

██████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

BEFORE JOY L. PHILLIPS,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-MONT-OT-21-07420

DECISION

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

STATEMENT OF THE CASE

On March 30, 2021, ██████████ 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, evaluation, or placement of the Student by Montgomery County Public Schools (MCPS) under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C.A. § 1415(f)(1)(A) (2017);¹ 34 C.F.R. § 300.511(a) (2019);² Md. Code Ann., Educ. § 8-413(d)(1) (2018); Code of Maryland Regulations (COMAR) 13A.05.01.15C(1). Specifically, the Parents alleged the MCPS denied the Student a free, appropriate public education (FAPE) by failing to provide an appropriate individual education program (IEP) and placement. As a result, the Parents withdrew the Student from the MCPS and enrolled him in the ██████████ (██████████), a private special education school.

¹ U.S.C.A. is an abbreviation for United States Code Annotated. Unless otherwise noted, all citations of 20 U.S.C.A. hereinafter refer to the 2017 bound volume.

² C.F.R. is an abbreviation for Code of Federal Regulations. Unless otherwise noted, all citations of 34 C.F.R. hereinafter refer to the 2019 volume.

Accordingly, the Parents seek to be reimbursed for tuition at [REDACTED] and related services from October 2020 through June 2021.

I held the hearing on June 1, 4, 7, 8, 9, 10, 15, and 16, 2021 on a videoconferencing platform. Manisha Kavadi, Esquire, represented the MCPS. Paula A. Rosenstock, Esquire, represented the Student.

Under the applicable law, a decision in this case normally would be due by June 11, 2021, forty-five days after April 29, 2021, the end of the resolution period.³ 34 C.F.R. §§ 300.510(b)(2), (c), 300.515(a); Md. Code Ann., Educ. § 8-413(h) (2018); COMAR 13A.05.01.15C(14). However, the parties requested hearing dates through June 16, 2021. 34 C.F.R. § 300.515(c); Educ. § 8-413(h). The hearing could not be scheduled earlier due to the following time constraints: Ms. Rosenstock and Ms. Kavadi were not available from May 10 through 18, 2021 because they were involved in another due process hearing. On May 19, 20, and 21, 2021, both counsel had numerous IEP meetings scheduled. I was on leave from May 24, 2021, through May 31, 2021, which was a holiday. Thus, the first available hearing date was Tuesday, June 1, 2021. Due to the number of witnesses called by each side, nine days were allotted for the hearing, ending June 16, 2021, after the forty-five-day period ended. For these reasons, the Parents requested an extension of time in which I would issue the decision and the MCPS did not object. Accordingly, my decision is due thirty days from the close of the record, which was June 16, 2021.

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.

³ The forty-five-day period ended on Sunday, June 13, 2021; however, our decisions must be issued within forty-five days. Accordingly, the due date would have been Friday, June 11, 2021.

§ 8-413(e)(1) (2018); State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2020); COMAR 13A.05.01.15C; COMAR 28.02.01.

ISSUES

1. Did the MCPS deny the Student a FAPE by failing to provide an appropriate IEP and placement for the 2020-2021 school year; and, if so,
2. Was the Parents' placement of the Student at [REDACTED] proper; and, if so,
3. Are the Parents entitled to be reimbursed for tuition at [REDACTED] and related services from October 2020 through June 2021?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits⁴ on behalf of the Parents:

- Parents Ex. 1 Due Process Request, January 4, 2021⁵
- Parents Ex. 2 Psychoeducational Re-Evaluation, [REDACTED], Ph.D., May 20, 2019
- Parents Ex. 3 MCPS Team Consideration of External Report, received July 22, 2019; meeting date August 15, 2019
- Parents Ex. 4 Secondary Teacher Reports, completed November 2019
- Parents Ex. 6 Emails between [REDACTED] and Parents, September 27, 2019, to December 18, 2019
- Parents Ex. 8 Emails between [REDACTED] and Parents, January 8, 2020, to June 2, 2020
- Parents Ex. 9 Prior Written Notice, June 1, 2020
- Parents Ex. 10 Student's MCPS grades, 2019-2020 school year
- Parents Ex. 11 Diagnostic Educational Evaluation, [REDACTED], Ed.D., August 20 and 25, 2020
- Parents Ex. 12 Email from Parent [REDACTED] to Parent [REDACTED], August 31, 2020
- Parents Ex. 13 MCPS MP1 Interim Report, 2020-2021 school year
- Parents Ex. 14 Email from [REDACTED] to the Student's mother, with attachment, September 9, 2020
- Parents Ex. 15 Email from Parents to Dr. [REDACTED], September 21, 2020
- Parents Ex. 16 Letter from Dr [REDACTED] to Parents, September 24, 2020
- Parents Ex. 19 [REDACTED] Individual Distance Learning Plan, undated

⁴ Exhibits were prenumbered, but not all were submitted.

⁵ This Due Process Request was later withdrawn, but it was discussed at the hearing and thus, was admitted.

- Parents Ex. 21 Team Consideration of External Report, received October 2, 2020, meeting November 2, 2020
- Parents Ex. 22 Prior Written Notice, November 5, 2020
- Parents Ex. 24 IEP, June 1, 2020, revised December 11, 2020
- Parents Ex. 25 Prior Written Notice, December 13, 2020
- Parents Ex. 26 Emails between [REDACTED] and Parents, December 18, 2020
- Parents Ex. 28 IEP, June 1, 2020, revised March 17, 2021
- Parents Ex. 29 Emails between [REDACTED] and Parents, March 18, 2021
- Parents Ex. 30 [REDACTED] class schedule, undated
- Parents Ex. 31 [REDACTED] Quarter 2 Progress Report, January 7, 2021
- Parents Ex. 32 Student's [REDACTED] t grades, Second and Third Quarters, 2020-2021
- Parents Ex. 33 Emails between Parents and [REDACTED], November 23, 2020 - April 22, 2021
- Parents Ex. 34 Secondary Teacher Reports, completed Fall 2020 (Version 1 and Version 2)
- Parents Ex. 35 [REDACTED] IEP, October 5, 2020 (date of Student's entry)
- Parents Ex. 36 Resume of [REDACTED], Ed.D.
- Parents Ex. 37 Resume of [REDACTED]
- Parents Ex. 38 Reports, [REDACTED], August 31, 2020 – September 21, 2020
- Parents Ex. 42 Due Process Request, March 26, 2021
- Parents Ex. 43 Emails between [REDACTED] and Parents, February 26-27, 2020

I admitted the following exhibits⁶ on behalf of MCPS:

- MCPS Ex. 1 IEP, February 14, 2018
- MCPS Ex. 2 IEP, February 14, 2018, revised August 3, 2018
- MCPS Ex. 4 Prior Written Notice, August 19, 2019
- MCPS Ex. 5 Prior Written Notice, September 10, 2019
- MCPS Ex. 6 IEP, September 10, 2019
- MCPS Ex. 7 Prior Written Notice, November 15, 2019
- MCPS Ex. 8 IEP, September 10, 2019, revised November 15, 2019
- MCPS Ex. 9 Authorization for Release of Information to Dr. [REDACTED], March 9, 2020
- MCPS Ex. 10 Prior Written Notice, April 8, 2020
- MCPS Ex. 11 Prior Written Notice, June 1, 2020
- MCPS Ex. 12 Prior Written Notice, June 5, 2020
- MCPS Ex. 13 IEP, June 1, 2020
- MCPS Ex. 14 Letter from Dr. [REDACTED] to Parents, September 24, 2020
- MCPS Ex. 15 Prior Written Notice, September 24, 2020
- MCPS Ex. 16 Diagnostic Educational Evaluation, Dr. [REDACTED], September 28, 2020
- MCPS Ex. 17 Emails between [REDACTED] and Parents and representatives, October 6-9, 2020
- MCPS Ex. 18 Emails between Parents' representative and [REDACTED], October 26, 2020

⁶ Exhibits were prenumbered, but not all were submitted.

- MCPS Ex. 19 Emails between [REDACTED] and parties' representatives, November 23, 2020
- MCPS Ex. 20 Notice of IEP Team Meeting, October 14, 2020
- MCPS Ex. 21 IEP, June 1, 2020, revised October 8, 2020
- MCPS Ex. 22 Prior Written Notice, November 5, 2020
- MCPS Ex. 23 Team Consideration of External Report, received October 2, 2020, meeting November 2, 2020
- MCPS Ex. 24 Notice of IEP Team Meeting, November 24, 2020
- MCPS Ex. 25 Prior Written Notice, December 13, 2020
- MCPS Ex. 26 IEP, June 1, 2020, revised December 11, 2020
- MCPS Ex. 27 Emails between [REDACTED] and Parents' representatives, March 18, 2021
- MCPS Ex. 28 IEP, June 1, 2020, revised March 17, 2021
- MCPS Ex. 30 Handwritten notes, [REDACTED], December 11, 2020
- MCPS Ex. 32 Student's MCPS grades, 2019-2020 school year
- MCPS Ex. 33 Student's [REDACTED] grades, 2018-2019 school year
- MCPS Ex. 35 Report of School Psychologist, [REDACTED], Psy.D., February 7, 2016
- MCPS Ex. 36 Educational Assessment Report, [REDACTED], January 2016
- MCPS Ex. 38 Resume, [REDACTED]
- MCPS Ex. 39 Resume, [REDACTED]
- MCPS Ex. 40 Resume, [REDACTED]
- MCPS Ex. 45 Emails between [REDACTED] and Parents and teachers, May 15, 2020 – September 17, 2020

Testimony

The Parents testified and presented the following witnesses:

- [REDACTED], Ed.D., admitted as an expert in special education
- [REDACTED], admitted as an expert in special education and Applied Behavioral Analysis
- [REDACTED]

The MCPS presented the following witnesses:

- [REDACTED], admitted as an expert in special education
- [REDACTED], admitted as an expert in special education
- [REDACTED], admitted as an expert in special education and in the education of children on the autism spectrum

FINDINGS OF FACT

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

Elementary School years (2013-2019)

1. The Student was born in [REDACTED] 2008. He has two older brothers, both students at the MCPS.

2. Throughout his education, the Student has been on the diploma track. He has many interests and talents, and is a well-behaved, cheerful child who strives to please.

3. From kindergarten through fourth grade, the Student attend [REDACTED] Elementary School in Montgomery County, where he was provided with IEPs. Initially, he was identified as a student with a Developmental Disability under the IDEA; later, he was identified as a student with a Specific Learning Disability.

4. In 2013, [REDACTED], Psy.D., conducted a neuropsychological evaluation on the Student. He deferred a finding of Autism, finding the Student's learning difficulties were more likely a result of a developmental delay complicated by anxiety.⁷ The Student was diagnosed with Communication Disorder, Selective Mutism, and Social (Pragmatic) Communication Disorder.

5. Through the supports provided by his elementary school IEPs, the Student made educational progress. He also began exhibiting some work avoidance, a trait that later became his practice midway through the 2019-2020 school year.

6. In 2016, when he was in the second grade, the Student underwent a battery of assessments to evaluate his cognitive, academic, and social-emotional needs.⁸ This was

⁷ Dr. [REDACTED]'s findings were referenced in a 2019 report authored by Dr. [REDACTED]. P. Ex. 2.

⁸ MCPS Ex. 36.

completed by resource teacher [REDACTED] and school psychologist [REDACTED]

Psy.D. The Student met the diagnostic criteria for Attention-Deficit/Hyperactivity Disorder (AD/HD), Predominately Inattentive Type, and Social Anxiety Disorder, as well as demonstrating some symptoms associated with Autism Spectrum Disorder (ASD).

7. Standard scores (SS) from the Woodcock-Johnson Tests of Achievement-IV (WJ-IV) administered in 2016 were as follows:

<u>Reading</u>		
• Letter-Word Identification	76	Low range
• Passage Comprehension	88	Low average
• Word Attack	94	Average
• Oral Reading	91	Average
• Sentence Reading Fluency	79	Low range
• Reading Recall	82	Low average
• Word Reading Fluency	82	Low average
<u>Math</u>		
• Applied Problems	99	Average
• Calculation	77	Low range
• Math Facts Fluency	76	Low range
• Number Matrices	90	Average
<u>Written Expression</u>		
• Spelling	81	Low average
• Writing Samples	98	Average
• Sentence Writing Fluency	83	Low average

8. Despite the educational progress he made during the fourth grade, the Student exhibited deficits in self-motivation, organization, attention and focus, homework completion, and social interactions skills. These deficits continued through sixth grade.

