

██████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

BEFORE ROBERT B. LEVIN,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-MONT-OT-20-11841

DECISION

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STATEMENT OF THE CASE

On May 27, 2020, ██████████ 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).

On July 14, 2020, the Parents filed an Amended Due Process Complaint. On July 21, 2020, Administrative Law Judge (ALJ) ██████████ conducted an on-the-record, preliminary

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.

telephone call with counsel for the parties. The following individuals participated: Michael J. Eig, Esquire, on behalf of the Parents and the Student, and Stacy Reid Swain, Esquire, on behalf of MCPS. In this call, counsel for MCPS stated that MCPS did not object to the filing of the Amended Due Process Complaint. In a July 21, 2020 letter to counsel for the parties, ALJ [REDACTED] accepted the Amended Due Process Complaint for filing as of July 14, 2020. The applicable statutory and regulatory provisions afford the parties up to thirty days from the filing of the Amended Due Process Complaint to try to resolve any issues arising from the Due Process Complaint. 34 C.F.R. § 300.510(b).

I held a telephone prehearing conference in this case on August 5, 2020. The following individuals participated: Mr. Eig, on behalf of the Parents and the Student, and Ms. Reid Swain, on behalf of MCPS. During the August 5, 2020 conference, counsel for MCPS reiterated that MCPS had no objection to the filing of the Amended Due Process Complaint.

I advised the parties of the time requirements for issuing a decision. The federal regulations provide for a thirty-day period, commencing with a school system's receipt of a due process complaint, for the school system to resolve the due process complaint without a hearing. 34 C.F.R. § 300.510(b)(1). If a due process complaint is not resolved at the end of that thirty-day resolution period, the due process hearing may commence and the forty-five-day timeframe for issuing a decision begins to run. 34 C.F.R. §§ 300.510(b)(2) and 300.515(a). In this regard, the regulation provides as follows:

(a) The public agency must ensure that not later than 45 days after the expiration of the 30 day [resolution] period under § 300.510(b), or the adjusted time periods described in § 300.510(c) –

- (1) A final decision is reached in the hearing; and
- (2) A copy of the decision is mailed to each of the parties.

34 C.F.R. § 300.515(a).

The applicable timelines began from July 14, 2020, the date of the filing of the Amended Due Process Complaint. 34 C.F.R. § 300.508(d)(4); COMAR 13A.05.01.15C(8). Barring certain exceptions not applicable hereto, if no resolution can be reached within thirty days, the forty-five-day timeline for holding a due process hearing and issuing a final decision begins. *Id.* §§ 300.510(b)(2), 300.515(a). The parties did not waive the resolution period. The resolution period in this matter expired on August 13, 2020, thirty days after July 14, 2020. The parties did not agree to continue the resolution period beyond the thirty-day resolution period. Accordingly, the forty-five-day timeframe for issuing a decision in this matter began to run on August 13, 2020, thirty days after the July 14, 2020 filing of the Amended Due Process Complaint. In accordance with the applicable regulations, the decision in this case would normally be due on Friday, September 25, 2020, which is the last business day within the forty-five-day timeframe provided for in the federal regulations. 34 C.F.R. § 300.515(a).

During the August 5, 2020 telephone prehearing conference, counsel for the Parents, based on his previously-scheduled special education administrative hearings at the OAH, the District of Columbia and Virginia, and other scheduling conflicts, requested on the Parents' behalf an extension of the timeframe. *See* 34 C.F.R. § 300.515(c). MCPS counsel stated that MCPS did not oppose the Parents and Student's request that the regulatory timeframe be extended. Counsel for the Parents went through his calendar, day-by-day, and demonstrated his unavailability for the hearing within the regulatory timeframe. Counsel for MCPS also provided her unavailable dates. The earliest date the four-day hearing could be reasonably accommodated was October 13, 2020.³

³ Counsel for the Parents represented and provided supporting documentation showing that he was unavailable on the following dates, for the reasons specified: August 14: preparation session for a hearing in process involving MCPS; August 17: hearing involving MCPS; August 18: hearing in D.C.; August 19: hearing in Fairfax, VA; August 20: hearing involving MCPS; August 21: hearing in Fairfax, VA; August 24: hearing in Anne Arundel

Upon consideration of the scheduling constraints detailed by counsel for the Parents, I found good cause existed to extend the regulatory timeframe. After consideration of the dates available, the parties' schedules and that of this ALJ (*see* footnote 4), the hearing was set for October 13, 14, 15, and 19, 2020. The parties jointly requested at the August 5, 2020 telephone prehearing conference that in order to allow enough time for thoughtful consideration of the evidence, my decision should be due thirty days from the close of the record. I granted this request.

I held the hearing on October 13, 14, 15, 19, and 20, 2020, via the Google Meet audiovisual platform.⁴ Michael J. Eig, Esquire, and Meghan L. Probert, Esquire, Michael J. Eig & Associates, represented the Parents. Robin Silver, Esquire, and Taylor M. McAuliffe, Esquire, Miles & Stockbridge, and Stacy Reid Swain, Esquire, Legal Director, Special Education, MCPS, represented MCPS.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act; the Education Article; the Maryland State Department of Education (MSDE) procedural regulations; and the Rules of Procedure of the OAH. Md. Code Ann., Educ. § 8-

County; September 1, 2020: prehearing conference in D.C.; September 3: preparation session for hearing the following week; September 8: participation in a televised webinar; September 9: hearing in D.C.; September 10: hearing in D.C.; September 11: morning medical appointment and afternoon IEP meeting; September 14: hearing in D.C.; September 15: two IEP meetings; September 16: OAH proceeding; September 17: hearing in D.C.; September 18: two IEP meetings; September 21-24: hearing involving MCPS; September 25: witness preparation for October 5 hearing involving MCPS; September 29: fifth day of hearing involving MCPS; October 1-2: out of town travel; and October 5-9, 2020: another hearing involving MCPS. MCPS counsel represented that she was unavailable on September 2, 2020, due to another OAH proceeding. I had previously scheduled leave on August 28, September 4, and September 26, 2020. September 7, 2020 (Labor Day) and October 12, 2020 (Columbus Day) were State holidays.

⁴ By agreement of the parties, the hearing originally was scheduled to conclude on October 19, 2020, but as there was insufficient time remaining on October 19, 2020 for the preparation and presentation of closing arguments, the closing arguments were presented the following day, October 20, 2020, on which date the hearing concluded. On October 20, 2020, prior to presentation of closing arguments, each party submitted a memorandum of points and authorities.

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

Did the challenged actions by MCPS fail to meet the requirements of the law?

Specifically:

1. Whether MCPS denied the Student a free appropriate public education (FAPE) by failing to provide him with an appropriate individualized education program (IEP) and placement for the 2019-20 and 2020-21 school years?
2. Whether MCPS should place the Student at MCPS' expense at the [REDACTED] [REDACTED] where he is currently enrolled, for the 2020-21 school year?
3. Whether MCPS should reimburse the Parents for the costs incurred for tuition and related services at the [REDACTED] for the 2019-20 school year?

SUMMARY OF THE EVIDENCE

Exhibits

A list of exhibits offered and admitted into evidence is attached to this Decision as an Appendix.⁵

Testimony

The Parents testified and presented the following witnesses:

- Dr. [REDACTED], admitted as an expert in special education
- Dr. [REDACTED], admitted as an expert in psychology
- [REDACTED], head of the intermediate program at the [REDACTED] ([REDACTED]), admitted as an expert in special education

⁵ The descriptions of the exhibits in the Appendix are as were shown in the parties' respective exhibit lists.

- [REDACTED], director of speech and language at the [REDACTED], admitted as an expert in special education and reading instruction
- Dr [REDACTED], psychologist at the [REDACTED]

The MCPS presented the following witnesses:

- [REDACTED], special education resource teacher at [REDACTED] Middle School, admitted as an expert in special education
- [REDACTED], interdisciplinary resource teacher/team leader and student support teacher at [REDACTED] MS, admitted as an expert in general education and special education
- Dr. [REDACTED], supervisor, MCPS department of special education Services, as an expert in special education
- [REDACTED], MCPS school psychologist, admitted as an expert in school psychology
- [REDACTED], speech-language pathologist, admitted as an expert in speech-language pathology.

Joint Stipulation

The parties entered into the following Joint Stipulation:

The Petitioner, [REDACTED] ("Student") and Respondent, Montgomery County Public Schools ("MCPS"), jointly stipulate and agree to the following: MCPS' IEP teams, in evaluating appropriate psychological services, have the option to consider therapy as a service offered within certain MCPS programs. In this case, the IEP team considered the recommendations of the outside evaluations and other sources and determined that counseling services were appropriate to meet the Student's psychological needs.

FINDINGS OF FACT

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

1. The Student is thirteen years old, and lives with his Parents and older sister in [REDACTED], [REDACTED], Montgomery County, Maryland. He is of average or above average intelligence. He is a sweet, shy child of small stature who has a few close friends, and enjoys video games, fantasy books, climbing, art, his stuffed animals, Pokemon characters, and his two cats and dog. His parents are extremely supportive and caring.

2. The Student was born with an extremely rare genetic disorder, [REDACTED] [REDACTED] ([REDACTED]), an [REDACTED] disorder characterized by [REDACTED] [REDACTED] failure, neutropenia (low level of white blood cells), and is associated with neurodevelopmental and skeletal abnormalities including short stature. The Student's primary health issues associated with his [REDACTED] are intermittent [REDACTED], [REDACTED] insufficiency, for which he needs to take medication at every meal, short stature, fatigue, and asthma. (P-02-1; P-22-2).

3. At ages two and three, the Student attended the [REDACTED] at [REDACTED] Elementary School. When that program closed, his Parents placed him at the [REDACTED] ([REDACTED]), in [REDACTED] which he attended for three years. (P-20-2).

4. [REDACTED] is a private, independent school that accommodates children with special needs as part of its general education program. The Student received one hour of private tutoring five days a week at [REDACTED]. During second grade, [REDACTED] staff and the Student's Parents concluded that [REDACTED] did not provide a sufficiently specialized environment for the Student to continue into the third grade at [REDACTED] (Id.)

5. The Student's Parents contacted MCPS to explore eligibility for special education and related services. The Parents also applied to the [REDACTED] for the third grade. The Parents did not fully engage in the process of developing an IEP with MCPS, because the special education coordinator at [REDACTED] Elementary School, an MCPS school that the Student's sister attended, told the Parents that the [REDACTED] would be the Student's best setting. The [REDACTED] [REDACTED] accepted the Student for the 2016-2017 school year (SY). (Id.)

6. The Student has continued to attend the [REDACTED]. For the 2020-2021 SY, the Student is a seventh-grade student at the [REDACTED]. (P-20).

