Reading Association, April 2005
- P. 59 Whole-Language High Jinks, How to Tell When “Scientifically-Based Reading Instruction” Isn’t
- P. 60 Literacy: A Civil Right, Right to Read, Maryland
- P. 61 Resume of Dr. ██████████
- P. 62 Resume of ██████████
- P. 63 2019 Learning A-Z Correlation Chart
- P. 64 Resume of ██████████
- P. 65 Email from HCPS staff to M. Eig, 11-8-17, with attachment
- P. 66 Email from HCPS staff to M. Eig, 1-23-18 and 1-31-18, with attachment
- P. 67 Emails between Parents and HCPS staff, 2-27-18 and 3-1-18, with attachment
- P. 68 Emails between Parents and HCPS staff, 3-21-18
- P. 69 Email from ██████████ to Parents and HCPS staff, 8-9-18, with attachment
- P. 70 Chart, undated; Student work, various dates
- P. 71 Student written work, 10-7-19

I admitted the following exhibits on behalf of HCPS:

- HCPS 1 Referral for a Student Suspected of Having a Disability, 10-19-17
- HCPS 2 IEP Team Meeting Report, 11-15-17
- HCPS 3 IEP Team Meeting Report, 2-13-18
- HCPS 4 OT Consult Info, 1-31-18
- HCPS 5 IEP Team Meeting Report, 4-18-18
- HCPS 6 IEP Team Meeting Report, 4-25-18
- HCPS 7 Evaluation Report – Specific Learning Disability (SLD) Supplement, 4-24-18
- HCPS 8 Evaluation Report – Attention Deficit Hyperactivity Disorder (ADHD) Supplement, 4-24-18
  
- HCPS 9 IEP Team Meeting Report, 6-13-18
- HCPS 9A IEP Team Meeting Report, 6-18-19
- HCPS 10 Section 504 – Meeting Notice, 5-11-18
- HCPS 11 Teacher Input for an Initial Section 504 Referral, 5-17-18
- HCPS 12 Psychological Evaluation – ██████████ 12-14-17
- HCPS 13 Review of Independent Assessment – ██████████
- HCPS 14 Supplemental Psychological Evaluation Report – ██████████ 3-19-18
- HCPS 15 Educational Assessment Report – ██████████, 4-18-18
- HCPS 16 Speech Language Evaluation – ██████████, 2-19-18
- HCPS 17 Review of Independent Assessment – ██████████
- HCPS 18 Speech-Language Assessment – ██████████ 5-22-18
- HCPS 19 Grade 02 Report Card – 2017-2018
- HCPS 20 ██████████ reports and documents [NOTE: there is no 20 or 20.1]
- HCPS 21 ██████████ School Team Data Summary
- HCPS 22 MSDE Technical Assistance Bulletin – Specific Learning Disability and Supplement
- HCPS 23 MSDE – A Tiered Instructional Approach to Support Achievement for All Students
- HCPS 24 MSDE – The Role of the School Psychologist in the Identification of Dyslexia, Dysgraphia, and Dyscalculia
- HCPS 25 MSDE – Technical Assistance Bulletin – Improving Outcomes for Students with Disabilities – Curriculum, Instruction, and Assessment
- HCPS 26 ██████████ Reports
- HCPS 27 CV – ██████████ Instructional Facilitator for Nonpublic Services and Special Education Compliance
  
- HCPS 28 CV – ██████████ – Resource Teacher
- HCPS 29 CV – ██████████ – School Psychologist
- HCPS 30 CV – ██████████ – Resource Teacher
- HCPS 31 CV – ██████████ r – Speech-Language Pathologist
- HCPS 32 CV – ██████████ – Speech-Language Pathologist
- HCPS 33 CV – ██████████ – Special Education Teacher
- HCPS 34 CV – ██████████ – Assistant Principal
- HCPS 35 CV – ██████████ – General Education Teacher
- HCPS 36 CV – ██████████ – General Education Teacher
- HCPS 37 CV – ██████████ – Reading Specialist
- HCPS 38 Email and attachment between Parents and HCPSS enclosing data summary, 11-8-17

- HCPS 39      Email and attachment from HCPSS to the Parents enclosing data summary,  
1-31-2018
- HCPS 40      Email and attachments from Ms. [REDACTED] (HCPS) to the Parents, 3/1/18