9. The Student attended the [REDACTED] ([REDACTED]) for the fifth grade (2018-2019). [REDACTED] is a private school. His admission was rescinded at the end of the fifth grade.

10. In class at [REDACTED], the Student required frequent redirection, assistance with organization, extra time to complete assignments and tests, and alternative ways to assess his knowledge, such as using computer-based games to test for math skills.

11. He remained polite and well-behaved at school, although he rarely spoke during class. He displayed a deficit in social skills and meaningful conversational interactions with others. He generally enjoyed attending [REDACTED].

12. The Student had some success in track and field at [REDACTED] in part because he responded well to the coach. He was diligent in practicing the sport and put forth his best effort without complaint. He earned an award for [REDACTED] but was only marginally successful in fully interacting with his peers. His verbal communication with team mates remained limited. When he saw how many people were at his first track and field event, he refused to compete in any more events.

13. The Student likes to swim and joined the community swim team. So long as he is in the water, he is happy and active. He refused to compete, however, which the Parents attributed to the number of people at a swim meet.

14. While the Student was attending [REDACTED], the Parents hired a high school student, [REDACTED]⁹ (student assistant), to sit next to the Student and assist him in organizing his school work and complete projects. She was a neighbor of the Parents and had known the Student since he was four or five years old. She assisted the Student through September 2020.

⁹ Ms. [REDACTED] was sometimes called [REDACTED] by the witnesses.

15. In March and May 2019, the Student underwent a psychoeducational re-evaluation by [REDACTED], Ph.D.¹⁰ The Student was diagnosed with AD/HD, Predominantly Inattentive Type (moderate) and ASD (Level 1). These diagnoses were based on the Student's:

- Pattern of inattentive behaviors at home and at school
- Inability to maintain focus at home and at school
- Inability to keep up with the pace of the classroom, complete work as assigned, and actively engage in the learning process
- Difficulties with social communication and inability to engage in meaningful classroom conversational interactions
- Atypical sensory-seeking, repetitive motor movements
- Variability in work performance

16. Dr. [REDACTED] did not conduct the WJ-IV because those tests had been done with Dr. [REDACTED], Psy.D., on March 6, 2018. Dr. [REDACTED] referred to Dr. [REDACTED]'s overall results in three areas: Academic Skills, SS 94, which is an average score, Academic Applications, SS 89, which is low average, and Academic Fluency SS 74, which is a low score.¹¹ More specific scores were not reported.

17. Dr. [REDACTED]'s results showed the Student had a pattern of inattentive behaviors that impacted his ability to maintain focus in class and at home, keep up with the pace of the classroom, complete work as assigned, and actively engage in the learning process. He also struggled with social relatedness and communication and displayed difficulties in self-regulation and atypical sensory interests. He showed high levels of withdrawal and atypical behaviors. His

¹⁰ Report at P. Ex. 2.

¹¹ Dr. [REDACTED] testified that the SS of 89 and 74 are low averages, although Dr. [REDACTED] refers to them as average and below average. Because Dr. [REDACTED] testified and was subject to cross-examination, I have adopted her interpretation of those scores.

social reciprocal behavior was not flexible, consistent, or sustained without support. He had difficulty initiating and maintain interactions with those who did not know him well enough to structure the interaction for him.

18. Dr. [REDACTED] concluded that although his Autism symptoms were on the mild to moderate end of the spectrum, they needed to be understood in the context of the Student's ability to participate in day-to-day activities, engage in meaningful discussions, work collaboratively with others, and demonstrate his knowledge.

19. Dr. [REDACTED] found that the Student's reduced processing speed, social communication deficits and executive functioning deficits impacted his own experience and how he was viewed by others. These deficits were outside of his control and were a function of his disability, not willful choice. Dr. [REDACTED] raised concerns regarding his social skills and communication, high levels of withdrawal, and atypical behaviors.

20. Dr. [REDACTED]' report was considered by the MCPS on August 15, 2019 at an IEP team meeting, which included the parents.

Sixth Grade (2019-2020)

21. The Student attended [REDACTED] Middle School ([REDACTED]), part of the MCPS system, for the sixth grade (2019-2020). By this time, his Parents were divorced and the Student alternated weeks at each parent's home.

22. The MCPS developed an IEP on September 10, 2019.¹² The Student's primary disability was identified as Other Health Impairment (OHI). Academic areas affected by his disability were math problem solving and written language content. The behavioral area affected by his disability was self-management. The physical area affected by his disability was fine

¹² MCPS Ex. 6.

motor skills. The IEP team determined the Student's OHI impacted his executive functioning, written expression, and math problem solving skills.

23. The Student was placed in the [REDACTED] Program ([REDACTED]).¹³

24. In [REDACTED] the Student attended general education classes. His English and math classes were co-taught with a special educator. There was a paraeducator offering support in science and social studies. He was placed in a self-contained classroom with a special educator and paraeducator for Related Studies, a resource class. He was placed with students in the general population for lunch and electives (for example, arts and physical education).

25. [REDACTED] was assigned as the Student's case manager this school year. She oversaw the implementation of his IEP and supervised him in Related Studies. She co-taught math and English as the special educator. She was the primary communicator with the Parents regarding the Student's performance and problems.

26. The September 2019 IEP provided access to a word processor throughout the day as an assistive technology. Other accessibility features included redirection of the Student, use of a graphic organizer, small groups, frequent breaks, reduction of distractions, use of notes and outlines, use of speech-to-text, and extended time.

27. The September 2019 IEP provided for the following supplementary aids, services, and modifications: use of a visual toolbox to access math strategies, pre-alerts for verbal responses in large groups, use of a word bank to reinforce vocabulary and when extended writing was required, repetition of directions, use of notes, limits on amounts to be copied from board, repeated and paraphrased information, frequent and immediate feedback, checks for understanding, assignments broken down into smaller units, access to pass for breaks, facilitation

¹³ Some witnesses referred to the [REDACTED] program as the [REDACTED] program.

of peer/adult interactions, strategies to initiate and sustain attention, encouragement to ask for assistance when needed, and preferential seating.

28. The Goals contained in the September 2019 IEP¹⁴ were:

- a. Written Language Content: Given teacher modeling, sample of finished product, structured feedback, class discussion, proofreading checklists, and graphic organizers, the Student will write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content. All of these were to happen in four of out five trials.
 - (1) As of November 8, 2019, the MCPS reported the Student made sufficient progress to meet this goal.
 - (2) As of January 24, 2020, the MCPS reported the Student made sufficient progress to meet this goal, but he scored only 30/60 on an English progress check in the second marking period.¹⁵
 - (3) As of April 21, 2020, the MCPS reported the Student made sufficient progress to meet this goal.
- b. Math Problem Solving: Given problem-solving strategies, modeling for multi-step math problems, opportunities for practice and feedback, and faded staff support, the Student will apply a variety of math concepts, processes, and skills to solve math problems independently. All of these were to happen with 80% accuracy.
 - (1) As of November 8, 2019, the MCPS reported the Student made sufficient progress to meet this goal.
 - (2) As of January 24, 2020, the MCPS reported the Student made sufficient progress to meet this goal, but he scored only 11/19 on a math progress check in the second marking period.¹⁶
 - (3) As of April 21, 2020, the MCPS reported the Student made sufficient progress to meet this goal.
- c. Self-Management: Given preferential seating, cues to attention, repetition of directions, visual reminders, and fading staff support, the Student will attend to tasks, initiate and complete assigned academic tasks. All of these were to happen in four out of five trials.
 - (1) As of November 8, 2019, the MCPS reported the Student made sufficient progress to meet this goal, but he needed several individual prompts to begin tasks.
 - (2) As of January 24, 2020, the MCPS reported the Student did not make sufficient progress to meet this goal. He was not able to take out materials independently and even with direct one to one prompts, he often sat and not complete work. He did not initiate seeking help form a teacher or paraeducator and sat until he was approached by an adult.

¹⁴ The September IEP was revised November 15, 2019 and contains progress notes from later in the school year. MCPS Ex. 8.

¹⁵ MCPS Ex. 11, p. 2.

¹⁶ MCPS Ex. 11, p. 2.

- (3) As of April 21, 2020, the MCPS reported the Student did not make sufficient progress to meet this goal. He needed more prompts as the marking period progressed.
- d. Self-Management: Given direct instruction, verbal or visual cues, positive reinforcement, modeling, and fading staff support, the Student will demonstrate attention to instruction and participation in class activities. All of these were to happen in four out of five trials.
- (1) As of November 8, 2019, the MCPS reported the Student made sufficient progress to meet this goal, but he needed individual prompts to stay on task and follow teacher directions.
- (2) As of January 24, 2020, the MCPS reported the Student did not make sufficient progress to meet this goal. The Student did not show active listening skills. He required prompts to get materials and start tasks. He regressed during this marking period.
- (3) As of April 21, 2020, the MCPS reported the Student did not make sufficient progress to meet this goal. The Student very rarely participated in class unless called upon and prompted, even with an alert. He did not ask for support in class.
- e. Self-Management: Given direct instruction, opportunities for guided practice, fading adult support, and a menu of coping strategies, the Student will select a coping strategy and implement the strategy when feeling anxious. All of these were to happen in four out of five trials.
- (1) As of November 8, 2019, the MCPS reported the Student made sufficient progress to meet this goal, but he was reluctant to share what he needed or what frustrated him most of the time.
- (2) As of January 24, 2020, the MCPS reported the Student did not make sufficient progress to meet this goal. He rarely engaged in conversations to discuss situations that caused him anxiety.
- (3) As of April 21, 2020, the MCPS reported the Student did not make sufficient progress to meet this goal. He rarely engaged in discussions with adults regarding any situations that caused him anxiety.

29. The student assistant noticed that after a good start at [REDACTED], the Student exhibited a negative response to school in the fall of 2019. During the time they were working together after school, he would not do his work. He would go limp on the floor. He said he felt stupid at [REDACTED].

30. In November 2019, the Student's teachers completed progress reports regarding the Student's performance.¹⁷

- In Information Literacy, the Student's performance was satisfactory in the areas of understanding information presented orally, speaking in complete sentences; organizing his notebook, completing assignments by due date, arriving with necessary materials, socializing at appropriate times, focusing on instruction/activity, interacting with staff and students, and raising his hand to be called on. He seldom participated in class discussion. He had trouble contributing to group discussions. It took him about five minutes to process a question before responding. He had difficulty turning in lengthy assignments. He required someone to sit with him to help him focus.
- In Physical Education, the Student's performance was satisfactory in the areas of understanding information presented orally, understanding class readings, organizing his notebook, completing assignments by the due date, arriving with the necessary materials, socializing at the appropriate times, requesting accommodations, focusing on instruction/activity, working collaboratively with team members, interacting with staff and students, problem solving when stressed, and raising his hand to be called on. He had difficulties speaking clearly in class and contributing during class discussions. He needed to work on his gross motor skills. He was scared to talk in front of the class. He rarely spoke.
- In English, the Student's performance was satisfactory in the areas of reading accurately and fluently, understanding class readings, organizing his notebook, socializing at appropriate times, working collaboratively with team members, interacting with staff and students, and raising his hand to be called on. His work on the District Common Assessments was below grade level. There were concerns in his ability to interpret lengthy text, keep up with longer readings, understand information presented orally, speak in complete sentences and clearly, complete his assignments by the due date, arrive with the necessary materials, contribute during class discussions, request accommodations, focus on instruction/activity, and problem solve when stressed. The Student was very quiet in class. He struggled to come up with ideas even when provided graphic organizers, guided questions, and small group discussions with peers and adults. His writing lacked detailed and relevant supports. He took a long time to respond orally and in writing. He often needed additional prompts to answer a question or continue a task. His comprehension of facts was good when given multiple choice, but he struggled to make inferences and converse about the reading. He required prompts even to get a pencil to do the work.