7. The [REDACTED] is a private, special education day school in [REDACTED], for children with learning disabilities, language disorders, attention disorders, and executive dysfunction. It provides full-time special education in small classes, as well as related services of speech/language therapy, occupational therapy, and psychological services. There are no non-disabled students at the [REDACTED]. (P-20).

8. The Student's October 21, 2019 [REDACTED] IEP (which MCPS had no role in formulating or implementing) provides for 29.67 hours per week of specialized instruction, and 5.33 hours per week of related services, including integrated speech-language and occupational therapy services, as well as 160 minutes per month of psychological services (individual and group). The [REDACTED] IEP includes goals for fluency, phonics, and inferencing when reading, composing an essay, using an editing checklist to revise and edit paragraphs, spelling when writing, and calculating and solving multi-step word problems when completing math tasks. (MCPS 19; MPC 16, at p. 5).

9. The Student's Academic Behavior/Executive Functioning goals listed in his October 2019 [REDACTED] IEP include identifying and revising errors, and demonstrating attention and

executive skills through use of direct strategy instruction, visual cues, adult modeling, and guided practice. His psychological services goals include displaying effective strategies and behavior for modulating arousal and exhibiting age-appropriate verbal and nonverbal skills in conversation, as well as goals for anxiety. (Id.)

10. The Student's accommodations provided in his October 2019 [REDACTED] IEP

include:

- 100% extended time for tests as allowed by the parameters of the test
- Advance notice of tests
- Calculator for mathematics testing
- Extra time for processing information and formulating oral/written responses during testing, class discussion, and instruction
- Location of testing with minimal distractions
- Student marks answers in test booklet for tests scored by machine - transfer to answer sheet completed by school personnel
- Individual [testing] administration as necessary
- Paraphrasing/simplification of oral and written directions
- Preferential seating near the source of instruction
- Repetition of oral and written directions, as needed
- Small group setting
- Supervised movement breaks during test session
- Tests are administered at best time of day for the student
- Tests may be administered over multiple days without exceeding total time and within the parameters of the test
- The student dictates response to examiner for verbatim transcription
- Use of Assistive Technology and electronic devices as allowed by the parameters of the test: speech-to-text software
- Use of Assistive Technology and electronic devices as allowed by the parameters of the test: Word Processing with spellcheck features
- Use of Assistive Technology and electronic devices as allowed by the parameters of the test: text-to-speech software
- Use of computer for all written work (essays, tests)
- Verbatim reading of the entire test/selected sections of the test or vocabulary
- Enlarged font/visually simple font
- Enlarged graph paper for math
- Strategies for visual tracking (reading tracker, card above or below text)
- Visual breaks
- Slant board
- Modify test format. (Id.)

11. In the summer of 2019, the Parents noticed that some [REDACTED] students were being transported in Montgomery County school buses to the [REDACTED]. The Parents learned that MCPS was funding those students' attendance at [REDACTED]. Other [REDACTED] parents suggested that the Student's Parents engage an educational consultant to explore the possibility of MCPS funding the Student's attendance at the [REDACTED].

12. The Student's Parents engaged [REDACTED], Ed.D., a special education consultant, to conduct a classroom observation and a diagnostic educational evaluation of the Student. On July 10, 2019, Dr. [REDACTED] observed the Student during Extended School Year (ESY) at the [REDACTED]. Dr. [REDACTED]'s impressions and recommendations from her classroom observation of the Student were as follows:

- The Student needed improvement with persistence, especially for work that is difficult for him. Concrete reinforcement and contingencies, visual schedules, structure and clear indications of what needs to be accomplished are a few suggestions.
- The Student's attention was noted as variable. He had better attention when instruction was multi-sensory and hands-on and less attention when instruction was auditory-only. Strategy instruction and modifications of the work and the environment are required.
- Quantity of work needed to be reduced. The student moves, thinks, and responds very slowly and, therefore, he cannot accomplish as much as is typical for 5th and 6th graders.
- The Student should continue to be presented with grade level content in a manner he can access. This would include hands-on experiences and activities, high interest/low readability texts, multi-sensory materials and modes of instruction, having material read to him with accompanying hands-on activities, etc.
- The Student needed occupational therapy. The best seating choices for his posture and attention should be identified and available to him throughout the day.
- The Student needed speech/language therapy for oral language, reading, spelling, and written language. (P-14).

13. On August 6, 2019, Dr. [REDACTED] saw the Student for a diagnostic education evaluation to get to know him as a learner, and obtain updated levels of his performance on standardized tests. Dr. [REDACTED] noted that the Student's records from the [REDACTED] "show that he has made progress in developing academic, attention/executive, motor, language, and social-behavioral skills," and that in addition to the specialized instruction he receives at [REDACTED], the Student receives services from an occupational therapist and a psychologist. (P-20-2).

14. Dr. [REDACTED] administered the following test instruments: (1) the Woodcock-Johnson Tests of Achievement-Fourth Edition Form B (WJ-4), (2) the Peabody Picture Vocabulary Test-Fifth Edition Form B (PPVT-5), and (3) the Expressive Vocabulary Test-Third Edition Form B (EVT-3). (P-23-3).

15. The W-J 4 involves several reading and math subtests. On the Letter-Word Identification subtest, the Student was asked to read single words. He scored in the Low range, at the third percentile. Dr. [REDACTED] assessed that his proficiency in this area will be very limited and that age and grade level tasks will be extremely difficult. (P-20-5).

16. On the Word Attack subtest, the Student was asked to read nonsense words that follow the pronunciation patterns of American English. He scored in the Very Low range, at the second percentile. Dr. [REDACTED] assessed his proficiency in this area will be very limited and that age and grade level tasks will be extremely difficult. (Id.).

17. On the Passage Comprehension subtest, the Student was asked to read short sentences in which a word was missing and supply a word that could meaningfully complete each sentence. He scored in the Low range, at the fifth percentile. Dr. [REDACTED] assessed that his proficiency in this area will be limited and that age and grade level tasks will be very difficult. (P-20-6).

18. On the Sentence Reading Fluency subtest, the Student was given three minutes to read as many short sentences as he could, decide if they were true or false, and indicate his choice by circling yes or no. He scored in the Low range, at the fourth percentile. Dr. [REDACTED] assessed that his proficiency in this area will be extremely limited and that age and grade level tasks will be nearly impossible. (Id.).

19. In the area of reading, Dr. [REDACTED] concluded that the Student “meets criteria for Specific Learning Disabilities in all areas including phonemic awareness, decoding, comprehension, vocabulary (as evidenced by his comprehension score), and comprehension. He requires daily, highly specialized, evidence-based instruction, along with accommodations and modifications.” (Id.).

20. On the Spelling subtest, the Student was asked to spell single words. He scored at the bottom of the Low range, at the third percentile. Dr. [REDACTED] assessed his proficiency in this area at very limited, and that age and grade level tasks will be extremely difficult. (P-20-13).

21. On the Writing Samples subtest, the Student was asked to write sentences in response to visual and verbal writing prompts. He scored in the Average range, at the forty-second percentile. Dr. [REDACTED] assessed that his proficiency will be average in this area and that similar age and grade level tasks will be manageable. (Id.).

22. On the Sentence Writing Fluency subtest, the Student was given five minutes to write as many short sentences as he could that each included three target words and described each target picture. He scored in the Low range, at the fourth percentile. Dr. [REDACTED] assessed that his proficiency in this area will be limited and that age and grade level tasks will be very difficult. (P-20-13-14).

23. Dr. ██████ concluded that the Student “meets criteria for Specific Learning Disabilities in spelling and written expression. He requires daily specialized instruction using evidence-based programs, along with accommodations and modifications.” (P-20-14).

24. On the WJ-4 Math Calculation subtest, the Student was presented with paper-and-pencil problems in all four operations with whole numbers, fractions, decimals, integers, and pre-algebra/algebra. He scored in the Average range, at the twenty-ninth percentile. Dr. ██████ assessed that his proficiency in this area will be Limited to Average, and that age and grade level tasks will be difficult. (P-20-10).

27. On the Applied Problems subtest, Dr. ██████ read word problems to the Student. He scored in the Average range, at the forty-third percentile. Dr. ██████ assessed that his proficiency in this area will be average and that age and grade level tasks will be manageable. (Id.).

28. On the Math Facts Fluency subtest, the Student was given three minutes to solve as many single-digit addition, subtraction, and multiplication problems as he could. He scored at the bottom of the Average range, at the ninth percentile. Dr. ██████ assessed that his proficiency in this area will be very limited and that age and grade level tasks will be extremely difficult. (Id.).

29. Dr. ██████ assessed that in math, the Student meets criteria for Specific Learning Disabilities in calculation, applications/reasoning, and fluency. She stated that he “requires explicit, direct, specialized instruction daily, as well as accommodations and modifications.” (P-20-11).

30. The PPVT-5 and EVT-3 test receptive and expressive vocabulary. The PPVT-5 is an untimed test of one-word receptive vocabulary. The Student was shown four pictures per page and asked to point to the one that best matched each stimulus word. He scored at the upper end

of the Expected range, which is referred to as High Average on most other tests used for educational purposes. He scored at the eighty-fourth percentile. Dr. [REDACTED] assessed that the score he obtained was an underestimate of his ability in this area. (P-20-4-5).

31. On the EVT-3, an untimed measure of one-word expressive vocabulary, the Student was asked to name pictures of common objects, actions, and descriptors; provide synonyms for target words; and finish pre-started sentences. He scored in the Expected range, i.e., the Average range, earning a score at the fifth percentile. Dr. [REDACTED] assessed that the score he obtained was an underestimate of his ability in this area. (P-20-5).

32. Dr. [REDACTED] recommended that the Student receive a number of programming and instructional interventions in the areas of reading, math, writing and spelling. P-20-6-16).

33. For reading, Dr. [REDACTED] recommended the use of the following programming and instructional interventions:

- Use the *Lindamood Phoneme Sequencing Program* to help with sound sequencing and perception without regard to letters
- Use the *Phono-Graphix* program to teach number and order of sounds in words and [the] letter that code[s] these sounds
- Use *Visualizing and Verbalizing for Cognitive Development and Thinking* to work on comprehension, higher-order thinking, and improving visualizing
- Teach word meanings when working on decoding
- Directly teach word meanings when working on decoding
- Directly teach decoding of multi-syllabic words
- Provide graphic and semantic organizers, mind maps, charts, tables, graphs, photographs, etc., to illustrate concepts and content
- Support comprehension through film, video, field trips, music, art, and other hands-on activities
- Directly teach vocabulary for content areas/units of study, directions, general information and vocabulary including antonyms, synonyms, definitions, content areas, and literature through direct instruction
- Directly teach how to reason verbally and solve analogies
- Directly teach the Student how to reason
- Keep silent reading to a bare minimum until monitoring and comprehension skills have improved and provide direct instruction as to how to understand text that is read alone and silently

- Teach each comprehension strategy separately, identify when each is applicable, and label it.
- Teach the *SQAR* [Survey, Question, Read, Respond, Record, and Review] strategy
- Teach summarizing each paragraph after it has been read and note key words and concepts on sticky notes that are then placed on each page
- Coordinate specialized reading instruction with speech/language therapy
- Provide specialized instruction to bring word reading to the automatic level
- Utilize high interest/low readability texts
- Use the “wonderful *Dorling-Kindersley* books”
- Work on reading fluency using the *Read Naturally* program
- Use a systematic, individualized approach to teaching phonics
- Unless required to do so by law, allow unlimited time.