¹⁷ Parent Ex. 4.

- In Math, the Student's performance was satisfactory in the areas of math concepts and basic operations. He understood the information presented orally, socialized at appropriate times, requested accommodations, worked collaboratively with team members, and interacted with students. Areas of concern included applying math, speaking in complete sentences and clearly, organizing his notebook, completing his assignment by the due date, arriving with necessary materials, contributing during class discussion, focusing on instruction/activity, interacting with staff, and problem solving when stressed. Although he showed some understanding of math concepts after repetition and practice, he often had trouble applying background knowledge or skills to new problems. He needed prompts to respond to questions. His notebook was often disorganized; his teacher and case manager assisted him in organizing it. He did not always complete his homework. He did not advocate for himself when he did not understand a concept or when he needed something, such as a pencil.
- In Global Humanities (Social Studies), the Student's performance was satisfactory in the areas of reading accurately and fluently, understanding class readings, interpreting lengthy text, keeping up with longer readings, understanding information presented orally, understanding class readings, speaking in complete sentences to express ideas, speaking clearly, socializing at appropriate times, requesting accommodations, interacting with staff and students, problem solving when stressed, and raising his hand to be called on. There were concerns in the areas of organizing his notebook, completing assignments by the due date, arriving with the necessary materials, contributing during class discussions, focusing on instruction/activity, working collaboratively with team members. He did well on assessments and understood the content presented but struggled to understand writing prompts and organize his ideas in an effective manner. He had great difficulty getting started on tasks, especially writing. He had difficulty organizing materials, focusing, and completing assignments.
- In Science, the Student's performance was satisfactory in the areas of arriving with the necessary materials, socializing at the appropriate times, requesting accommodations, interacting with students, problem solving when stressed, and raising his hand to be called on. Areas of concern included reading accurately and fluently, understanding class readings, interpreting lengthy text, keeping up with longer readings, understanding the information presented orally, understanding class readings, speaking in complete sentences to express ideas, speaking clearly, organizing his notebook, completing assignments by the due date, contributing during class discussions, focusing on instruction/activity, working collaboratively with team members, and interacting with staff. He was extremely quiet in class and rarely participated. He had difficulty getting started each day; the teacher was required to personally persuade him to open his binder and find the work he needed to have out or turn in. He required extra prompts to work with partners, even after the activity was underway. He was very kind and often smiled but could not work independently.

31. On November 15, 2019, the Student’s IEP was revised to add a calculator to his assistive technologies throughout the day.¹⁸

32. In Quarter 1 the Student failed progress checks in math calculation and math problem solving. In Quarter 2, the Student failed an English progress check and a math progress check, despite being given extended time. In Quarter 3, the Student failed formative assessments in math calculation and math problem solving.

33. The Student received the following grades in his core academic classes during the first three marking periods of the 2019-2020 school year:¹⁹

	MP 1	MP 1	MP 1	MP 2	MP 2	MP 2	MP 3	MP 3	MP 3
Class	Grade	Participation ²⁰	Assign. Compl.	Grade	Participation	Assign. Compl.	Grade	Participation	Assign. Compl.
Global Humanities	A	C	O	C	S	S	C	S	R
Math	C	S	O	D	S	S	D or no grade ²¹	S	S
Science	B	S	S	C	S	O	B	S	C
Advanced English	C	R	R	D	R	R	C or D ²²	R	R
Related Studies	A	C	S	C	R	R	C or E ²³	R	R

¹⁸ MCPS Ex. 8.

¹⁹ MCPS Ex. 32.

²⁰ Codes for Participation and Assignment Completion categories are as follows:

- C Consistently
- O Often
- S Sometimes
- R Rarely

²¹ The evidence shows a D was earned but also shows that the Student earned no grade for this marking period due to incomplete work coinciding with the pandemic shutdown. MCPS Exs. 32 and 11, p. 2.

²² The final report card, MCPS Ex. 32, showed he earned a C in this marking period, but in another report, the grade is reported as D. P. Ex. 8, p. 19.

²³ The final report card, MCPS Ex. 32, showed he earned a C in this marking period, but in another report, the grade is reported as E. P. Ex. 8, p. 19.

34. The Student received the following grades in his elective courses during the first three marking periods of the sixth grade:

	MP1	MP1	MP1	MP2	MP2	MP2	MP3	MP3	MP3
Class	Grade	Participation	Assign. Compl.	Grade	Participation	Assign. Compl.	Grade	Participation	Assign. Compl.
Arts	B	S	C						
Phys Ed	A	C	O						
Info Comm Tech				B	O	O			
Health Ed				D	S	S			
Art							A	C	C
Phys. Ed							B	O	C

35. Participation and assignment completion do not factor into grades.

36. During the 2019-2020 school year, the Parents and school staff emailed each other regarding the following issues the Student was encountering in school:

- September 27, 2019: Ms. [REDACTED] emailed that Parents that she was working with the Student to organize his binder; he required repeated prompts in all classes; he did well on a story elements quiz; and he did not complete his reading homework.
- October 2, 2019: Ms. [REDACTED] emailed the Parents that she was helping the Student organize his binder; that the Parents should follow up with his doctor regarding his AD/HD; that he required prompts every 2-3 minutes. This was in response to an email from the Parents regarding the Student's disorganization, AD/HD, inability to complete homework, and use of a student assistant.
- October 11, 2019: Ms. [REDACTED] emailed the Parents that the Student was struggling to complete classwork, even with extra time, and that he looked at a book but did not complete any work independently. The Parents responded that he complained the reading level was too simple for him.
- October 16, 2019: Ms. [REDACTED] emailed the Parents regarding incomplete work.
- November 10, 2019: The Parents emailed to ask about incomplete work, as reflected in the Student's report card. Ms. [REDACTED] replied to explain where his homework could be located, and the Parents replied they would continue to assist the Student find and complete his work.
- November 13, 2019: The Parents notified Ms [REDACTED] that the Student's behavior at home was deteriorating; he was angry; he refused to do his work; he asked whether he was bipolar.

- November 26, 2019: The Parents emailed Ms. [REDACTED] that the Student tore his math book up, thinking that would mean he would have no homework to do. He also refused to complete his social studies project and his binder contents got scattered and damaged. Ms. [REDACTED] replied that his refusal to do homework would negatively impact his school performance and that he had never exhibited that behavior at school. She agreed to provide him with a new math packet.
- December 5, 2019: The Parents emailed [REDACTED], the school counselor, with a copy to Ms [REDACTED], to report that the Student voiced that he hates school and wanted to be home schooled. He did not want to go back. He had a troubling interaction with a girl at the lunch table. They described how rigid and inflexible he can be. They reported they hired a therapist to assist them. Ms. [REDACTED] replied that the school was also experiencing refusal to do work and that he was not completing work. She planned to meet with school staff to come up with strategies.
- December 18, 2019: Ms. [REDACTED] emailed the Parents that the Student required one-to-one assistance to complete a graphic organizer in Related Studies; he did not talk and wrote only one sentence out of eight. He lost the original paper and refused to do further work. She wrote this behavior was increasing across all academic areas and she did not know how to motivate him when he refused to communicate. She reported the Student refused to pick up a pencil to be prepared for the next class, even after five prompts. The Parents replied that the Student had become more challenging in assisting him to complete homework and that his papers are disorganized so that it is difficult to discern what work he had to do. They wrote that he had a new counselor.²⁴
- January 8, 2020: The Parents emailed Ms. [REDACTED] to discuss the Student's absence the previous week, his being behind on work, struggling in school, failing a math quiz and lack of understanding of work. Ms. [REDACTED] replied that the Student was struggling "to get into a groove at school" and needed continued prompts. She worked with the Student one-to-one on math.
- January 10, 2020: Ms [REDACTED] emailed the Parents that the Student did not complete his English homework and refused to do work in Related Studies.
- January 14, 2020: Ms. [REDACTED] emailed the Parents that the Student refused to do work in Related Studies and sat in class ripping up small pieces of yellow paper. He did complete the first part of the English progress check. She asked for a parent conference. She mentioned a book of spells he brought to school and the Parents responded that he wanted the book to help him make friends.
- January 31, 2020: Ms. [REDACTED] emailed the Parents that the Student did not complete any of his notes in class or for homework. She mentioned a modification to his work to simplify a speech he was to make in class. She asked to meet with the Parents to discuss his lack of work completion.

²⁴ Emails up to this point are contained in Parent Ex. 6.

- February 3, 2020: Ms. [REDACTED] emailed that the Student refused to open his Chromebook in Related Studies and he did not engage with the other students at all.
- February 6, 2020: Ms [REDACTED] emailed the Parents that the Student was refusing to do any work in class at all. He received a 4/8 on a math progress check and completed no homework. He did not complete his English graphic organizer homework. The Parents responded that he was refusing to do work at home, too.
- February 13, 2020: There were several emails between Ms. [REDACTED] and the Parents regarding work not being completed, the Student not understanding the homework assignment, the Student needing second-by-second prompts to do work, his refusal to do work in Related Students and English, eating paper in class, and using scissors at inappropriate times.
- February 26, 2020: The Student's anxiety over participating in physical education was reported. The physical education teacher gave him a choice of participating in team activities or using the time to write. Ultimately, the Student chose to continue to participate.
- February 27, 2020: Ms [REDACTED] reported that the Student's lack of engagement in school was consistent in most of his classes and was negatively impacting his grades. She listed his missing assignments. She wrote he was behind in English.
- March 11, 2020: Ms [REDACTED] emailed the Parents that the Student would not respond to questions even after waiting for fifteen minutes. She referred him to Guidance because he sat in class cutting paper and not completing any work. She wrote his lack of completion of classwork was having a negative impact across all content areas. All of his teachers reported the same deficiencies to her. She asked for strategies to assist him.
- March 13, 2020: Virtual learning was imposed.
- April 3, 2020: The Parents reported the Student was now taking medication and that he was anxious about being seen on camera. Ms. [REDACTED] responded that all students were permitted to turn off the video.
- May 18, 2020: Ms [REDACTED] emailed that she was pursuing an Autism consult for the Student.
- June 2, 2020: The Parents emailed Ms. [REDACTED] that the Student was overwhelmed and would not participate in Zoom calls, including in physical education and music.²⁵

²⁵ The emails up to this point are contained in P. Exs. 8 and 43.

37. Ms. [REDACTED] recommended an Autism consult be completed to assist her in developing strategies to support the Student, but it was not done. The MCPS did not consider Autism-specific programming for the Student until December 11, 2020.

38. During the 2019-2020 school year, the Student had a visceral reaction against homework. His father helped him with homework and organizing his work for the next day, but the Student rarely completed all of the work that was sent home, including classwork. The Parents had difficulty helping him organize his binder and papers for all of the schoolwork he brought home. Had they and the student assistant not helped him complete his classwork and homework, he would not have finished it.

39. On or about March 13, 2020, the MCPS shut down in-person learning for all students due to the COVID-19 pandemic.

40. For approximately three weeks after the shutdown was imposed, the MCPS students were not required to attend class. When classes started up, disabled and non-disabled students attended virtually.

41. On April 8, 2020, the MCPS created a Distance Learning Plan, modifying the Student's IEP to apply to virtual learning.²⁶ Class schedules were somewhat chaotic as adjustments to virtual learning were made.

42. The Distance Learning Plan provided for seven Supplementary Aids and Services that could be implemented from home.

43. Once virtual learning began, class times were extended to fifty minutes. The Student could not sustain his attention to class for that long.

²⁶ MCPS Ex. 10.

44. The student assistant was able to attend her own virtual courses at odd hours, enabling her to sit with the Student throughout his school day and assist him in participating virtually.

45. So long as the Student did not have to participate on camera, he was able to do the work. When asked a question by a teacher who expected a verbal response, however, he could not respond. Once when he delayed by fifteen minutes, the teacher hung up, thinking he was not there.

46. He was able to answer questions on the [REDACTED] platform, which permits students to answer questions in writing. The Student performed well on a competitive [REDACTED] exercise in English, where he placed on the leaderboard.

47. Many accommodations were made in an attempt to help the Student complete his work. For example, in a Related Studies assignment, the Student was required to only identify one character trait in secondary characters as opposed to several.

48. For the first two months of virtual learning (mid-March to mid-May), so long as the student assistant gave him frequent breaks during their time together, the Student was able to complete a lot of the required schoolwork. The student assistant worked with him throughout the day when the Student was at his mother's house. His father helped him during the weeks he was at the father's house.

49. In May the Student's work and attitude declined. He occasionally lashed out at the student assistant physically in frustration, screamed, or had "meltdowns."

50. The MCPS offered "Office Hours" after the shutdown, which was a time to join with other students and teachers on line to discuss work and socialize with peers. There were over fifteen students on a call. The Student was present at some of those Office Hours, but never turned his camera or microphone on.

51. In March 2020, the Parents hired an educational consultant to evaluate the Student. Dr. [REDACTED] provided the MCPS with an authorization for information, obtained the Student's records, and intended to observe the Student in class, but the shutdown was imposed before she could schedule an observation.

52. In the 2019-2020 school year final marking period, which coincided with the pandemic shutdown and transition to virtual learning, all students received a passing grade in all classes.²⁷ No new instruction was provided. There was no consistency in online platforms across classes. Very little was expected of the students.

53. The Student received the following final grades in his core academic classes in sixth grade:

Global Humanities	B
Math	C
Science	B
Advanced English	C
Related Studies	B

54. The Student made some educational progress during the sixth grade, but only because he received so much assistance from his Parents and student assistant at home.

55. He did not make progress socially or emotionally or in self-management.

June 2020 IEP

56. An IEP meeting was convened on May 18, 2020, and Dr [REDACTED] and the Parents attended. Dr. [REDACTED] questioned the OHI coding and asked why the Student was not coded as ASD. She asked whether an Autism consult had been pursued. Because no psychologist was present, the coding could not be changed, so the meeting was rescheduled to June 1, 2020.

²⁷ The evidence did not establish the weight given to passing grades when final grades for the year were calculated.

57. Dr [REDACTED] and the Parents also participated at the IEP meeting on June 1, 2020. A psychologist was present at this meeting. The Student's disability code was changed to ASD.

58. The Parents requested that an Autism-specific program be considered, but the MCPS denied that request. The Parents also requested that the Student's case be referred to a Central IEP meeting, but the MCPS denied that request.

59. Instead, the June 1, 2020 IEP kept the Student placed at [REDACTED], in [REDACTED].²⁸ The IEP kept the Student in co-taught, general education classes for his academics—math, science, social studies, and English—providing for a special educator and paraeducator in each class. He was placed in a self-contained classroom only for Related Studies. Counseling services were added to this IEP for two thirty-minute sessions per month with the school counselor or psychologist. Counseling-based strategies would be suggested to the teachers to incorporate throughout the day.

60. The IEP team considered the Student's performance in sixth-grade math in developing this placement. The team noted his work completion declined at the beginning of the third quarter; that he was unwilling to take out materials even with multiple prompts; that he would not respond to staff; and that he struggled to apply known strategies in a new way. The team knew he was failing math based on the following assessment results:

- Progress Check MP 1 7/14
- Progress Check MP 2 11/19
- Learning Check Exponents 6/10
- Formative Assessment Unit 3 Topic 1 8/16
- Formative Assessment Unit 3 Topic 2 10/20

61. The IEP team determined the Student's disability affects his involvement in the general education curriculum as follows: The Student's ASD, which impacts social communication and interaction, coupled with his identification of AD/HD, predominantly

²⁸ MCPS Ex. 13.

inattentive type, impacts executive functioning (organization, flexibility, initiation, monitoring, planning, attention), written language, math problem solving, and social/emotional problem solving when stressed.

62. One goal was added to the goals contained in the previous IEP: In the area of Behavioral-Social Interaction Skills— Given direct strategy instruction, opportunities for guided practice, adult proximity and modeling, visual and sensory support, the Student will interact with peers across the school day.

63. The June IEP included twenty-six Supplementary Aids and Services (SAS) including Adult Support on a periodic basis.²⁹ These SASs addressed the Student's need for extended time, organizational assistance, pre-alerts and repetition of directions, frequent and immediate feedback, social problem-solving strategies, and communication skills, among other things.

64. The June IEP included fifteen instructional and assessment accessibility features. The basis for these accommodations included:

- The Student requires redirection and graphic organizers due to his variable attention and needs in the area of written expression.
- The Student requires small groups, frequent breaks, and reduced distractions due to his variable attention, task initiation/completion, and needs in the area of written expression.
- The Student requires the use of notes and outlines due to his variable attention, task initiation/completion, and needs in the area of written expression.
- The Student requires the use of a calculator, speech-to-text, and monitored test response due to his variable attention, task initiation/completion, and needs in the area of written expression and problem solving.
- The Student requires extended time variable attention, task initiation/completion, and needs in the area of written expression.

²⁹ MCPS Ex. 13.

65. The June 2020 IEP contemplated the Student would return to in-person learning at ██████ for seventh grade. Instead, students began the 2020-2021 school year in a virtual format.

66. On June 5, 2020, the MCPS issued a Prior Written Notice that contained the Student's Distance Learning Plan.³⁰ The Distance Learning Plan provided for eleven SASs to be implemented from home, including Adult Support.

67. The IEP called for the Student to take Health in seventh grade in general education with SASs employed. The Student had received a D in Health in sixth grade.

68. In mid-July 2020, the MCPS determined all students would remain virtual when school resumed in the fall of 2020.

Seventh Grade at ██████ (August 31 – October 2, 2020)

69. The Student began his seventh-grade year at ██████ on August 31, 2020. The Student participated in school virtually.

70. The student assistant continued to sit with the Student and assist him in accessing the virtual classrooms. Beginning August 31, 2020, the student assistant was with the Student every day because the father would bring him to the mother's home even during the weeks the Student was staying at his father's home. Thus, he had constant, one-to-one support.

71. The Student's performance at this time was the worst the student assistant had witnessed. He lost attention during the fifty-minute classes. He refused to turn on the camera. He slammed the computer shut and sat below the table. He would only participate via the chat feature. He got agitated as the first day of school wore on and was impatient with the student assistant. He required constant prompting, help, and modifications.

72. ██████ was assigned as the Student's case manager at ██████. She was the Student's special education case manager and co-taught his English and math classes. She

³⁰ MCPS Ex. 12.

also observed him in [REDACTED], a twice-weekly social-emotional learning time to help students during COVID.

73. Ms. [REDACTED] was essentially unable to employ the numerous behavioral strategies she would normally use to engage the Student in class, because he was unable to participate on camera or interact in class in any meaningful way. Relationship building with the seventh-grade teachers and students proved very difficult.

74. The teachers could see online that the Student was not opening the assignments or attempting to try to do them.

75. Ms. [REDACTED] assisted the Student by having teachers agree he could participate in class with his camera and audio turned off. She encouraged teachers to stay after class to speak to the Student on camera with no other students present. She also helped arrange for the Student to choose one or two other students to join the Student in a break out room, an approach used to help him engage with other students.

76. Ms. [REDACTED] realized early in the school year the Student required more redirection, attention, breakdown of directions, and modifications than [REDACTED] was providing. [REDACTED] could not provide the level of support he needed.

77. During the 2020-2021 school year, the Parents and the MCPS school staff emailed each other regarding the following issues the Student was encountering in school:

- August 31, 2020: The Parents emailed staff that the Student refused to participate on camera and was hiding under his desk. He would only respond using the chat feature.³¹
- September 1, 2020: The Parents emailed that the Student was too nervous to participate in breakout rooms.
- September 3, 2020: School staff emailed to report two of them stayed after class to talk to the Student on camera.

³¹ P. Ex. 12.

- September 3, 2020: Ms. [REDACTED] emailed other teachers to report the Student was very anxious, at times escalating to agitation, regarding using breakout rooms. They permitted the Student to turn off his camera and respond to prompts in the chat, working his way up to participating on camera. There were further emails regarding choosing a few students with whom the Student could participate in breakout rooms.
- September 9-10, 2020: The Parents or his student assistant emailed the school to report he would be absent because he was interviewing at another school.
- September 14, 2020: The student assistant emailed to report the Student's struggles in school, saying he was burned out.
- September 15, 2020: Emails were exchanged about the necessity for the Student to keep his camera on to participate in statewide assessments.
- September 16-17, 2020: Emails were exchanged reporting that the Student was admitted into [REDACTED]. The Parents or student assistant report that the Student was refusing to participate in class on September 17, 2020. The Parents requested he be given an abbreviated schedule at [REDACTED] pending his move to [REDACTED].³²

October 2, 2020 to present

78. On September 21, 2020, the Parents notified the MCPS in writing that they were withdrawing the Student from [REDACTED] effective October 2, 2020 and enrolling him in [REDACTED].

79. In a Prior Written Notice issued September 24, 2020, the MCPS did not modify its recommendation that the Student be placed in co-taught, general education classes for his academic courses, a self-contained class for Related Studies, and general education classes for all electives.³³

80. On October 2, 2020, the Parents provided to the MCPS a report written by Dr. [REDACTED] based on Dr. [REDACTED]' report, her observations of the Student in a virtual class, testing she conducted in August 2020, conversations with the Parents, and her interactions with the

³² Emails up to this point are contained in MCPS Ex. 45.

³³ MCPS Ex. 15.

Student.³⁴ Dr. ██████ conducted the WJ-IV, Gray Oral Reading Tests-Fifth Edition Form A (GORT-5), and the Gray Silent Reading Tests Form A (GSRT).

81. Standard scores from the WJ-IV administered in 2020 were as follows:

<u>Reading</u>		
• Letter-Word Identification	114	High average
• Passage Comprehension	103	Average
• Oral Reading	84	Below average
• Sentence Reading Fluency	90	Bottom average
<u>Math</u>		
• Applied Problems	84	Low average
• Calculation	68	Very low
• Math Facts Fluency	61	Very low
<u>Written Expression</u>		
• Spelling	111	High average
• Writing Samples	98	Average
• Sentence Writing Fluency	80	Low average

82. On the GORT-5, which tested the areas of reading speed and comprehension, he scored Below Average, at the 16th and 9th percentiles, respectively. His accuracy score was at the 37th percentile. In written language and spelling, he scored in the Average to High Average Ranges, but in writing fluency, he scored in the Low Average Range, at the 9th percentile.

83. Dr. ██████ concluded the Student had made educational progress in reading, passage comprehension, and spelling. His math skills and writing fluency scores remained low.

84. Dr. ██████ found the Student tested higher on one-to-one testing than he performed at school.

85. On October 8, 2020, the MCPS revised the June 2020 IEP to reflect the Student's withdrawal from ██████.³⁵

³⁴ MCPS Ex. 16 and P. Ex. 11.

³⁵ MCPS Ex. 21.

86. After receiving Dr. [REDACTED]'s report from the Parents, the MCPS scheduled a meeting to review the report. The IEP team met on November 2, 2020. The Parents and Dr. [REDACTED] participated. Staff from [REDACTED] joined the meeting virtually. Because no psychologist was present at the meeting to review Dr. [REDACTED]'s report, the meeting was continued to December 11, 2020.

December 2020 IEP³⁶

87. The IEP team met on December 11, 2020, to review and revise the June 2020 IEP. The Parents were present, as well as Dr. [REDACTED], [REDACTED], Program Specialist in the MCPS Autism Unit, participated in the meeting. This was her first meeting involving the Student. Her office had not been asked to participate in the June 2020 meeting.

88. This time, the IEP team recommended the Student be placed in the [REDACTED] ([REDACTED]) program at [REDACTED] Middle School ([REDACTED]). He was placed in self-contained classes for math, English, and Related Studies, with four to five students, a special educator, and a paraeducator. He was placed in co-taught, general education classes for social studies and science, with the general educator, special educator, and two paraeducators. He was placed in general education for all electives and lunch, with some support present.

89. The [REDACTED] program is for diploma-bound students in grades six through twelve. State assessments are required. Generally, [REDACTED] students are working two to three years below grade level in reading, math, and writing, with some social deficits and repetitive language or behaviors. The pace of work is modified, and social skills are addressed in the moment as well as in a resource class.