(P-20-6-9).

34. For math, Dr. ██████████ recommended the following programming and instructional interventions:

- Use program such as *FASTTMath* to build fluency
- Provide opportunities to practice basic calculations through electronic, board, dice, and card games
- Provide manipulatives, drawings, models, etc. for all math
- Practice math on a tablet or computer
- Provide direct instruction in areas of math calculations
- Directly teach how to solve word problems and illustrate steps necessary to solve them
- Teach math vocabulary associated with all four basic operations
- Integrate math across the curriculum
- Provide a math resource journal
- Use the C-R-C approach: Concrete-Representational-Abstract
- Use *On Cloud Nine Program: Visualizing and Verbalizing for Math*
- Unless required by law, provide unlimited time

(P-20-11-12).

35. For written language and spelling, Dr. ██████████ recommended the following programming and instructional interventions:

- Provide graphic and semantic organizers and mind maps and directly teach how to use them
- “Use the wonderful *Story-Grammar Marker*”
- Use the *Framing Your Thoughts* program to help improve sentence structure
- Provide rubrics and models of expected/completed assignments

- Provide word banks
- Provide visual supports for embellishing sentences
- Use the *Phono-Graphics* program as the best choice for teaching the various spelling patterns of American English
- Provide a list of frequently misspelled words to have as a reference
- Teach efficient typing
- Teach dictation
- “Use the wonderful *Clicker 7* program as an assistive technology support”
- Use the *Expanding Expression Tool* as another way to develop sentences and paragraphs
- Provide assistive technology apps such as *Snap Type*
- Reduce the requirements for writing by providing templates for filling in the blank
- Allow the Student to take pictures of any notes or other visual information that is written by teachers or provide him copies
- Utilize Self-Regulated Strategy Development to teach the Student how to monitor his own writing
- Unless required by law, do not impose time limits on the Student

(P-20-14-16)

36. In a “Statement of Appropriateness of Current School Placement and Future Placement,” at the conclusion of her report Dr. [REDACTED] opined:

Given [the Student’s] significant and pervasive special needs, which affect him across subjects and across the school day, and are academic, social, attentional, executive, linguistic, and motoric, it certainly appears to this examiner that he is appropriately placed at the [REDACTED] and that [REDACTED] constitutes his least restrictive environment at this time. However, it is recommended that his Parents engage him in the eligibility process with MCPS to determine if an appropriate placement might exist for him.

(P-20-24).

37. Dr. [REDACTED] arranged for the Student to be seen for “an updated neuropsychological evaluation in October 2019 by [REDACTED], Psy.D.” (P-20-2).

38. Dr. [REDACTED] a licensed psychologist (not a neuropsychologist), conducted a psychological evaluation of the Student. The evaluation included an extensive battery of test instruments and other assessment measures, including a clinical interview of the Student’s

mother, consultation with Dr. [REDACTED], review of records and a consultation with the [REDACTED] Foundation. (P-23; P-43).

39. Dr. [REDACTED] summarized her findings as follows:

[The Student] is a bright and capable boy who presents with many strengths and skills. The Student is sweet and sincere. He is thoughtful in his responses. The Student cares about being kind to others. He enjoys developing friendships. The Student enjoys conversation. The Student wants to do well, and is curious about his performance. He is eager to achieve and please. The Student is artistic. His interests are well-rounded. The Student is intelligent. During testing he demonstrated High Average Visual Spatial skills on the WISC-V, which suggest his full intellectual potential. He demonstrated Verbal Comprehension skills high in the Average range. The Student's Fluid Reasoning was also Average despite underperformance due to time constraints and attentional interference. The Student demonstrated that he is capable of demonstrating strong auditory attention in a non-distracting environment. His auditory memory is well-developed as well. The Student's visual memory is also age appropriate when he is able to demonstrate free recall. [The Student's] underlying expressive and receptive language skills are solid as well.

[The Student] is diagnosed with [REDACTED] ([REDACTED]), a genetic disorder. The [REDACTED] Foundation notes, "Developmental delays and learning difficulties are seen in some [REDACTED] patients. These may include learning disabilities, developmental delays, ADHD and behavior issues." In a phone call, an expert from the [REDACTED] Foundation confirmed that learning disabilities, ADHD, social-emotional difficulties, and disordered thinking are seen with frequency among those with [REDACTED] given differences in the brains of those with [REDACTED], though she explained that research is somewhat scarce. Given this, it is important to understand that the Student's attentional, learning, adaptive, social-emotional, and thinking difficulties are likely part of his overarching [REDACTED] diagnosis, as are his developmental delays. Still, it remains important to understand each facet independently so that proper intervention can be provided.

(P-20-18).

40. Dr. [REDACTED] opined that the Student met the criteria for Mixed Anxiety and Depressive Disorder (MADD), as follows:

[The Student] presents as frequently happy and upbeat. However, he is clearly struggling with underlying symptoms of both anxiety and depression consistent with **Mixed Anxiety and Depressive Disorder (MADD) (ICD-10-CM F41.8 Other Specified Anxiety Disorder)**, likely secondary to his [REDACTED]. These symptoms may not always be evident, though it is not uncommon for him to

struggle to control and regulate his emotions. [The Student] feels emotionally unstable, though he does all he can to avoid engaging with his negative feelings. In fact, withdraw[al], avoidance, and isolation are his primary coping mechanisms. Most notably, the Student escapes to electronics. While this allows him some comfortable social interactions, [the Student] experiences feelings of low self-esteem, sadness, and helplessness. He struggles to feel independent, which is not surprising given his other diagnoses and related need for support; [the Student] experiences feelings of anger and upset. He also worries and experiences upsetting thoughts. The Student is often anxious. He can be fearful, and he experiences somatic complaints, especially fatigue. [The Student] also experiences significant social anxiety, and separation anxiety. Though he has friends, [the Student] is often anxious in interactions because he fears he will be misunderstood and negatively judged. Based on some of his responses, it is possible that [the Student] is/has been bullied. This should be carefully explored in therapy. [The Student] also worries about his performance. [The Student] does not feel confident in his academic abilities, and he is negatively impacted by this.

(P-23-18; bolding in original).

41. Dr [REDACTED] opined that the Student also met the criteria for Attention-Deficit

Hyperactivity Disorder, as follows:

[The Student] meets criteria for a diagnosis of **Attention-Deficit Hyperactivity Disorder, Combined Type (ICD-10-CM F90.2)** with related executive functioning difficulties, and secondary to his [REDACTED]. [The Student's] ADHD compounds upon, and in turn, is compounded by his learning disabilities (LDs). [The Student] struggles to sustain attention. He becomes easily distracted. [The Student] frequently demonstrates slow and inconsistent speed. As a result, he regularly underperforms under time constraints. [The Student] requires extended time to complete tasks. [The Student] additionally demonstrates weaknesses in working memory. His visual memory can suffer when presented with distractions and when asked to recognize parts separate from the whole. [The Student's] visual attention can also be weak. His auditory attention is sometimes poor, though he can perform well on discrete tasks in non-distracting environments. The Student is prone to careless errors, suggesting inconsistency in self-monitoring. The Student also struggles to task-monitor and struggles to follow multi-step directions. He often needs redirection and repetition. The Student is often impulsive and disinhibited in his response patterns. The Student works hard to remain engaged and motivated when working, but his stamina can be weak, and his arousal becomes sluggish. The Student may constantly move and shift to help him manage this. Parent and teacher report suggest he struggles with cognitive shifting, working memory, planning/organizing, task-monitoring, inhibiting, self-monitoring, controlling emotions, organizing materials, and self-initiating.

(P-23-19; bolding in original).

42. Dr. [REDACTED] recommended that:

Given his overarching [REDACTED] diagnosis, and related LDs, ADHD, MADD, and sensorimotor needs, it is clear that [the Student] continues to require a full time, self-contained special education setting. [He] should continue to receive on-site Speech-Language, Occupational Therapy, and Psychological services. Physical therapy services may also be necessary, potentially from an outside provider able to come on-site. Academic recommendations are already present in [the Student's] IEP and were recommended in Dr. [REDACTED]'s report.

(P-23-20).

43. Dr. [REDACTED] also recommended that the Student continue to receive additional services and interventions including on-site speech language services involving integrated classroom support; on-site occupational therapy; on-site psychological support; one-on-one and small group direct teaching; multi-sensory learning; praise; and avoidance of surprises. (P-23-20-21).

44. In accordance with Dr. [REDACTED]'s suggestion that his Parents engage the Student in the eligibility process with MCPS to determine if an appropriate placement might exist for him, the Student's Parents completed and provided to MCPS a referral packet, on or about January 6, 2020, by which they sought evaluation by MCPS of the Student's eligibility for special education services. (MCPS 1-7).

45. The referral packet included the following documents:

- MCPS Form 336-13 Private/Parochial School Student Referral
- Birth Certificate
- Documentation of Intervention form from the [REDACTED]
- Teacher Referral form from the [REDACTED] ([REDACTED])
- Eligibility Screening Parent Interview/Questionnaire
- Classroom Observation form from the [REDACTED] ([REDACTED])
- Educational History form
- Dr. [REDACTED]'s educational evaluation
- Dr. [REDACTED]'s psychological evaluation.

46. The Documentation of Intervention form included in the referral packet was prepared by [REDACTED], a [REDACTED] teacher. It described two interventions: math calculations and

problem solving, and reading-decoding, and stated that the Student had demonstrated significant gains in addition, multiplication, division, and problem solving, and in correctly decoding certain syllable types. Ms. [REDACTED] noted that the Student best learned math in small groups when the material is “chunked,” he has access to manipulative materials, and is taught using the C-R-A method (concrete, representational, abstract). She noted that the use of the Orton-Gillingham and Wilson Reading systems were “vital to the progress [the Student] made in the area of decoding,” and recommended that he continue to be instructed in a small group setting with individualized lessons and multi-sensory tools. (MPCS 1).

47. The Teacher Referral Form included in the referral packet was prepared by [REDACTED] of the [REDACTED], who noted that the Student was provided the following accommodations: adjusted workload, adaptation of materials and instruction, change of text, and remedial academic support including Orton-Gillingham reading instruction, Read Naturally fluency intervention, Lexia Learning, IXL Math, individualized/diagnostic prescriptive teaching approach involving 1:3 or less teacher-student ratio in reading, writing, and math. Ms. [REDACTED] stated that the Student, then in the sixth grade, had a reading level of 5.5 and a math level of 4.5, below grade level. She noted the Student displays attention issues, but did not note significant social-emotional issues. (MCPS 5).