90. Staff in the [REDACTED] program are trained to incorporate Autism-specific strategies throughout the day and in all classes.

³⁶ MCPS Ex. 24.

91. The [REDACTED] program attempts to keep four to five special education students together in a “cohort” in the general education classes.

92. The [REDACTED] recommendation was based on the team’s opinion that the Student required the smaller self-contained classes that [REDACTED] offers to support his educational needs.

93. The co-taught, general education classes would have had twenty-five to thirty-two students, including the special education students.

94. When the IEP was written, the placement was erroneously written for four self-contained classes for the academic courses, plus a self-contained Related Studies class, and an interpreter.³⁷

95. After an initial Due Process Request was filed in January 2021,³⁸ the MCPS found the error and corrected it on March 13, 2021, by revising the IEP. This IEP placed the Student in the [REDACTED] program, but in only two self-contained academic classes, math and English, and a self-contained Related Studies class, kept him in general education for social studies and science, and removed the provision of an interpreter.³⁹ This corrected IEP reflected what the MCPS IEP team members decided on in December 2020.

96. A math calculation goal was added to the December 2020 IEP: Given teacher modeling, preferential seating, use of manipulatives, and opportunities for practice and repetition, the Student will represent and solve problems involving addition, subtraction, and multiplication.

97. Three SASs were added to the IEP. No changes were made to the Student’s accommodations.

³⁷ MCPS Ex. 26.

³⁸ P. Ex. 1.

³⁹ MCPS Ex. 28.

98. The Parents objected to the December 2020 IEP and requested placement at

██████████⁴⁰.

Seventh Grade at ██████████

99. On October 5, 2020, the Student began attending ██████████ a private, separate, special education school. The Student remains enrolled at ██████████ in the ██████████ ██████████ Program.

100. The student assistant moved to ██████████ to attend college. Her transition coincided with the Student's move to ██████████.

101. From October 5, 2020 to March 15, 2021, the Student attended ██████████ virtually.

102. The Student participated independently on the remote platform used by ██████████. He did not have anyone sitting with him to assist him. He got online by himself and participated in class. He looked forward to school. He completed his classwork in class. ██████████ does not assign homework.

103. ██████████ is the Student's case manager at ██████████.

104. In ██████████ academic classes, there are three students, including the Student, with one content teacher. In non-academic classes, there are up to twelve students, including the student, plus Ms. ██████████ and two other adults.

105. The Student responded positively to the methods used by ██████████ staff to engage students with Autism and communication issues. They refocused the Student every twenty seconds, gave him frequent breaks, and started classes with games. He earned points for activities, something that motivated the Student to participate. He did not shut down or refuse to

⁴⁰ MCPS Ex. 25.

work. They used the Active Student Responding method and the Errorless Teaching model in all academic classes to prompt the Student to verbally respond.

106. Students at ██████ are grouped by academic level. In academic classes, sixth and seventh graders are grouped together. In non-academics and at lunch, homeroom, and recess, children from fourth through eighth grade are grouped together. The Student is involved in non-academic courses about 50% of the day.

107. ██████ developed an IEP for the Student using the IEP developed by the MCPS. Quarter 2 Progress Reports dated January 7, 2021,⁴¹ showed the following:

- Written Language Content: Given a proofreading checklist, list of transition words, sentence starters, and adult support, the Student wrote arguments to support claims with clear reasons and relevant evidence in 4 out of 4 trials.
- Math Problem Solving: Given direct instruction in solving mathematical calculation and word problems, repeated practice, math tools and a calculator, the Student solved problems across the curriculum in 6 out of 10 trials. He identified the question that was asked of him in 8 out of 10 trials and identified applicable strategies to solve those problems in 6 out of 10 trials. He struggled to explain mathematical ideas in written form or give alternative way to solve problems.
- Self-Management: Given direct strategy instruction, cues for attention, repetition of directions, visual reminders, and fading staff support, the Student completed assigned tasks within designated time frame across the school day in 4 out of 5 trials. He gathered necessary materials prior to beginning work in 5 out of 5 trials. With a verbal prompt, he asked for help from his teacher when he required additional information or clarification of directions to complete tasks in 4 out of 5 trials.
- Self-Management: Given direct instruction, verbal or visual cues, positive reinforcement, modeling, and fading staff support, the Student participated in class activities and discussions in 4 out of 5 trials. He demonstrated active listening skills during instruction in 4 out of 5 trials. He responded to teacher instructions and showed that he was ready to work in 5 out of 5 trials. He initiated tasks when directions to do so were given in 4 out of 5 trials.

⁴¹ P. Ex. 31, pp. 1-2.

- Self-Management (Social Interaction Skills): Given visual support, the Student did not interact with peers or adults in 5 trials. However, with prompts, in individual sessions with the speech-language Pathologist, the Student engaged in reciprocal conversations for a least three volleys in 3 out of 3, 5 out of 5, and 3 out of 4 trials, measured across 3 sessions.
- Social Emotional/Behavioral: The Student did not meet his goal of implementing a coping strategy when feeling anxious, frustrated, or worried in 4 out of 5 trials, but he did develop a therapeutic relationship with the two mental health providers at [REDACTED]. With their assistance, he did develop strategies for coping but at this point, required continued work to implement them.

108. Quarter 3 Progress Reports dated March 26, 2021,⁴² showed the following:

- Written Language Content: Given a proofreading checklist, list of transition words, sentence starters, and adult support, the Student wrote arguments to support claims with clear reasons and relevant evidence in 4 out of 4 trials.
- Math Problem Solving: Given direct instruction in solving mathematical calculation and word problems, repeated practice, math tools and a calculator, the Student solved problems across the curriculum in 7 out of 10 trials. He identified the question that was asked of him in 10 out of 10 trials and identified applicable strategies to solve those problems in 8 out of 10 trials. He struggled to explain mathematical ideas in written form or give alternative way to solve problems.
- Self-Management: The Student demonstrated mastery of the goal. Given direct strategy instruction, cues for attention, repetition of directions, visual reminders, and fading staff support, the Student completed assigned tasks within designated time frame across the school day in 4 out of 5 trials.
- Self-Management: The Student demonstrated mastery of this goal. Given direct instruction, verbal or visual cues, positive reinforcement, modeling, and fading staff support, the Student participated in class activities and discussion in 4 out of 5 trials.
- Social Interaction Skills: The Student made slow progress on his social interaction skills.
- Social Emotional/Behavioral: The Student made slow progress in developing and implementing coping strategies when feeling anxious, frustrated, or worried by doing so in 2 out of 5 trials.

⁴² P. Ex. 31, pp. 2-3.

109. While at [REDACTED], the Student continued to struggle in English and math, requiring significant support and prompts in those classes. He read at a 7th grade level and read accurately and fluently, but there were concerns in his ability to interpret lengthy texts. He worked on a 6th grade level in math, with support, and there were concerns in his ability to grasp math concepts, basic operations, math application, and abstract and quantitative reasoning.⁴³ He worked at grade level in social studies and science.

110. He satisfactorily kept his notebook organized and arrived with the necessary materials, but there were concerns in completing the assignments by the due date. He satisfactorily contributed during class discussion, focused on instruction/activity, and worked collaboratively with team members, but there were concerns with socializing at appropriate times and requesting accommodations. He satisfactorily interacted with staff, but there were concerns with his interactions with students, problem solving when stressed, and raising his hand to be called on.

111. Beginning March 15, 2021, the Student attended [REDACTED] classes on campus two days per week and participated remotely three days per week. He did not refuse to participate in academic classes, but occasionally refused to participate in non-class activities. For example, once in study hall, he shut down when asked to make up math work.

112. The Student made a good friend at [REDACTED]. He had opportunities to socialize with students. For example, in a speech class, the Student and two other students practiced communication skills under the supervision of a teacher.

113. The Student felt included at [REDACTED]. He did not feel singled out. He did his school work independently, without adult assistance at home.

⁴³ P. Ex. 34. These progress reports were undated.

114. Because the Student's social skills are more advanced than some of the [REDACTED] students, he participated with two other students in a [REDACTED] [REDACTED]. He does not yet socialize as a nondisabled seventh grader would, however.

DISCUSSION

Burden of Proof

The standard of proof in this case is a preponderance of the evidence. *See* 20 U.S.C.A. § 1415(i)(2)(C)(iii); 34 C.F.R. § 300.516(c)(3). To prove an assertion or a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002). The burden of proof rests on the party seeking relief. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005); COMAR 28.02.01.21K(1), (2)(b). In this case, the Parents are seeking relief and bear the burden of proof to show that MCPS failed to offer the Student a FAPE for the 2020-2021 school year and that they are entitled to be reimbursed for their unilateral placement of the Student at [REDACTED] during that school year. For the reasons the follow, I find the Parents have met this burden as to the first two quarters of the 2020-2021 school year and are entitled to partial reimbursement.

Legal Framework

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; Educ. §§ 8-401 through 8-417; and 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* Educ. § 8-403.

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) of the U.S.C.A. 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* Educ. § 8-401(a)(2); 34 C.F.R. § 300.8; and COMAR 13A.05.01.03B(78).

The Supreme Court addressed the FAPE requirement in *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982), holding that FAPE is satisfied if a school district provides “specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child.” *Id.* at 201 (footnote omitted). The Court set out a two-part inquiry to analyze whether a local education agency satisfied its obligation to provide FAPE: first, whether there has been compliance with the procedures set forth in the IDEA; and second, whether the IEP, as developed through the required procedures, is reasonably calculated to enable the child to receive some educational benefit. *Id.* at 206-07.

The *Rowley* Court found, because special education and related services must meet the state’s educational standards, that 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; that is, generally, to pass from grade-to-grade on grade level. *Rowley*, 458 U.S. at 204; 20 U.S.C.A. § 1401(9).

The Supreme Court recently revisited the meaning of a FAPE, 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. *Endrew F. v. Douglas Cty. Sch. Dist.*, 137 S. Ct. 988 (2017). Consideration of the student's particular circumstances is key to this analysis; the Court emphasized in *Endrew F.* that the "adequacy of a given IEP turns on the unique circumstances of the child for whom it was created." *Id.* at 1001.

COMAR 13A.05.01.09 defines an IEP and outlines the required content of an IEP as a written description of the special education needs of a student and the special education and related services to be provided to meet those needs. The IEP must take into account:

- (i) the strengths of the child;
- (ii) the concerns of the Parents for enhancing the education of their child;
- (iii) the results of the initial evaluation or most recent evaluation of the child; and
- (iv) the academic, developmental, and functional needs of the child.

20 U.S.C.A. § 1414(d)(3)(A).

Among other things, the IEP depicts a student's current educational performance, explains how the student's disability affects a student's involvement and progress in the general curriculum, sets forth annual goals and short-term objectives for improvements in that performance, describes the specifically-designed instruction and services that will assist the student in meeting those objectives, describes program modifications and supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals, and indicates the extent to which the child will be able to participate in regular educational programs. 20 U.S.C.A. § 1414(d)(1)(A)(i)(I)-(V); COMAR 13A.05.01.09A.

IEP teams must consider the student’s evolving needs when developing their educational programs. The student’s IEP must include “[a] statement of the child’s present levels of academic achievement and functional performance, including . . . [h]ow the child’s disability affects the child’s involvement and progress in the general education curriculum (i.e., the same curriculum as for non-disabled children) . . .” 34 C.F.R. § 300.320(a)(1)(i). If a child’s behavior impedes his or her learning or that of others, the IEP team must consider, if appropriate, the use of positive behavioral interventions, strategies and supports to address that behavior. *Id.* § 300.324(a)(2)(i). A public agency is responsible for ensuring that the IEP is reviewed at least annually to determine whether the annual goals for the child are being achieved and to consider whether the IEP needs revision. *Id.* § 300.324(b)(1).

To comply with the IDEA, an IEP must, among other things, allow a disabled child to advance toward measurable annual academic and functional goals that meet the needs resulting from the child’s disability or disabilities, by providing appropriate special education and related services, supplementary aids, program modifications, supports, and accommodations. 20 U.S.C.A. § 1414(d)(1)(A)(i)(II), (IV), (VI).

Thirty-five years after *Rowley*, the parties in *Andrew F.* asked the Supreme Court to go further than it did in *Rowley* and set forth a test for measuring whether a disabled student had attained sufficient educational benefit. The framework for the decision was the Tenth Circuit’s interpretation of the meaning of “some educational benefit,” which construed the level of benefit as “merely . . . ‘more than *de minimis*.’” *Andrew F. v. Douglas Cty. Sch. Dist. RE-1*, 798 F.3d 1329, 1338 (10th Cir. 2015).

The Supreme Court set forth a “general approach” to determining whether a school has met its obligation under the IDEA. While *Rowley* declined to articulate an overarching standard to evaluate the adequacy of the education provided under the Act, the decision and the statutory

language point to a general approach: To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.

The "reasonably calculated" qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials. The Act contemplates that this fact-intensive exercise will be influenced not only by the expertise of school officials, but also by the input of the child's Parents or guardians. Any review of an IEP must appreciate that the question is whether the IEP is *reasonable*, not whether the court regards it as ideal.

The IEP must aim to enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement. This reflects the broad purpose of the IDEA, an "ambitious" piece of legislation enacted in response to Congress' perception that a majority of disabled children in the United States "were either totally excluded from schools or [were] sitting idly in regular classrooms awaiting the time when they were old enough to 'drop out.'" *Endrew F.*, 137 S. Ct. at 999 (quoting *Rowley*, 458 U.S. at 179). A substantive standard not focused on student progress would do little to remedy the pervasive and tragic academic stagnation that prompted Congress to act.

That the progress contemplated by the IEP must be appropriate in light of the child's circumstances should come as no surprise. A focus on the particular child is at the core of the IDEA. The instruction offered must be "*specially designed*" to meet a child's "*unique needs*" through an "[i]ndividualized education program." *Endrew F.*, 137 S. Ct. at 998-99 (citations omitted). The Court expressly rejected the Tenth Circuit's interpretation of what constitutes "some benefit": When all is said and done, a student offered an educational program providing "merely more than *de minimis*" progress from year to year can hardly be said to have been

offered an education at all. For children with disabilities, receiving instruction that aims so low would be tantamount to “sitting idly . . . awaiting the time when they were old enough to ‘drop out.’” The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances. *Id.* at 1001 (citation omitted).

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

Ultimately, a disabled student’s “educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives.” *Id.* at 1000. Moreover, the IEP must be reasonably calculated to allow him to advance from grade to grade, if that is a “reasonable prospect.” *Id.*

In addition to the IDEA’s requirement that a disabled child receive educational benefit, the child must be placed in the “least restrictive environment” to achieve a FAPE, meaning that, ordinarily, disabled and non-disabled students should, when feasible, be educated in the same classroom. 20 U.S.C.A. § 1412(a)(5); 34 C.F.R. §§ 300.114(a)(2)(i), 300.117. Indeed,

mainstreaming children with disabilities with non-disabled peers is generally preferred if the disabled student can achieve educational benefit in the mainstreamed program. *DeVries v. Fairfax Cty. Sch. Bd.*, 882 F.2d 876, 878-79 (4th Cir. 1989). At a minimum, the statute calls for school systems to place children in the “least restrictive environment” consistent with their educational needs. 20 U.S.C.A. § 1412(a)(5)(A). Placing disabled children into regular school programs may not be appropriate for every disabled child, and 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.

Because including children with disabilities in regular school programs may not be appropriate for every child with a disability, the IDEA requires public agencies like MCPS to offer a continuum of alternative placements that meet the needs of children with disabilities. 34 C.F.R. § 300.115. The continuum must include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, and make provision for supplementary services to be provided in conjunction with regular class placement. *Id.* § 300.115(b); COMAR 13A.05.01.10B(1). 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. COMAR 13A.05.01.10A(2). In such a case, a FAPE might require placement of a child in a private school setting that would be fully funded by the child’s public school district.

Parents may be entitled to retroactive reimbursement from the state for tuition and expenses for a child unilaterally placed in a private school if it is later determined that the school system failed to comply with its statutory duties and that the unilateral private placement provided an appropriate education. *Sch. Comm. of Burlington v. Dep’t of Educ.*, 471 U.S. 359, 370 (1985); *Florence Cty. School District Four v. Carter*, 510 U.S. 7 (1993). Parents may

recover the cost of private education only if (1) the school system failed to provide a FAPE; (2) the private education services obtained by the parent were appropriate to the child's needs; and (3) overall, equity favors reimbursement. *See id.* at 12-13. The private education services need not be provided in the least restrictive environment. *M.S. ex rel. Simchick v. Fairfax Cty. Sch. Bd.*, 553 F.3d 315, 319 (4th Cir. 2009).

Arguments of the parties

The Parents argued that the Student was struggling throughout his sixth-grade year, before the COVID-19 pandemic caused schools to shut down on March 13, 2020. They noted numerous teacher reports, grade reports, and notifications from the family to the school in addition to their specific request at the June 2020 IEP meeting to consider placing the Student in an Autism-specific program. The MCPS denied that request at the time but granted that request when it met again in December 2020, revising the IEP to place the Student at the [REDACTED] in [REDACTED]. The Parents argued this change was “too little, too late.” Further, the Parents noted that the Student has flourished at [REDACTED] that [REDACTED] represents the appropriate placement for the Student, and that they should, therefore, be reimbursed for tuition and related services from the date they enrolled the Student at [REDACTED].

The MCPS responded that it acted appropriately in June 2020 when it placed the Student at [REDACTED] using the information it had at the time. The change in placement reflected in the December 2020 IEP was based on the new information the MCPS received in the fall of 2020 when students were attending school virtually. As such, it argued that both IEPs (June 2020 and as revised in December 2020) were appropriate and were reasonably calculated to provide FAPE in the LRE, and that reimbursement for the unilateral placement should be denied. Further, it argued that [REDACTED], as a separate, special education school, is not the appropriate placement for the Student because it is not the least restrictive environment.

June 2020 IEP is not reasonably calculated to provide FAPE

To determine whether the June 2020 IEP was reasonably calculated to provide the Student FAPE, we must look to the Student's sixth grade year, when he was attending ██████ first in person and later virtually. He attended co-taught, general education classes in all of his academic areas, and was assigned to a self-contained class only for Related Studies. For all electives and lunch, he was in the general education population.

The MCPS argued their staff did not see all of the troubling behaviors the Parents and the student assistant reported, but the emails being exchanged with Ms. ██████ tell a different story. I have set forth the content of the emails above because they reveal that the Student had an increasingly difficult time participating meaningfully in school for reasons directly related to his disability. I will highlight here a few emails that should have raised red flags for the MCPS.

- September 27, October 2, October 11, October 15, 2019: Ms. ██████ notified the Parents that the Student needed help with organization; required repeated prompts in all classes; did not complete classwork, even with extra time, and did not complete homework. I note this was early in the school year.
- November 10, 13, 2019: The Parents emailed to ask about incomplete work, as reflected in the Student's report card. They notified Ms. ██████ that the Student's behavior at home was deteriorating; he was angry; and he refused to do his work. These problems were also highlighted in the teacher progress reports.
- November 26, 2019: The Parents emailed Ms. ██████ that the Student tore his math book up, refused to complete his social studies project, and his binder contents got scattered and damaged. Ms. ██████ replied that his refusal to do homework would negatively impact his school performance.
- December 5, 2019: The Parents emailed to report that the Student voiced that he hated school and wanted to be home schooled. Ms. ██████ replied that the school was also experiencing refusal to do work and that he was not completing work. She planned to meet with school staff to come up with strategies.
- December 18, 2019: Ms. ██████ emailed the Parents that the Student required one-to-one assistance. She wrote his refusal to work was increasing across all academic areas and she did not know how to motivate him when he refused to communicate.

- January 8, 10, 14, 31, 2020: Ms. [REDACTED] emailed that the Student was struggling “to get into a groove at school” and needed continued prompts. She worked with the Student one-to-one on math. He was not completing homework. He was refusing to work in Related Studies. She asked for a parent conference.
- February 3, 2020: Ms [REDACTED] emailed that the Student refused to open his Chromebook in Related Studies and he did not engage with the other students at all. On February 6, 2020 he refused to do any work in class at all and failed a math progress check.
- February 13, 2020: There were several emails between Ms. [REDACTED] and the Parents regarding work not being completed, the Student not understanding the homework assignment, the Student needing second-by-second prompts to do work, his refusal to do work in Related Studies and English, eating paper in class, and using scissors at inappropriate times.
- February 26, 2020: The Student’s anxiety over participating in physical education was reported. By contrast, he had always enjoyed participating in sports, but simply could not handle competitive games or large numbers of spectators.
- February 27, 2020: Ms. [REDACTED] reported that the Student’s lack of engagement in school was consistent in most of his classes and was negatively impacting his grades.
- March 11, 2020: Ms [REDACTED] emailed the Parents that the Student would not respond to questions even after waiting for fifteen minutes. She referred him to Guidance because he sat in class cutting paper and not completing any work. She wrote his lack of completion of classwork was having a negative impact across all content areas. All of his teachers reported the same deficiencies to her. She asked for strategies to assist him.
- May 18, 2020: Ms [REDACTED] emailed that she was pursuing an Autism consult for the Student.

These emails show Ms. [REDACTED] and the Student’s other teachers knew throughout the year that the Student was refusing to do work, was disorganized, was not completing classwork even with additional time, and was not completing homework. He often required one-to-one adult support, at school and at home. The emails document his steady decline. Furthermore, the updates in the 2019 IEP revealed the Student was not making progress on the goals in

self-management during the second and third quarters.⁴⁴ Those goals addressed attending to tasks and completing academic tasks, demonstrating attention to instruction and participating in class, and implementing a coping strategy when feeling anxious. The staff knew these deficits were impacting his grades in all subjects. This is not to say he did not have some successes. He liked certain subjects and was able to relate to one paraeducator and one teacher, in particular. Ms. [REDACTED] testified she saw him laughing in the hallway once with a friend. But the few successes he had do not mitigate the obvious, serious struggles he was having.

The Student's IEP for 2019-2020 contained fifteen SASs. Fourteen were added in the 2020-2021 IEP in June 2020. However, Ms. [REDACTED] testified that the staff were already incorporating most of the new SASs informally, even though they were not part of his 2019-2020 IEP. The MCPS argued that it included adult support as an SAS in June and that would have made a measurable difference, but I note that adult support is only to be provided periodically, not even daily. It is unclear how this would have made such a difference, given the numerous other strategies that were not working.

The MCPS emphasized that the Student received passing grades in the 2019-2020 school year and in fact, his grades allowed him to pass.⁴⁵ Passing grades are one factor to see whether the child is receiving an appropriate education, but not the only one. *Rowley*, 458 U.S. at 207 n. 28. For example, as I have set forth above, in math, the Student received a C in the first quarter and a D in the second quarter. The evidence is inconsistent regarding his math grade in the third quarter, with a D appearing on the report card and, according to the Prior Written Notice dated June 1, 2020, *no grade* assessed due to incomplete work.⁴⁶ All students received a passing grade in the fourth quarter, when the COVID shutdown occurred. Yet the Student's final math grade

⁴⁴ MCPS Ex. 8.

⁴⁵ MCPS Ex. 32.

⁴⁶ MCPS Ex. 11, p. 2.

was a C which simply does not compute. Furthermore, the IEPs and the witnesses confirmed the Student was not doing grade level work in math.