48. In the Parent Questionnaire included in the referral packet, his Parents noted the following “serious concerns” about the Student:

Significant, far-ranging developmental delays require significant teacher support. Delays include cognition related to planning and executing multi-step assignments and projects, organizing work space, reading instruction, and independent assignment completion. Student requires frequent support in all classes every day. He also requires special seating due to low muscle control and frequent fatigue during class.

(MCPS 2).

49. The Student's Parents identified the medication he takes for his [REDACTED] symptoms and other health issues as: "[REDACTED] [6] (36000) with meals for [REDACTED], [REDACTED] for acid reflux, [REDACTED] vitamins, [REDACTED] (180 mg) for allergies and [REDACTED] (for asthma)." (Id.).

50. The Classroom Observation report included in the referral packet was prepared by [REDACTED], one of the Student's teachers at the [REDACTED], who observed him in "Farmer's Market Class/Science," and noted "significant problems" in the areas of listening comprehension, attention, task completion, motivation, and speech. Ms. [REDACTED] also noted that throughout her thirty minute observation, the Student's "inattention was not acknowledged, addressed, or redirected by the teacher." (MCPS 3).

51. On January 29, 2020, MCPS prepared a "Child Find Referral" initial screening document summarizing information from the referral packet that the Parents had submitted earlier that month. On this form, boxes were checked to indicate specific behaviors of the Student that were indicative of academic, motoric, attentional, social/emotional/behavioral or other difficulties. (MCPS 24).

52. On January 30, 2020, Dr. [REDACTED] marked up the January 29, 2020 Child Find Referral initial screening document by circling and adding checks to additional boxes on the form, and returned the revised form to the Student's Parents and to MCPS. (Id.)

53. On February 5, 2020, an IEP team meeting was held at [REDACTED] MS, the Student's MCPS home school. The following individuals attended:

- [REDACTED], MS special education resource teacher
- [REDACTED], MCPS school psychologist
- Dr. [REDACTED], education consultant

⁶ [REDACTED] [REDACTED] is a [REDACTED] replacement therapy.

- [REDACTED], the Student's father
- [REDACTED], the Student's mother
- [REDACTED], school counselor
- [REDACTED], homeroom teacher (by telephone)
- [REDACTED], head of the [REDACTED] intermediate division (by telephone)
- Dr [REDACTED], [REDACTED] psychologist

(MCPS 28)

54. The purpose of the February 5, 2020 IEP team meeting was to review the evaluations and assessments of the Student and determine his eligibility for special education services.

55. As memorialized in a Prior Written Notice dated February 12, 2020, during the February 5, 2020 IEP team meeting, the IEP team reviewed all documents included in the referral packet forwarded to [REDACTED] MS by the MCPS private/parochial school office, including Dr. [REDACTED]'s external educational evaluation, and Dr [REDACTED]'s external psychological evaluation, accepted their findings, and determined the Student was eligible for specialized services. The team found the Student met the criteria as a student with a specific learning disability. The team noted that a MCPS speech pathologist would review the external reports and determine whether additional assessments were necessary to assess the Student's need for speech language therapy (as recommended by the Parents and Drs. [REDACTED] and [REDACTED]). The team further noted that a vision report that was submitted at the February 5, 2020 meeting would be forwarded to the MCPS physical disabilities and vision program(s) to determine whether additional assessments were necessary to assess the Student's need for occupational therapy/vision services as a related service (as requested by the Parents). (MCPS 29).

56. As also reflected in the February 12, 2020 Prior Written Notice that memorialized the February 5, 2020 MCPS IEP team meeting, the team agreed that the data in the external reports sufficiently established the Student's learning profile and that he met the criteria for specialized services as a student with a specific learning disability. The team noted that the MCPS speech

pathologist did not attend the meeting, and would need to make a determination as to the Student's need for speech-language therapy. The team noted that a representative of the MCPS physical disabilities office also did not attend the February 5, 2020 meeting, and would need to make a determination as to the need for vision services. The team agreed to develop an IEP, and hold an IEP development meeting within thirty days, and that the proposed IEP would be sent to the Parents for review five days prior to the IEP development meeting. (Id.).

57. The IEP team noted that Dr. [REDACTED] the Student's Parents, and the [REDACTED] attendees shared that the Student requires significant support, which the [REDACTED] offers. The team noted that at the upcoming IEP development meeting, the LRE (least restrictive environment) would be considered, "which is [REDACTED] Middle School [REDACTED] MS] the home school, in determining where the IEP will be implemented." (Id.).

58. At the February 5, 2020 IEP team meeting, a discussion took place concerning whether the Student's case would be referred to MCPS's Central IEP team. MCPS refers some students to its Central IEP team during the IEP development process, when a school team determines that services are not sufficient at the school-based level to meet students' needs. Dr. [REDACTED] brought up the Central IEP process at the meeting, and suggested that was the direction the Student's family preferred. A referral to the Central IEP team is usually determined after an IEP is formulated, and issues of placement and LRE must be considered. In the February 5, 2020 IEP team meeting at [REDACTED] MS, however, MCPS personnel did not agree or commit that the Student's case would be referred to the Central IEP.

59. A Child Find Referral was finalized at the February 5, 2020 meeting. (MCPS 117).

60. An IEP development meeting was scheduled for March 3, 2020.

61. MCPS proceeded to prepare a draft IEP that it sent to the Parents and Dr. [REDACTED] on February 25, 2020. Dr. [REDACTED] reviewed the February 25, 2020 draft IEP, and returned it to MCPS, the Parents, and their legal team on February 25, 2020, with numerous handwritten, suggested revisions, including the addition to the IEP of data from Dr. [REDACTED]'s and Dr. [REDACTED]'s reports, information from the Student's [REDACTED] IEP, a PLAAFP (Present Level of Academic Achievement and Functional Performance statement) for the Student's cognitive, memory and learning issues, and the addition of provisions for the Student's visual functioning, visual-motor, reading fluency, reading decoding, reading comprehension, executive functioning and social-behavioral functioning, especially anxiety. (MCPS 20).

62. The scheduled March 3, 2020 IEP meeting was postponed because Dr. [REDACTED], who, as the Parents' consultant and advocate was considered a member of the IEP team, was ill. Due to the COVID-19 pandemic, the meeting could not be held later in March. It was rescheduled for April 27, 2020, to be conducted as a virtual meeting.

63. The second IEP team meeting was held remotely on April 27, 2020. Its purpose was to complete the IEP development process that started at the February 5, 2020 IEP team meeting. Attending this second IEP team meeting were:

- [REDACTED], MS special education resource teacher
- [REDACTED], MS Principal
- [REDACTED], counselor
- [REDACTED], GE (general education) teacher
- [REDACTED], school psychologist
- [REDACTED], speech language pathologist
- [REDACTED] Parents
- Dr. [REDACTED], educational consultant
- [REDACTED], family legal counsel
- Stacy Reid Swain, MCPS counsel
- Dr. [REDACTED] MCPS special education supervisor
- [REDACTED], notetaker. (MCPS 115).

64. As memorialized in a Prior Written Notice dated May 4, 2020, the purpose of the April 27, 2020 meeting was to review and revise the Student's IEP in order to provide a FAPE. Upon review of the draft IEP the IEP team proposed the following actions, many of which had been suggested by Dr. [REDACTED]:

- The Student was eligible for services under the SLD (specific learning disability) code
- Addition of a PLAAFP for "cognitive" to reflect Dr [REDACTED]'s data
- Addition from Dr. [REDACTED]'s report to the social-emotional needs portion of the IEP
- Revise wording on the "impact statement"
- Add/revise supplementary aids
- Add agreed accommodations ("1e, 1f, 1h, 1o, human reader for all areas") and 100% + extra time
- Revise phonics goal
- Revise other goals from [REDACTED] IEP
- Placement at [REDACTED] MS to access services through the home school model (inclusion core classes and reading intervention; self-contained resource class)
- Possibility of critical staffing to support the Student's needs in home school. (MCPS 33).

65. The IEP team declined at the April 27, 2020 meeting to add an area to the IEP for visual-motor needs, until vision assessments were completed and reviewed by the MCPS OT/Vision departments. The IEP team noted in the May 4, 2020 Prior Written Statement for this meeting that the Parents disagreed with this refusal. (Id.).

66. The IEP also refused at the April 27, 2020 meeting "consideration of self-contained [students with learning disabilities only] setting at the [REDACTED] for placement." The IEP team noted in the Prior Written Notice for the April 27, 2020 meeting that "the team agreed that "the above proposed revision/additions create an IEP that meets [the Student's] needs." The team noted in the Prior Written Statement for this meeting that the Parents "decline the services and supports offered at the home school." The Prior Written Notice stated that the Parents disagreed with MCPS's proposed placement of the Student at [REDACTED] MS, the home school, because:

They do not believe he will be successful at ■■■ MS as he requires small groups, direct supports per recommendations of all that have worked with him. He deserves to have access to electives since at ■■■ MS a resource class and reading intervention will take place of electives. Parents worry about the physical aspects of him in bigger school since he gets infections/sick easier, gets tired quickly. His educational needs are overlaid by physical conditions. He also has anxiety and ADHD diagnosis with learning issues. If there was no cognitive w/medical on top of other things, they would've sent him to ■■■ MS. Being in a smaller school presents less opportunity for bullying and sicknesses. (Id.).

67. The IEP team also considered but rejected adding assessment data to the IEP's eligibility page, because assessment data had been or would be included in the PLAAFP.

68. The IEP team also considered but rejected adding an area to the PLAAFP to address "health needs due to the nature and impact on [the Student's] functioning." The team rejected adding this option until the Parents could provide further medical documentation. The team noted that in proposing the draft IEP it considered all of its components including present levels, eligibility, parental input, impact statement, special considerations, supplementary aids, testing accommodations, ESY, goals, services, and LRE. (Id.).

69. The team noted that the Parents agreed to a delay in the timeline for conducting the Student's initial evaluation, because the completion of a speech language assessment by an MCPS speech language pathologist, for the purpose of determining whether MCPS would offer the speech language services requested by the Parents, was delayed due to pandemic-related school closures ordered by the Governor of Maryland. (Id.).

70. The IEP team prepared a revised, draft IEP dated April 30, 2020. (MCPS 21).

71. On May 6, 2020, Dr. ■■■■■ returned the April 30, 2020 draft IEP to the Parents, MCPS, and the Parents' legal team, with additional suggested revisions. (MCPS 22).