In Advanced English, the Student received a C, D, C or D, depending on which report is relied on, in the first three quarters of the 2019-2020 school year, yet earned a final grade of C. In Related Studies, the Student received an A, C, C or E, depending on which report is relied on, in the first three quarters of the year, and earned a final grade of B. These grades cannot be an accurate reflection of his academic performance, given the descriptions of the problems the Student was having,

The Student had multiple ratings revealing incomplete work or failure to participate in class. The ratings are Rarely, Sometimes, Often, and Consistently. I was surprised to hear Ms. [REDACTED] testify that receiving a “Sometimes” for participation and assignment completion was *good*. The Student received Rarely for participation and assignment completion in Advanced English in the first three quarters of the year, before the shutdown. He received Rarely in those areas in Related Studies in the second and third quarters. In math he received Sometimes in those areas in the second and third quarters. He did well in participation and assignment completion in art, physical education, “Info Comm Tech.”⁴⁷ These were electives offered only one quarter. But even in his social studies class,⁴⁸ which he liked, he started strong in participation in the first quarter, receiving a Consistently, then declined to Sometimes in the second and third quarters. In that class he received an Often in assignment completion in the first quarter, a Sometimes in the second quarter, and a Rarely in the third quarter. This was information known to the MCPS even before the shutdown.

⁴⁷ This class name was not explained.

⁴⁸ Listed in the report card as [REDACTED].

To help the Student participate in school and access his class information, the Parents hired Ms. [REDACTED], a high school student, to sit with the Student during the weeks he was at his mother's home. She testified that during those weeks, she spent two-and one-half to five hours per day with the Student during the 2019-2020 school year. The MCPS was made aware of her assistance in an email sent to Ms. [REDACTED] on October 2, 2019. Thus, quite early in the school year, the MCPS was on notice that the Parents were paying for someone to assist the Student to simply stay organized, complete his classwork and homework, and be prepared for school the next day. This was further proof that his deficits in organization and attention were impacting his educational development.

The Parents were complimentary of Ms. [REDACTED] and her concern for the Student but came to the conclusion she simply could not manage his constellation of issues. Indeed, in December 2019, Ms. [REDACTED] emailed that she was going to seek new strategies from school staff and in the March 11, 2020 email, she asked the Parents for strategies to assist the Student. This was just before the shutdown. There is very little information about the Student's performance after the shutdown except from the student assistant. She testified the Student was fairly productive when schools transitioned to a virtual platform until May, when he lashed out physically and refused to do work, as he did later, in September 2020. But during virtual learning, the father or the student assistant sat with him every day and assisted him in every aspect of school. They were able to give him frequent breaks and constant prompts. He would not participate with the video and audio on. Very little seemed to be expected of the students during the fourth quarter. We have no grades or assessments from the fourth quarter to gauge his educational progress during that time.

The MCPS suggested that the Student's difficulties arose with virtual learning, but that is not really accurate. The Student was not completing work or participating in class, and refused

to do work throughout the second and third quarters of the 2019-2020 school year. He initially did well in virtual learning in the spring of 2020. I suspect one reason the student assistant reported he was doing well during virtual learning in the fourth quarter was because he was not given as much work to do and so little was expected of the students. When more was expected of him in the fall 2020, and he was expected to participate in fifty-minute-long classes, he withdrew completely and shut down. He absolutely refused to participate in video or audio, except to talk individually with teachers after class on occasion. Yet the Student's performance on a virtual platform once he moved to [REDACTED] shows that the fault was not with virtual learning. I have discussed that more below.

Before testing the Student in August 2020, Dr. [REDACTED] knew from reviewing the Student's file, reviewing Dr. [REDACTED]' report, listening to the Parents, and meeting with the Student that he needed to be in a more intensive program. She testified that part of what she does is interpret reports and information and develop a plan for the child. She relied heavily on Dr. [REDACTED]' report. The MCPS also had this report and reviewed it on August 15, 2019. Based on what she knew as early as May 2020, Dr. [REDACTED] asked the IEP team why the Student was not in a program designed for children with Autism. At the June 2020 meeting she specifically asked the MCPS to consider an [REDACTED] program. She contributed to the development of the numerous SASs and accommodations that were included in the June IEP but knew they could not be implemented in a general education setting. She knew the Student required smaller classes, more interventions, and more prompting than could be provided in a general education setting.

The MCPS argued that it cannot be faulted for not agreeing to the [REDACTED] program in June because it did not have Dr. [REDACTED]'s test scores in June. Yet the scores only solidified what the teachers and Parents were already seeing in the Student: that he was failing to keep up in math,

reading comprehension, and sentence fluency. They were in line with Dr. [REDACTED]'s results. Dr. [REDACTED] testified that the Student did make educational progress over the course of his elementary school years, but the decline in sixth grade was dramatic and obvious. She said his disabilities prevented him from progressing socially and fully participating in all academic areas.

Dr. [REDACTED]'s scores were discussed at the December IEP meeting and they were included in the IEP as part of the basis for the [REDACTED] placement, but the IEP also referenced the Student's struggles during the sixth grade and his sixth grade MAP scores, which are statewide assessment scores that could not be interpreted for me by the hearing witnesses. The Student's performance in September 2020 was also considered.

The MCPS did not follow up on Ms. [REDACTED]'s recommendation for an Autism consult and it invited no one from the Autism Unit at the June meeting. Others at the meeting were fully capable of recommending the [REDACTED] program, but it was not until Ms. [REDACTED] attended the December 2020 meeting that the recommendation was made. She is an Autism expert and was a very impressive witness. I am convinced her recommendation at the December meeting is what made the difference in the recommended placement.

The MCPS posited that it had significant new information that was available only after the fall 2020 semester started and therefore, it could not have known the June IEP was not appropriate. However, the only information that was new was Dr. [REDACTED]'s test results and the extent of the Student's negative response to school from August 31 to mid-September 2020. Based on previous test results and the Student's performance during the sixth grade, Dr. [REDACTED] determined the Student required an Autism-specific program in May 2020. Her opinion was the same in May and June as it was in December regarding appropriate placement. The only change in her opinion by December was that by that point, the Student was thriving at Ivymount and she felt he would be harmed by transferring back to [REDACTED]. There was no *change*

in circumstance that would call for a revised IEP in December, as suggested by *G.D. v. Torrance Unified Sch. Dist.*, 857 F. Supp. 2d 953, 965 (C.D. Cal. 2012). The Student's circumstances were the same in June as they were in December. The only change was that the IEP team had some additional test scores and they interpreted his needs differently once the Autism specialist, Ms. [REDACTED], was included in the IEP meeting in December.

The MCPS argued that its teachers knew the Student better than Dr. [REDACTED] did and therefore their opinions should be given greater weight, but this argument lacks merit in that Dr. [REDACTED]'s recommendation was eventually adopted by the MCPS, just six months later. We were told at the hearing that no Autism consults were conducted in the spring of 2020 after the COVID shutdown was imposed. This is no excuse for failing to develop an appropriate IEP for the fall semester. Had Ms. [REDACTED] been brought into the IEP team in May and June 2020 and learned about the Student's struggles in the sixth grade, I think it is likely she would have recommended the [REDACTED] program in June. Instead, she was not invited until December.

The MCPS argued that I should give deference to its staff and its opinions regarding how to provide the Student FAPE, citing *Andrew F.*, 137 S. Ct. at 1001; *Hartmann v. Loudoun Cty. Bd. of Educ.*, 118 F.3d 996 (4th Cir. 1997); *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983 (1st Cir. 1990); *King v. Bd. of Educ. of Allegany Cty.*, 99 F. Supp. 750 (D. Md. 1998); *A.B. v. Lawson*, 354 F.3d 315 (4th Cir. 2004); *Tice v. Botetourt Cty. Sch. Bd.*, 908 F.2d 1200 (4th Cir. 1990). The Parents responded that the MCPS staff failed to provide a "cogent and responsive explanation for their decisions." *Andrew F.*, 137 S. Ct. at 1001. As to the inadequate June IEP, I agree with the Parents. I have not discounted the expertise of school staff, but they failed to recognize the Student's declines over the sixth-grade year and failed to provide the type of program which would have addressed his deficits, i.e., Autism-specific programming,. Unlike the expert in the *King* case who was brought in only to testify at the hearing, Dr. [REDACTED] was

brought in by the Parents in the spring of 2020, a year before the hearing, to review the Student's entire case and make recommendations. She interpreted what was known at that point and recommended an Autism-specific program even in the absence of updated testing results. Once Ms. [REDACTED] joined the IEP team and employed her own expertise, the team came to the same conclusion as Dr. [REDACTED]. This solidified the wisdom of Dr. [REDACTED]'s advice six months earlier.

Nor have I lightly disturbed the MCPS recommendations, as described in the *Roland M.* decision. 910 F.2d at 994. In fact, the willingness to update its recommendation in December 2020 gives the MCPS more credibility. In this case there was a wealth of expertise coming to bear on educating the Student, from the MCPS staff as well as Dr. [REDACTED]. The MCPS' recognition that the Student needed Autism-specific programming simply came six months after it was suggested by Dr. [REDACTED].

The MCPS argued that the Parents "agreed to everything," referring to the earlier OHI coding and the Student's IEP in the sixth grade. Because the Parents did not file for a due process hearing on the OHI coding, or ask for [REDACTED] program earlier, the MCPS now places the onus for the Student's struggles on them. Citing *Z.B. v. District of Columbia*, 888 F.3d 515 (D.C. Cir. 2018), the Parents responded that the MCPS must be proactive and that it is the agency's burden to develop an appropriate IEP and ensure that FAPE is made available to the Student. The father testified that they did not even know what OHI was and that they trusted the professionals to develop an appropriate IEP and placement. Once they brought in Dr. [REDACTED] to advise them independently, they learned what other codes and placements were available. As set forth in the case law above, the Parents are correct. The school system is ultimately responsible for providing FAPE, not the Parents.

In sum, I conclude the June IEP did not take into account the unique circumstances of the Student, as required by *Andrew F.*, 137 S. Ct. at 1001. It coded the Student with ASD but did not include in the IEP Autism-specific programming that would have addressed the Student's needs and enabled him to benefit from his educational program. His AD/HD and anxiety complicated his profile. With SASs and accommodations, the Student was able to access the curriculum in the social studies and science classes at [REDACTED] while the school was in person. However, his inability to socialize, communicate, stay organized, complete his work, and pay attention impacted him across the board, even in those classes, which were his favorites. He declined in the majority of his classes over the course of the 2019-2020 school year, rarely participated or completed his assignments, and did not make progress on his self-management goals. Once the school was virtual in the fall, the classes fifty minutes each, and the homework demands resumed, he shut down and refused to participate, even in his favorite classes. His unique needs required more than the June IEP offered yet the IEP was not revised until mid-December. Had the Student remained at [REDACTED] that would have essentially been a lost semester to him. Accordingly, I find the Parents have shown the MCPS failed to provide FAPE for the Student for the first semester (first two quarters) of the 2020-2021 school year.

Gerstmyer v. Howard Cty. Pub. Sch., 850 F. Supp. 361 (D. Md. 1994).

December 2020 IEP is reasonably calculated to provide FAPE

The December 2020 IEP placed the Student in the [REDACTED] program at [REDACTED], as was suggested by the Parents and Dr. [REDACTED] at the June IEP meeting. As corrected in March 2021, the IEP placed the Student in three self-contained classes for math, English, and Related Studies, and in a co-taught class for social studies⁴⁹ and science.⁵⁰ His self-contained classes would be

⁴⁹ The Student would have been supported with a paraeducator in social studies, as the rest of his cohort would have gone to a reading intervention class with the special educator.

⁵⁰ MCPS Ex. 28.

small, with four to five other students. He would, to the greatest extent possible, remain with his special education cohort in the larger, general education classes and electives. The IEP retained the SASs and the goals of the June 2020 IEP, but the entire approach of the program is Autism-specific. Autism-specific strategies are employed across the board.

Dr. ██████ praised the ██████ program at ██████. She said it is a flexible program that can be tweaked to meet a student's needs. Her only concern was in moving the Student out of ██████ back to a general education school in the middle of the year, particularly when he was thriving at ██████. The MCPS responded that Dr. ██████, in 2019, had described the Student as resilient and he had shown that he likes new settings. Everyone agreed that he steps up to a new situation, makes the best of it, and tries to adjust. Nevertheless, he so hated ██████ by the time he transferred to ██████, the Parents and Dr. ██████ believed he would totally shut down if forced to transfer to ██████ mid-year.

Nevertheless, the Autism-specific programming contained in the December IEP was appropriate and it was reasonably calculated to provide the Student FAPE in the least restrictive environment. Without a doubt the transition from ██████ to ██████ would have been difficult and the move might have disappointed the Student. Nevertheless, he had made successful transitions previously. In the ██████ program, he would have been paired with other children with the same diagnosis and with teachers trained specifically to educate children with Autism. He would have received more frequent, intense adult support across all classes. The IEP provided exactly what Dr. ██████ was recommending in June. ██████ provides a level of individual attention that many public schools cannot. That is not the standard for appropriateness, however. The ██████ program at ██████ would have provided FAPE, just in a larger school setting. The Parents kept the Student at ██████ and that was their prerogative. But that decision does not impact the appropriateness of the IEP.

Ms. [REDACTED] and Ms. [REDACTED] testified that, had the Parents agreed to the [REDACTED] placement at [REDACTED], they probably would have given the Student some lead time to make the transition rather than requiring him to move immediately after the IEP meeting. He could have met the teachers (at that time, online), gotten some materials, and observed an online class or two to help him transition. Given the late date of the IEP, December 11, 2020, the need to allow time to transition, the holidays that followed, and the end of the quarter sometime in mid-January 2021, I conclude it would have been reasonable for the Student to transition from [REDACTED] to [REDACTED] at the beginning of the third quarter.

The Parents argued that I should find a procedural violation due to the errors contained in the December 2020 IEP that were later corrected in March 2021. The MCPS responded that pursuant to *Gadsby v. Grasmick*, 109 F.3d 940, 956 (4th Cir. 1997), because there was no actual interference with the Student's education and had no educational impact, the error was harmless. I agree. Although the December 2020 and Prior Written Notice did contain errors regarding the number of self-contained classes the Student would be enrolled in (and the addition of an interpreter), those errors did not interfere with the Student's education or even his decision on where he would attend school. The Parents were not going to move him out of [REDACTED] regardless of the new [REDACTED] placement or the number of self-contained classes he would be in.

Claim for Reimbursement of the [REDACTED] School Tuition and Related Services

Having concluded the MCPS failed to provide the Student a FAPE in the fall semester of 2020, I turn my attention to the Parents' claim for reimbursement for tuition at [REDACTED] [REDACTED] is recognized by the State of Maryland as a separate special education school. There is no question about its credentials. The MCPS took issue with the fact that the Student attends certain elective classes with children who are younger than he is by more than one year, but there is no evidence that having a fourth grader in his movement class or homeroom presented

obstacles to his educational progress. The evidence showed that even in those classes where there were younger children, there were also children the same age as the Student that allowed him to learn age-appropriate social skills. Many schools find great benefit in children of various ages playing together. Furthermore, the Student reported that he feels much more included at ██████████ and he has made friends there. I find no merit in this criticism of ██████████

██████████ implemented the IEP created by the MCPS when the Student enrolled there in October 2020. Ms. ██████████ testified to using many of the same behavior interventions strategies that are used at the MCPS. The credible evidence shows that the Student received educational benefit from being at ██████████. *Carter*, 510 U.S. 7. The MCPS argued that I should not deprive the Student from being with non-disabled peers, however, ██████████ not being the least restrictive setting is not a factor to be considered in awarding reimbursement. *Leggett v. District of Columbia*, 793 F.3d 59 (D.C. Cir. 2015).

I do agree with the MCPS that ██████████ is more restrictive than even what the December IEP required, and that the Student was able to make educational progress in general education social studies and science classes, even while at ██████████. However, the Student's documented decline during the 2019-2020 school year, complete shutdown beginning August 31, 2020, and refusal to participate at all in school in September 2020, persuade me that radical intervention was required to get the Student back on track. As it turns out, ██████████ was able to provide that radical intervention. His progress was not perfect at ██████████; there remain areas in which he did not make progress. However, he was able to work independently and happily; he participated online and, beginning in the spring of 2021, in person; he made friends and seemed to love school. The small classes and personal attention combined with the behavior modification strategies provided the kickstart the Student needed to turn his school experience around. He made great strides in the first semester at ██████████. At that point, he could have

transitioned to the [REDACTED] program. Thus, although [REDACTED] is the most restrictive environment, it was apparently what was needed at the time to get the Student back on track. As stated by the court in *D.B. v. Bedford Cty. Sch. Bd.*, 708 F. Supp. 2d 586 (W.D.VA 2010), “the marginal benefits of educating D.B. in an inclusion setting are outweighed by his educational needs.” As to the first two quarters of the 2020-2021 school year, the same is true here.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the MCPS failed to make a free appropriate public education available to the Student and provide him with an appropriate individualized education program and placement for the first two quarters of the 2020-2021 school year. I further conclude as a matter of law that the Parents proved that they are entitled to reimbursement for tuition and expenses at the [REDACTED] for the first two quarters of the 2020-2021 school year. 20 U.S.C.A. § 1414 (2017); 34 C.F.R. §§ 300.148; *Andrew F. v. Douglas Cty. School Dist. RE-1*, 137 S. Ct. 988 (2017); *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982); *Florence Cty. Sch. District Four v. Carter*, 510 U.S. 7 (1993); *Sch. Comm. of Burlington v. Dep’t of Educ.*, 471 U.S. 359, 370 (1985).

ORDER

1. I **ORDER** that the Parents’ request for placement at and reimbursement for tuition, costs, and expenses at the [REDACTED] is **GRANTED** for the first two quarters of the 2020-2021 school years and **DENIED** for the third and fourth quarters of the 2020-2021 school year.

2. The Montgomery County Public Schools shall, within thirty days of the date of this decision, provide proof of compliance with this Order to the Chief of the Complaint

Investigation and Due Process Branch, Division of Special Education and Early Intervention
Services, Maryland State Department of Education.

July 15, 2021
Date Decision Mailed

Joy L. Phillips
Administrative Law Judge

JLP/at
#192662

REVIEW RIGHTS

A party aggrieved by this final decision may file an appeal within 120 days of the issuance of this decision 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. 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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

██████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

BEFORE JOY L. PHILLIPS,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-MONT-OT-21-07420

FILE EXHIBIT LIST

I admitted the following exhibits¹ on behalf of the Parents:

- Parents Ex. 1 Due Process Request, January 4, 2021²
- Parents Ex. 2 Psychoeducational Re-Evaluation, ██████████, Ph.D., May 20, 2019
- Parents Ex. 3 MCPS Team Consideration of External Report, received July 22, 2019;
meeting date August 15, 2019
- Parents Ex. 4 Secondary Teacher Reports, completed November 2019
- Parents Ex. 6 Emails between ██████████ and Parents, September 27, 2019, to
December 18, 2019
- Parents Ex. 8 Emails between ██████████ and Parents, January 8, 2020, to June 2, 2020
- Parents Ex. 9 Prior Written Notice, June 1, 2020
- Parents Ex. 10 Student's MCPS grades, 2019-2020 school year
- Parents Ex. 11 Diagnostic Educational Evaluation, ██████████, Ed.D., August 20 and 25,
2020
- Parents Ex. 12 Email from Parent ██████████ to Parent ██████████ August 31, 2020
- Parents Ex. 13 MCPS MP1 Interim Report, 2020-2021 school year
- Parents Ex. 14 Email from ██████████ to the Student's mother, with attachment,
September 9, 2020
- Parents Ex. 15 Email from Parents to Dr. ██████████, September 21, 2020
- Parents Ex. 16 Letter from Dr. ██████████ to Parents, September 24, 2020
- Parents Ex. 19 ██████████ Individual Distance Learning Plan, undated

¹ Exhibits were prenumbered, but not all were submitted.

² This Due Process Request was later withdrawn, but it was discussed at the hearing and thus, was admitted.

- Parents Ex. 21 Team Consideration of External Report, received October 2, 2020, meeting November 2, 2020
- Parents Ex. 22 Prior Written Notice, November 5, 2020
- Parents Ex. 24 IEP, June 1, 2020, revised December 11, 2020
- Parents Ex. 25 Prior Written Notice, December 13, 2020
- Parents Ex. 26 Emails between [REDACTED] and Parents, December 18, 2020
- Parents Ex. 28 IEP, June 1, 2020, revised March 17, 2021
- Parents Ex. 29 Emails between [REDACTED] and Parents, March 18, 2021
- Parents Ex. 30 [REDACTED] class schedule, undated
- Parents Ex. 31 [REDACTED] Quarter 2 Progress Report, January 7, 2021
- Parents Ex. 32 Student's [REDACTED] grades, Second and Third Quarters, 2020-2021
- Parents Ex. 33 Emails between Parents and [REDACTED],
November 23, 2020 - April 22, 2021
- Parents Ex. 34 Secondary Teacher Reports, completed Fall 2020 (Version 1 and Version 2)
- Parents Ex. 35 [REDACTED] IEP, October 5, 2020 (date of Student's entry)
- Parents Ex. 36 Resume of [REDACTED], Ed.D.
- Parents Ex. 37 Resume of [REDACTED]
- Parents Ex. 38 Reports, [REDACTED], August 31, 2020 – September 21, 2020
- Parents Ex. 42 Due Process Request, March 26, 2021
- Parents Ex. 43 Emails between [REDACTED] and Parents, February 26-27, 2020

I admitted the following exhibits³ on behalf of MCPS:

- MCPS Ex. 1 IEP, February 14, 2018
- MCPS Ex. 2 IEP, February 14, 2018, revised August 3, 2018
- MCPS Ex. 4 Prior Written Notice, August 19, 2019
- MCPS Ex. 5 Prior Written Notice, September 10, 2019
- MCPS Ex. 6 IEP, September 10, 2019
- MCPS Ex. 7 Prior Written Notice, November 15, 2019
- MCPS Ex. 8 IEP, September 10, 2019, revised November 15, 2019
- MCPS Ex. 9 Authorization for Release of Information to Dr. [REDACTED], March 9, 2020
- MCPS Ex. 10 Prior Written Notice, April 8, 2020

³ Exhibits were prenumbered, but not all were submitted.

- MCPS Ex. 11 Prior Written Notice, June 1, 2020
- MCPS Ex. 12 Prior Written Notice, June 5, 2020
- MCPS Ex. 13 IEP, June 1, 2020
- MCPS Ex. 14 Letter from Dr. [REDACTED] to Parents, September 24, 2020
- MCPS Ex. 15 Prior Written Notice, September 24, 2020
- MCPS Ex. 16 Diagnostic Educational Evaluation, Dr. [REDACTED], September 28, 2020
- MCPS Ex. 17 Emails between [REDACTED] and Parents and representatives, October 6-9, 2020
- MCPS Ex. 18 Emails between Parents' representative and [REDACTED], October 26, 2020
- MCPS Ex. 19 Emails between [REDACTED] and parties' representatives, November 23, 2020
- MCPS Ex. 20 Notice of IEP Team Meeting, October 14, 2020
- MCPS Ex. 21 IEP, June 1, 2020, revised October 8, 2020
- MCPS Ex. 22 Prior Written Notice, November 5, 2020
- MCPS Ex. 23 Team Consideration of External Report, received October 2, 2020, meeting November 2, 2020
- MCPS Ex. 24 Notice of IEP Team Meeting, November 24, 2020
- MCPS Ex. 25 Prior Written Notice, December 13, 2020
- MCPS Ex. 26 IEP, June 1, 2020, revised December 11, 2020
- MCPS Ex. 27 Emails between [REDACTED] and Parents' representatives, March 18, 2021
- MCPS Ex. 28 IEP, June 1, 2020, revised March 17, 2021
- MCPS Ex. 30 Handwritten notes, [REDACTED], December 11, 2020
- MCPS Ex. 32 Student's MCPS grades, 2019-2020 school year
- MCPS Ex. 33 Student's [REDACTED] grades, 2018-2019 school year
- MCPS Ex. 35 Report of School Psychologist, [REDACTED], Psy.D., February 7, 2016
- MCPS Ex. 36 Educational Assessment Report, [REDACTED], January 2016
- MCPS Ex. 38 Resume, [REDACTED]
- MCPS Ex. 39 Resume, [REDACTED]
- MCPS Ex. 40 Resume, [REDACTED]
- MCPS Ex. 45 Emails between [REDACTED] and Parents and teachers, May 15, 2020 -September 17, 2020