72. In a series of virtual sessions with the Student on May 22, 26, 29, and June 9, 2020, [REDACTED], a certified speech language pathologist employed by MCPS, conducted a speech language assessment of the Student, and set forth her findings and conclusions in her June 12, 2020 report. (MCPS 17).

73. Ms. [REDACTED] reported the Student's performance on the Comprehensive Assessment of Spoken Language test, Second Edition (CASL-2), a standardized speech-language test that measures spoken language skills across four categories: lexical-semantic, syntactic, supralinguistic, and pragmatic language, as follows:

- On the Expressive Vocabulary CASL-2 subtest, the Student's skills were within age expectancy
- On the Grammatical Morphemes CASL-2 subtest, the Student's skills were within age expectancy
- On the Nonliteral language CASL-2 subtest, the Student's skills were within age expectancy
- On the Meaning from Context CASL-2 subtest, the Student's skills were within age expectancy
- On the Inference CASL-2 subtest, the Student's skills were within age expectancy
- In the Double Meaning CASL-2 subtest, the Student's skills were below age expectancy
- On the Pragmatic Language CASL-2 subtest, the Student's skills were within age expectancy. (Id.).

75. Ms. [REDACTED] also administered the Oral Passage Understanding Scale (OPUS) standard test, which assesses the ability to listen to passages and recall information about them. It tests lexical-semantic, inferencing and passage synthesis, as well as memory skills. Ms. [REDACTED] reported that the Student's listening comprehension skills are within age expectancy. (Id.).

76. Ms. [REDACTED] also administered the Test of Pragmatic Language test, Second Edition (TOPL-2). This instrument measures six core skills: physical context, audience, topic, purpose, visual-gestural, abstractions, and pragmatic evaluation. Ms. [REDACTED] reported that the Student's overall pragmatic language and social reasoning skills are within age expectancy. (Id.).

77. Ms. [REDACTED] also obtained data from non-standardized speech-language testing measuring problem solving, using information to make inferences, and comparing/contrasting. The student achieved 80% accuracy on Identifying Problems, 80% accuracy on Identifying Solutions, 100% accuracy on Using Information to Make Inferences, and 73% accuracy on Comparing/Contrasting. (Id.).

78. Ms. [REDACTED] had the Student's mother complete the Provo City School District Language Parent Input Form and the Orion's Pragmatic Skills Questionnaire in order to obtain the family's perspective on the Student's receptive, expressive, and social language skills. Her report records Ms. [REDACTED]'s description of the Student's language skills and areas of difficulty. (Id.).

79. Ms. [REDACTED] obtained and analyzed two language samples from the Student: one narrative and the other conversational. No significant needs were noted with respect to either the Student's narrative language skills or his conversational language skills. (Id.).

80. Ms. [REDACTED] obtained a speech sample from the Student and assessed that his voice is appropriate in terms of pitch, quality, and loudness; that his speech fluency skills are within expectations with no dysfluencies noted; that no obvious speech sound substitutions were noted in his articulation; and rated his speech intelligibility at or near 100% in known and unknown contexts. (Id.).

81. Ms. [REDACTED] concluded that the Student's "overall speech-language skills are at or approaching age expectancy range. The speech and language data do not support the presence of oral communications needs that would require speech-language support." (MCPS 17, at p. 000131).

82. On June 17, 2020, Ms. [REDACTED] emailed Ms. [REDACTED]'s speech-language assessment report to the Parents, and said that another IEP team meeting would be convened to determine whether the Student qualified for speech-language services. (MCPS 112).

83. The third and final MCPS IEP team meeting, convened for the purpose of reviewing Ms. [REDACTED]'s speech-language assessment, took place on July 9, 2020. In attendance were:

- [REDACTED], MS special education resource teacher
- Dr. [REDACTED], special education supervisor
- [REDACTED], general education teacher
- Stacy Swain, MCPS counsel
- [REDACTED] school psychologist
- [REDACTED], speech-language pathologist
- Dr. [REDACTED], educational consultant
- [REDACTED], father
- [REDACTED], mother
- Meghan Probert, family counsel. (MCPS 116).

84. As reflected in the Prior Written Notice dated July 16, 2020, with respect to the July 9, 2020 IEP meeting, the IEP team reviewed Ms. [REDACTED]'s speech-language assessment and did not recommend the provision of speech-language services based on that data. (MCPS 36)

85. The Parents and Dr. [REDACTED] disagreed with the team's determination, on the basis that (a) they did not believe Ms. [REDACTED]'s findings matched the Student's actual performance in a classroom or what they had seen at home during distance learning, (b) they questioned the range of findings that was gathered from the questionnaires Ms. [REDACTED] administered, and (c) they wanted to see standard scores where raw scores and descriptors were reported on the CASL-2 test that Ms. [REDACTED] administered. (Id.).

86. The IEP team refused to offer speech-language services, on the basis that the data showed the Student has the linguistic skills to perform at grade level, but may not have the behavioral skills to interact socially. The team noted that Ms. [REDACTED] stated that the findings she reported without certain standard scores were due to the constraints of being unable to conduct

face-to-face assessments due to the pandemic, but that the Student performed within average limits despite the virtual testing scenario. (Id.).

87. The MCPS's revised IEP was finalized on July 9, 2020, though the IEP document remained dated as "Draft 04/30/20." MCPS provided it to the Parents. (MCPS 23).

88. The final proposed IEP, which the Parents did not approve, stated that the Student's primary disability is "Specific learning disability (Other: reading, writing and math)," and that the following areas are affected by the disability: Academic-Cognitive, Academic-Math Calculation, Academic-Math Problem Solving, Academic-Reading Comprehension, Academic-reading fluency, Academic-Reading Phonics, Academic-Written Language Expression, Academic-Written Language Mechanics, Behavioral-Self-management, Behavioral-Social Emotional/Behavioral. (MCPS 23, at p. 000230).

89. In Section I of the MCPS IEP ("Meeting and Identifying Information"), the areas impacted by the student's disability were identified as: Academics (reading comprehension, fluency, vocabulary), written expression and mechanics, math calculation and problem solving, attention, social-emotional. (MCPS 23, at p. 000231).

90. The IEP stated that the team reviewed and accepted the findings in the external educational and psychological reports submitted by Dr. [REDACTED] and Dr. [REDACTED]. (Id.).

91. The IEP stated that the Student "meets the criteria as a student with a specific learning disability due to his low academic performance which is impacted by needs in the areas of working memory, processing speed and executive functioning skills." (Id.).

92. The IEP stated that the Student is pursuing a Maryland high school diploma, and that it would be appropriate for him to participate in all state and district-wide assessments with given accommodations within this IEP cycle. (MCPS 23, at p. 000234).

93. Section II of the MCPS IEP described the Student's "Present Level of Academic Achievement and Functional Performance [PLAAFP]." In the PLAAFP section of the IEP for Academic—Reading Phonics, The IEP summarized the Student's [REDACTED] reports, which indicated he has significant difficulties decoding words, that several of his difficulties include reading long vowel sounds, short vowel sounds, vowel teams, reading additional sounds, affixes, and silent letters. The IEP noted that the Student had great difficulty reading words that do not follow typical spelling patterns (red words), as shown by his difficulties with reading words at stages 4 and 5 of word lists. The IEP stated that these difficulties impact his ability to read words with these types of patterns, and hinder his ability to access grade level. The phonics PLAAFP outlined the Student's strengths and needs in this area (the needs corresponded with the difficulties identified above), and stated that this area impacts the Student's academic achievement and/or functional performance. (MCPS 23, pp. 000235-36).

94. In the PLAAFP section of the IEP for Academic—Reading Fluency, the IEP relied on Dr. [REDACTED]'s results of her administration of the Woodcock-Johnson IV tests of achievement, and noted the Student's needs to self-correct when miscues interrupt the grammar or reading of a sentence, to group phrases when reading a text aloud, and to attend to punctuation when reading aloud. (MCPS 23, pp. 000236-37).

95. In the PLAAFP section of the IEP for Academic—Reading Comprehension, the IEP relied on Dr. [REDACTED]'s administration of the W-J 4 and the Student's [REDACTED] report, which stated that his difficulties with decoding and phonemic awareness impacted his ability to read texts fluently, ultimately preventing him from reading longer texts, and understanding at grade level, so that when presented with a 6th grade text, he was unable to respond to any implicit comprehension questions. (MCPS 23, pp. 000237-38).

96. In the PLAAFP section of the IEP for Academic—Math Calculation, the IEP relied on Dr. [REDACTED]'s administration of the WJ-4 and the Student's [REDACTED] reports. His needs in this area were addition, subtraction, and multiplication of numbers decimals and fractions, solving word problems and interpreting graphs, charts, and tables. (MCPS 23, p. 000238).

97. In the PLAAFP section of the IEP for Academic—Math Problem Solving, the IEP relied on Dr. [REDACTED]'s administration of the WJ-4 and his [REDACTED] reports, which indicating that the Student's difficulties in language affect his ability to acquire and understand math vocabulary and solve word problems. The Student was noted as having overall poor number sense, and that his slow processing affects his math performance. (MCPS 23, pp. 000238-39).

98. In the PLAAFP section of the IEP for Academic—Written Language Mechanics, the IEP relied on Dr. [REDACTED]'s administration of the WJ-4 and his [REDACTED] reports, which indicated his difficulty with encoding, language, and handwriting influences his ability to access the general education curriculum. He was noted as having difficulty incorporating correct spelling, punctuation and capitalization in his writing. In addition, his executive functioning difficulties influence his ability to organize, revise and edit his writing. His needs in this area were to use correct capitalization, punctuation and spelling in sentences, and to use an editing checklist to revise and edit work. (MCPS 23, pp. 000239-40).

99. In the PLAAFP section of the IEP for Academic—Written Language Expression, the IEP relied on Dr. [REDACTED]'s administration of the WJ-4 and his [REDACTED] reports, which indicated that the Student's writing is basic and non-descriptive and lacks complex sentence structure as a result of language difficulties, and that his needs were to incorporate descriptive language in his paragraph writing, to write complex sentences using conjunctions and multiple clauses, to write effective topic and concluding sentences, and to write a multi-paragraph essay

including an introduction, three body paragraphs, and a concluding paragraph. (MCPS 23, at 000240).

100. In the PLAAFP section of the IEP for Academic--Cognitive, the IEP relied on Dr. [REDACTED]'s administration of the WISC-V, and stated that his instructional grade level performance was below age expectations. (Id.).

101. In the PLAAFP section of the IEP for Behavioral—Social Emotional/Behavioral, the IEP relied on an October 2019 psychological report from the [REDACTED] and on Dr. [REDACTED]'s psychological report. The [REDACTED] report noted the Student's difficulty sustaining his attention and comprehension and weak social skills, limited insight and understanding of anxiety, limited coping strategies for managing his anxiety, variable self-advocacy/problem solving skills. The report further noted that the Student is negatively impacted by his attention and anxiety-based symptoms, which directly interfere with his availability for learning. The IEP also noted that Dr. [REDACTED] had found that the Student presented with underlying symptoms of both anxiety and depression consistent with Mixed Anxiety and Depressive Disorder (MADD), which was likely secondary to his [REDACTED], and that Dr. [REDACTED] also noted that though the Student has friends, he is often anxious in social interactions because he fears he will be misunderstood and negatively judged. (MCPS 23, p. 000241).

102. In the PLAAFP section of the IEP for Behavioral—Self-management, the IEP relied on Dr. [REDACTED]'s report, several behavior assessments and [REDACTED] reports. The IEP noted Dr. [REDACTED]'s diagnosis of ADHD-Combined Type, with related executive functioning difficulties, secondary to his [REDACTED]. (MCPS 23, pp. 000241-42).

103. The IEP described the Students' Parents' input regarding the IEP, including that the

Parents:

note on the parental questionnaire that [the Student] has significant, far ranging developmental delays that require significant teacher support. Delays include cognition related to planning and executive functioning with multi-step assignments and projects, organizing work space, reading instructions and independent assignment completion. He requires frequent support in all classes every day. He also requires special seating due to low muscle control and frequent fatigue during class. They shared at the meeting that they had concerns in elementary school about his progress but the school at that time did not consider a screening. They note that he is thriving in his current environment due to the significant emotional and academic supports he is receiving.

(MCPS 23, p. 000243).

104. Section III of the IEP ("Special Considerations and Accommodations") identifies special accommodations MCPS offered, including assistive technologies to include a word processor, speech to text and electronic spell check for writing; an electronic text reader; text to speech for reading; and a calculator for math, and direct instruction to use these devices as needed. (MCPS 23, p. 000244).

105. The IEP offered the Student the following aids, services, modifications and supports, each of which can be provided at ■■■MS, in order for him to access the general education curriculum, due to his needs in the areas of reading (decoding, fluency, comprehension), written expression, math calculation and problem solving, coping skills and executive functioning:

- Provide structured time for organization of materials
- Multi-sensory supports, cues and instruction
- Check agenda book for completeness and accuracy
- Repetition of directions
- Provide alternative ways for student to demonstrate learning
- Paraphrase questions and instruction
- Monitor independent work
- Limit amount to be copied from board
- Have student repeat and/or paraphrase information
- Frequent and/or immediate feedback
- Allow use of organizational aids
- Allow use of manipulatives

- Provide assistance with organization
- Check for understanding
- Front load and review math terms and vocabulary
- Provide formula sheet
- Break down math word problems into steps
- Provide graph or lined paper for math calculation
- Paraphrase questions and instruction
- Provide proofreading checklist
- Allow use of highlighters during instruction and assignments
- Color coding writing
- Study guides with main ideas and points for given unit
- Verbal rehearsal prior to writing
- Simplified sentence structure, vocabulary, and graphics on assignments and assessments
- Separate long paragraph questions into bullets whenever possible
- Revise format of test (i.e. fewer question, fill-in-the-blank)
- Reduced length of exams
- Reduce number of answer choices
- Delete extraneous information on assignments and assessment, when possible
- Chunking of text
- Allow for dictation
- Extra time for processing information and formulating responses
- Advance notice of tests and quizzes
- Break down assignments into smaller units
- Reinforce positive behavior through non-verbal/verbal communication
- Strategies to initiate and sustain attention
- Provide manipulatives and/or sensory activities to promote listening and focusing skills
- Provide frequent changes in activities or opportunities for movement
- Advance preparation for schedule changes
- Preferential seating. (MCPS 23, pp. 000248-59).

107. Section IV of the MCPS IEP (“Goals”) listed the Student’s academic and social-behavioral-emotional goals. (MCPS 23, at pp. 00263-71).

108. The Academic-Reading Phonics goal for the Student was to read accurately unfamiliar multi-syllabic text. (MCPS 23, p. 000263).

109. The Academic-Reading Comprehension goal was for the Student, given a narrative or informational text at instructional level, to respond accurately to inferential, open-ended questions. (Id.). (MCPS 23, p. 000263).

110. The Academic-Reading Fluency goal was for the Student to increase his word count per minute to 20% above the baseline at his instructional level. (MCPS 23, p. 000264-265).

111. The Academic-Math Calculation goal was for the Student, given formulas, notes, calculator and graphic organizers, to calculate addition, subtraction, multiplication, and division of mixed numbers. (MCPS 23, p. 000265).

112. The Academic-Math Problem Solving goal was for the student to correctly solve multi-step word problems with whole numbers, fractions, and mixed numbers. (MCPS 23, p. 000266).

113. The Academic-Written Language Mechanics goal was for the Student, given a rubric, editing checklist, and teacher conferencing editing opportunities, to demonstrate use of the conventions of standard English capitalization, punctuation, and spelling when writing the final draft of a given essay. (Id.).

114. The Behavioral-Self-management goal was for the Student, given direct strategy instruction, visual cues, adult modeling, and opportunities for guided practice, to demonstrate expected attention and executive skills across the school day 80% of the time. (MCPS 23, p. 000268).

112. A Behavioral-Social Emotional/Behavioral goal was for the Student, given a variety of situations, visual supports, modeling, role-plays, and self-calming strategies, to increase his understanding of the sources of anxiety and effectively employ a range of CBT (cognitive behavioral therapy) strategies for reducing anxiety. (MCPS 23, p. 000269).

113. Another Behavioral-Social Emotional/Behavioral goal was for the Student, given a variety of situations, visual supports, modeling and role plays, to develop and utilize effective social skills in his interactions with his peers and adults. ((MCPS 23, pp. 000269-70).

114. Another Behavioral-Social Emotional/Behavioral goal was for the Student to develop and utilize effective cognitive strategies for modulating arousal. (MCPS 23, p. 000270).

115. Section V of the MCPS IEP (“Services”) specifies the special education and related services offered by MCPS, that would be provided at ■■■MS:

Special Education – Classroom Instruction: [the Student] will receive instruction in an inclusion setting for all core academic subjects (math, science, world studies and English) as well as reading intervention. These classes meet for 90 min[utes] every other day with the exception of math, which meets daily.

Special Education – Classroom Instruction: [the Student] will be instructed in a self-contained setting of the resource class period. This class meets every other day for 90 min[utes].

Related Services – Counseling Services: [the Student] will receive weekly thirty-minute check-in to address social-emotional needs.

(MCPS 23, p. 000272-273).

116. The seventh grade at ■■■MS has four 90 minute classes each day. English, world studies, and science meet every other day, while math meets every day. Under the MCPS IEP, the Student would be in an “inclusion” classroom setting of approximately 22-24 students, of whom no more than six would be students like the Student who have special needs and an IEP. Although there is variance, the English and math classes would generally be co-taught by the general education teacher and the special education teacher. The world studies and science classes would be taught by the general education teacher and supported by the paraeducator. The approach would be flexible, in that there could be tandem teaching by both instructors, or the general education teacher might first teach the material, followed by the special education teacher or paraeducator reteaching the material. The Student, either alone or with the other students with IEPs, could be pulled out to a different space. The inclusion setting would permit the Student to be pulled out of the larger class, and taught in a smaller group or one-on-one by the special education teacher or the paraeducator. The IEP provided that the Student would spend

22 hours and 30 minutes per week in the general education inclusion setting, 3 hours and 45 minutes per week in the resource class outside general education, and 30 hours per week in counseling sessions. (MPCS 23, p. 000272).

117. The paraeducators who would assist in the general education inclusion classroom receive training. They have varying backgrounds: some have bachelor's degrees or may be retired teachers. Unlike the special education teachers, the paraeducators would not be certified special education teachers.

118. ■■■MS has experience in providing the inclusion model proposed in the MCPS IEP to students with a similar profile to that of the Student, and to students with more significant delays than the Student.

119. The Student would also receive special education in a self-contained resource class usually taught by a special education teacher. This resource class would meet every other day for 90 minutes, in a different classroom than the general education classroom. The resource class would include approximately twelve students, all having IEPs. These student would be drawn from different ■■■MS seventh grade classrooms. The focus of the resource class would be on executive functioning and organization. The IEP provides that the Student would spend three hours and forty-five minutes per week in the resource classroom setting.

120. The IEP also provides for the student to receive thirty minutes per week of counseling services from a school counselor to address his social-emotional needs.

121. The IEP also provides that every other day the Student would attend a ninety-minute reading intervention class taught by a reading specialist with a paraeducator.

122. Due to the time required for the Student's attendance in both the resource class and the reading intervention class, the Student would not be able to participate in electives during the seventh grade.

123. ■■■ MS offers about fifty extracurricular clubs and activities in which the Student could participate.

124. As noted in Section VI of the IEP ("Placement Data"), the IEP team considered the following placement options for the Student: "100% general education and inclusion setting provided through the home school model with self-contained resource [class]. The team considered 100% self-contained at the current parent placed private setting [i.e. the ■■■■■]." (MSPS 23, p. 000274). The team stated that the reasons that services could not be provided in the general education environment were that the Student "requires direct support and specialized services to address his needs with executive functioning skills as well as social-emotional needs ... [and] [t]hese specialized services and supports...cannot be provided directly in the general education." (Id.).

125. The team proposed that the Student would be instructed in a general education inclusion setting involving 22.5 hours of special education within the general education classroom, as well as a reading intervention class, thirty minutes per week of counseling, and a self-contained resource class for students with IEPs only. (MCPS 23, p. 000272-73).

125. In Section VI of the IEP, in response to a question on the IEP form that asked whether, "in selecting the LRE, are there any potential harmful effects on the student or quality of services he receives," the IEP team answered: "Yes [d]ue to [the Student's medical needs, there could be a potential harmful effect on his health and well-being. Also, due [to] his participation in a reading intervention class, he will not have access to electives." (MCPS 23, p. 000274).

126. MCPS has the capability through school nurses and nurse technicians at [REDACTED] MS of giving the Student the medication he needs to take at mealtimes.

127. The IEP team noted in Section VI of the IEP, in response to a question on the IEP form that required an explanation of the extent, if any, that the Student would not participate with non-disabled peers in academic, non-academic, and extracurricular activities, that “[the Student] will participate in all activities with non-disabled peers with the exception of the time spent in the self-contained setting for the resource class.” (Id.).

128. The Parents did not accept the MCPS IEP. On August 17, 2020, the Parents’ counsel notified MCPS that the Student would attend the [REDACTED] for the 2020-2021 SY. The Parents demanded that MCPS place and fund him at the [REDACTED], and stated that an appropriate IEP had not been proposed for the Student. (P-41).

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). In this case, the Parents are seeking relief, and bear the burden of proof to show that MCPS failed to offer the Student FAPE for the 2019-2020 and 2020-2021 school years, and that they are entitled to reimbursement for their unilateral placement of the Student at the [REDACTED]. For the reasons that follow, I find that the Parents have not met this

burden, and conclude that MCPS offered the Student a FAPE for the 2019-2020 and 2020-2021 school years, and that the Parents are therefore not entitled to reimbursement for their unilateral placement of the Student at the [REDACTED].

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) 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 the 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 the 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 informed 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 handicapped 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.”” *Andrew 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.” *Andrew 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.” *Id.* 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 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). The issue of reimbursement for unilateral placement was expanded in *Florence County School District Four v. Carter*, 510 U.S. 7 (1993), where the Court held that placement in a private school not approved by the state is not a bar under the IDEA. 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).

The Parties' Contentions

The Parents argued that although the Student is not of limited cognitive ability, he has learning disabilities, executive function challenges, language problems, and behavioral-emotional issues, and that these difficulties are related to his [REDACTED]. The MCPS found him eligible for special education services, and developed an IEP providing for placement of the Student at [REDACTED] MS, his home school, in which he would be instructed in a general education inclusion setting involving 22.5 hours of special education within a general education classroom, as well as reading intervention, thirty minutes per week of counseling, and a self-contained resource class involving only students with IEPs. The Parents contended that the evidence does not show the Student can learn appropriately in a public school inclusion setting, and that the MCPS's IEP should not be accorded deference because the MCPS did not conduct its own observation and evaluation of the Student, partly due to the pandemic, and partly because the MCPS relied on Dr. [REDACTED]'s educational evaluation and Dr. [REDACTED]'s psychological evaluation, both of which the Parents submitted.

The Parents argued that the MCPS-proposed IEP and placement of the Student in the inclusion setting at [REDACTED] MS fail to provide a FAPE. They urged that I find that their unilateral private placement at the [REDACTED] was proper, and that MCPS should be required to reimburse them for both a portion of their costs incurred for the [REDACTED] for the 2019-20 SY (beginning

as of April 27, 2020, the date of the second IPE meeting), as well as the entire cost of the [REDACTED] [REDACTED] for the 2020-21 SY.

The MCPS responded that the IEP it proposed offered a FAPE and can be implemented in the [REDACTED] MS inclusion setting. Most of the services recommended for the Student in the [REDACTED] [REDACTED]'s IEP were included in the MCPS IEP. MCPS contended that based on the assessment of the Student's speech-language ability conducted by MCPS speech-language pathologist [REDACTED] [REDACTED], it appropriately determined that the IEP did not need to include speech-language therapy. The MCPS further contended that the counseling services offered the Student in the MCSP IEP appropriately addressed the Student's psychological needs. The MCPS argued that it also appropriately determined not to include specific provisions in the IEP for a health plan or vision services. The MCPS contended that the IEP it developed would provide the Student a FAPE in the least restrictive environment (LRE).

Summary of the Witness Testimony

The Parents' Witnesses

1. Dr. [REDACTED]

Dr. [REDACTED], accepted as an expert in special education, testified that the Parents engaged her as an educational consultant. She described the Student as a sweet child who wants to be social and engage with other people, and has learning disabilities across the board. He has difficulty with reading, particularly decoding, phonemic awareness, and orthographics. He can write a single sentence but at his grade level writing demands far exceed one sentence. He has word retrieval, visual motor processing, sensory, and some social-emotional needs. His needs in math are relatively less severe in the area of calculation and more severe in multi-step problems.

He has executive functioning needs in the areas of initiating, planning, task analysis, and organizing materials.

Dr. [REDACTED] testified that MCPS coded the Student with a specific learning ability and that she agrees with that determination. She indicated he has speech-language needs, but she would not code him with a speech-language disability. Dr. [REDACTED] did not disagree with the findings of Ms. [REDACTED] who assessed the Student's speech-language skills for MCPS, but Dr. [REDACTED] disagreed with Ms. [REDACTED]'s conclusion that he did not need speech-language services.

She noted that before the Student started at the [REDACTED] in third grade he attended the [REDACTED] from preprimary to second grade. [REDACTED] is not a special education school but provided small classes and the opportunity for the Student have a private tutor every day at [REDACTED]. Even with its small classes and the tutoring, [REDACTED] did not meet the Student's needs.

When Dr. [REDACTED] observed the Student at the [REDACTED] on July 10, 2020, she noted him persistently yawning, a sign of cognitive fatigue. She observed his difficulty with hand manipulation skills such as holding a pencil correctly, and with attention. The Student's scores on the W-J4 test, which measures academic achievement were quite low in reading, spelling, and written language. His math scores were higher, but his calculation score was average. She opined that he has attentional, linguistic, motor, academic and social-emotional needs which require a small class setting. She recommended to the Parents that they approach MCPS to see what it could offer the Student.

Dr. [REDACTED] participated in the IEP team meetings. She proposed revisions to the MCPS IEP, many of which were accepted. She disagreed with the MCPS's proposed placement of the Student in the inclusion setting at [REDACTED] MS, opining that the Student requires specialized instruction in small classes throughout the day, noting that the Student has difficulty at the [REDACTED] even

with its smaller classes. She opined that placement at the [REDACTED] is appropriate and provided the Student the LRE.⁷

In rebuttal testimony, Dr. [REDACTED] testified that the accommodations provided for in the MCPS IEP are comprehensive and appropriate, but she believes the inclusion setting is inappropriate for the Student, because the setting is too large. She pointed to his experience at [REDACTED], which could not meet his needs despite providing a class size of 13-14 and daily at-school tutoring.

2. [REDACTED]

Ms. [REDACTED], the Student's mother, testified that the Student overall is a wonderful, amazing person. He has had significant developmental delays and impacts regarding planning, organizing tasks, processing language, and staying focused. He needs to take medication with every meal.

Because the Student was not speaking and developing fine motor skills, at age three or four, the Parents initiated his attendance at an infants and toddlers program, the [REDACTED] [REDACTED] at [REDACTED] MS. That program ended and he started at [REDACTED] in the middle of the pre-K year. The Parents hired a daily tutor to help the Student at [REDACTED] with reading and other tasks.

The head of [REDACTED]'s elementary school suggested to the Parents that the Student's needs exceeded what [REDACTED] could provide. The Parents reached out to MCPS in early 2016 and submitted paperwork for [REDACTED] Elementary School, where their daughter attended. The

⁷ Dr. [REDACTED] testified that OT services the Students received at the [REDACTED] are not included in the MCPS IEP. She stated that the Parents were not requesting that vision services be included in the IEP, but the supplementary aids included in the MCPS should include vision findings once the Parents were able to have the Student evaluated by a developmental optometrist.

special education coordinator said that [REDACTED] only had two special educators and suggested that the [REDACTED] would be the Student's best setting.

The Student started at the [REDACTED], and in the summer of 2019, the Parents noticed some children were transported by county buses. Other [REDACTED] parents suggested they hire an educational consultant with a view to secure MCPS funding for the [REDACTED]. They engaged Dr. [REDACTED] as their education consultant. Dr. [REDACTED] referred them to Dr. [REDACTED], who prepared a psychological evaluation. They wanted to explore options at MCPS with an open mind to see if MCPS could meet the Student's high level of needs.

On February 5, 2020, the Parents attended the first IEP meeting, at which MCPS accepted Dr. [REDACTED]'s and Dr. [REDACTED]'s external evaluations, and found the Student eligible for special education services as a result of his low academic performance, slow processing speed, and executive functioning issues.

On April 27, 2020, the Parents attended the second IEP meeting, where the MCPS IEP was discussed. Ms. [REDACTED] disagreed with that IEP because the Student required very small classes and direct supports, and would not be able to participate in electives this year under the MCPS IEP.

Ms. [REDACTED] also disagreed with the assessment of Ms. [REDACTED], the MCPS speech-language pathologist, that the Student did not require speech-language services. Ms. [REDACTED] testified that the Student has difficulty following directions, participating in discussions, and asking and understanding simple questions.

She testified the Student has made good academic and social progress at the [REDACTED]. She noted that he sees Dr. [REDACTED], the [REDACTED] psychologist, for anxiety, both one-on-

one and in small groups, and that Dr. [REDACTED] and the [REDACTED] have been life-altering for the Student.

With respect to the Student's health needs, Ms. [REDACTED] stated that everyone with [REDACTED] does not present the same way. The Parents did not provide documentation to MCPS regarding any building cleaning procedures that needed to be undertaken at [REDACTED] MS for infection control purposes. The Student needs to take [REDACTED] medication at every meal, and would need a rescue inhaler if he had an asthma attack. She did not convey these medical needs to the MCPS, because she would have provided the information to a school nurse at the time of the Student starting school. She understood that MCPS has nurses at its schools but did not know if it has protocols for a student with [REDACTED]. She acknowledged that the Student's health needs were discussed at the April 27, 2020 IEP meeting.

She felt that the [REDACTED]'s vision screening was insufficient, because a consultation with a developmental optometrist was recommended, but the Parents have not sought that consultation due to the pandemic. She acknowledged that the MCPS IEP is similar to the [REDACTED] IEP, except that the MCPS IEP would be implemented in a different setting.

3. Dr. [REDACTED]

Dr. [REDACTED] was accepted as an expert in psychology. Her evaluation of the Student showed that he is bright and intellectually capable, but is a very slow processor. He showed a high level of executive functioning problems in the [REDACTED]'s small classes. Dr. [REDACTED] was concerned that the Student might be overwhelmed in a large-sized class due to his anxiety and distractibility. She diagnosed him with ADHD and MADD, and recommended that he continue at the [REDACTED] where he feels comfortable.

Dr. [REDACTED] noted that as MCPS accepted her testing, there was no need for MCPS to call her to discuss her report. She opined that the inclusion model proposed by the MCPS was not appropriate for the Student.

4. [REDACTED]

[REDACTED], accepted as an expert in special education and reading instruction, focuses on the integration of spoken and written language in listening, speaking, and reading. She is a certified speech-language pathologist at the [REDACTED], and has been a reading teacher. At the [REDACTED], the Student receives integrated speech-language services, meaning that a speech-language pathologist was paired with his classroom teacher and collaborated on instruction. Ms. [REDACTED] opined that the Student needs direct speech-language services. She testified that although Ms. [REDACTED]'s speech-language assessment was conducted virtually, the results should be considered valid if the assessment protocols were followed. Ms. [REDACTED] stated that Ms. [REDACTED] used the CASL and TOPL instruments to assess the Student's narrative skills, having a conversation, and how many words he used, and found him in the average range. But Ms. [REDACTED] testified that Ms. [REDACTED] did not explore certain other areas in depth, i.e. the full lexical-semantic meaning section of the CASL test, and did not conduct a full battery of assessments of syntactical skills and communication units.

Ms. [REDACTED] testified that the [REDACTED] uses the Orton-Gillingham reading method, and that the Student is making slow progress but not closing the gap with his peers as she would hope. She testified that Ms. [REDACTED]'s speech-language assessment is not consistent with her observation of the Student. She testified the [REDACTED] also uses the Lindamood Bell reading approach. She opined that the Student needs much more time to complete Orton-Gillingham lessons than is allocated to reading intervention in the Student's MCPS IEP.

5. [REDACTED]

[REDACTED], accepted as an expert in special education, is the head of the [REDACTED]'s intermediate division. She explained that the [REDACTED] has both privately and publicly-funded students. It specializes in learning disorders that are language-based, and involve attention or executive function difficulties. It is approved by MSDE for placements. It grants diplomas, and many students go on to college. Some students move on to less restrictive settings.

She is familiar with the Student, who needs moderate support across the board for attention and executive function. He needs small classes such as the [REDACTED] provides: the Student's homeroom has 12-13 students with two teachers; his reading class has 6-7 students with two teachers; his science and social studies classes have 8 students with one teacher; and physical education has 20 twenty students with two teachers. Ms. [REDACTED] said he still had attention difficulties with those class sizes.

Ms. [REDACTED] testified that the Student made great progress in the [REDACTED]'s intermediate division. His [REDACTED] IEP lists his present levels of functioning: in the sixth grade his reading level was at grade 5.5, and his written language level was at grade 4. Ms. [REDACTED] noted that the MCPS IEP was very similar to his [REDACTED] IEP, the latter of which she and Dr. [REDACTED] helped develop in October 2019. She is familiar with and has taught in an inclusion setting, but testified that she does not know how MCPS's inclusion classes are run. Her opinion was that a classroom of 25 students is too large for the Student. She testified that he needs a much smaller class size, and more support because of his executive functioning. She opined that a class of twenty-five students would be very difficult for the Student.

6. Dr. [REDACTED]

Dr. [REDACTED], accepted as an expert in psychology, provides individual and group psychotherapy and prepares psychological evaluations for [REDACTED] students. Dr. [REDACTED]'s degree is in counseling psychology, not clinical psychology. He noted that the MCPS IEP's behavioral self-management goals (MCPS 23, p. 000268) and psychological goals (id., p. 000270) are similar to the corresponding goals in the [REDACTED]'s IEP, as are a number of the social-behavioral supports and strategies. He did not know what type of counselor would be assigned by MCPS to the Student. He has never observed a co-taught class at MCPS, and did not know the credentials of the special education teacher.

He has worked with the Student for four years in weekly thirty-minute sessions. Group sessions have ceased during the pandemic. The Student's issues on which Dr. [REDACTED] works are attention issues in the classroom, staying engaged, social interactions with classmates, and emotional reactivity when the Student would become upset or frustrated.

Dr. [REDACTED] testified that Dr. [REDACTED]'s and Dr. [REDACTED]'s descriptions of the Student are consistent with his view. The Student has significant attention difficulties across the board. In class he needs prompting to initiate and stay on task. He is distractible, but is making progress. The Student's attention issues are chronic, but maturation is helping. Dr. [REDACTED] works on these issues with the Student individually and when group sessions were occurring.

With respect to peer relations, Dr. [REDACTED] described the Student as a happy-go-lucky, sweet kid, well liked at school, but he feels on the periphery of peer dynamics. He has some self-esteem issues.

Dr. [REDACTED] opined that the Student is appropriately placed at the [REDACTED] because of his significant learning deficits, ADHD, social-emotional issues and limited coping strategies. He

needs psychological services (working with a psychologist) to help in understanding his issues. Dr. [REDACTED] did not believe a thirty-minute session with a school counselor, as proposed in the MCPS IEP, would be sufficient to meet the Student's needs because of the complexity of his profile. Dr. [REDACTED], acknowledging that the [REDACTED] is restricted to students with learning disabilities, opined that that setting is appropriate for the Student because, in the inclusion setting proposed by the MCPS, the Student would be distracted by the large size of the environment, he does not have the skills to navigate middle school social dynamics, and would need teacher support or "scaffolding" that would not be present. He opined that the [REDACTED] is the appropriate placement and the LRE.

7. [REDACTED]

Mr. [REDACTED], the Student's father, testified in the Parents' rebuttal case that although the MCPS IEP provided many accommodations, so did the [REDACTED], which provided a tutor with special education training, who provided a one hour pull-out from the Student's classes, yet [REDACTED] could not meet his needs. Describing the Student's self-esteem, Mr. [REDACTED] testified that the Student feels that the [REDACTED] is challenging, but that he is in the right place. He loves the [REDACTED], and his Parents feel that the [REDACTED] is the best environment for him due to its small class size and emotional supports, given the Student's ADHD and distractibility.

MCPS's Witnesses

1. [REDACTED]

[REDACTED], accepted as an expert in special education, is a special education resource teacher at [REDACTED] MS, the Student's home school. She participates in the initial referral process when parents initiate a request for special education services, chairs IEP meetings and is a resource teacher for the special education team at [REDACTED] MS. She received the Student's referral

packet from MCPS's private/parochial school office, which coordinates special education requests for students coming from private or parochial schools. She attended the three IEP meetings.

Prior to the first IEP team meeting, which was conducted in-person on February 5, 2020, Ms. [REDACTED] prepared a Child Find Referral using teacher reports, classroom observations and other information. The Child Find Referral was finalized at the February 5, 2020 meeting, after incorporating Dr. [REDACTED]'s comments. The purpose of the February 5, 2020 IEP team meeting was to consider the data received, and determine if further assessments were needed. The team accepted the external reports from Dr. [REDACTED] and Dr. [REDACTED]. Ms. [REDACTED] reviewed Dr. [REDACTED]'s educational evaluation. [REDACTED], MCPS psychologist, reviewed Dr. [REDACTED]'s psychological evaluation. The team concluded that the Student was eligible for special education services as a child with a disability.

In response to the Parents' request that speech-language services should be included in the IEP, the team proposed that an MCPS speech-language pathologist, [REDACTED], conduct a speech-language assessment to determine if speech-language services should be added to the IEP.

A [REDACTED] vision screening of the Student was included in the referral packet. It recommended an assessment by a developmental optometrist. The IEP team forwarded the [REDACTED] vision report to the MCPS vision specialists, who requested additional assessments of the Student's visual-motor needs, but the Parents did not provide additional vision assessments because of their concerns for safety during the pandemic.

At the February 5, 2020 IEP team meeting, Dr. [REDACTED] brought up MCPS's Central IEP team process and suggested that was the direction the Parents wanted to go, but the team did not

agree or commit that the Student's case would be referred to the Central IEP team, because the [REDACTED] MS IEP team needed to develop an IEP first before any referral to the Central IEP team.

The team discussed the Student's need for small class size, and his [REDACTED] was brought up. Ms. [REDACTED], MCPS school psychologist, asked about [REDACTED] and how it affected the Student. The Parents had not submitted medical documentation at that point, and the discussion of the Student's health condition was insufficient to formulate a health plan, until further medical documentation could be provided. The Student's health needs could be accommodated because a school nurse would create a health plan, which would not have to be included in the IEP. A nurse or nurse technician would administer the Student's medications, as is routinely done at [REDACTED] MS.

The next IEP meeting, to develop the IEP, was scheduled for March but did not take place until April 27, 2020, due to the pandemic and an illness. The April 27, 2020 meeting was conducted virtually. Prior to the meeting MCPS sent a draft IEP to the Parents, and Dr. [REDACTED] and Dr. [REDACTED] sent in revisions, which Ms. [REDACTED] said would be reviewed at the meeting. The IEP was revised after the meeting to include additional comments from Dr. [REDACTED] and the final draft was sent to the Parents on May 7, 2020.

The Parents agreed to a delay in finalizing the IEP so that Ms. [REDACTED] could conduct a speech-language assessment of the Student. That assessment took place in late May and June, and the third and final IEP team meeting was scheduled for July 9, 2020, for the purpose of considering the assessment. At the meeting, Ms. [REDACTED] discussed her assessment report and findings that the Student was not eligible for speech-language services. The IEP team determined not to include speech-language services in the IEP.

The team further determined that the Student could be appropriately placed, and his needs as outlined in the IEP met, in an inclusion setting with the opportunity for reading intervention

and a self-contained resource class where executive functioning will be addressed. The inclusion class meets LRE expectations by providing peer modeling to the extent possible. Ms. [REDACTED] opined that all services in the MCPS's final draft IEP can be implemented in the [REDACTED] MS inclusion setting. She noted that [REDACTED] MS has students with profiles similar to the Student's and who have more significant delays. Ms. [REDACTED] acknowledged that MCPS relied on Dr. [REDACTED]'s and Dr. [REDACTED]'s evaluations and data from the [REDACTED], and found him eligible without personally meeting or seeing him, with the exception of the speech-language assessment Ms. [REDACTED] conducted. She testified that Dr. [REDACTED], who conducted an observation of the Student that was included in the referral packet, was considered a member of the IEP team. In addition, the packet included an observation from Ms. [REDACTED], a [REDACTED] teacher. The MCPS IEP was based largely on the information provided by Dr. [REDACTED], Dr. [REDACTED], and the [REDACTED]. All evaluations considered by the team were supported by assessments, and the team did not need to conduct its own assessments, except for the speech-language assessment.

The inclusion setting, with which the Parents and Dr. [REDACTED] disagreed, would provide special education instruction in academic subjects because the classes would be co-taught by a general education teacher and a special educator or paraeducator; the reading intervention class would be taught by a reading specialist with a paraeducator; and the resource class would be taught by a special educator with the paraeducator, and would focus on executive function and organization. Although the time spent in the resource class and the reading intervention would preclude an elective for the Student in the seventh grade, Ms. [REDACTED] noted that [REDACTED] MS offers fifty clubs that would offer the Student a global, social experience.

Ms. [REDACTED] testified that the thirty minutes per week of counseling services provided in the MCPS IEP would be a direct service where the counselor could, for example, set a time to have lunch with the Student; but the counseling would not constitute psychotherapy.

2. [REDACTED]

[REDACTED], who was accepted as an expert in school psychology, is a certified school psychologist with a master's degree in school psychology. She provides counseling services to students, focused on strategies and tools to alleviate symptoms that may cause academic difficulties. She does not provide psychotherapy and is not a licensed psychologist.

She attended the first IEP meeting on February 5, 2020. The team considered Dr. [REDACTED] and Dr. [REDACTED]'s evaluations and the Student's [REDACTED] diagnosis. The team determined he was eligible for special education services and that it would conduct another meeting to develop an IEP. At the meeting, the Central IEP was discussed, but the team did not agree to refer the Student's case to the Central IEP. After the IEP was drafted the team would consider possible next steps such as the Central IEP.

Ms. [REDACTED] attended the second IEP meeting, on April 27, 2020. The meeting, which was conducted virtually, considered the draft IEP. Ms. [REDACTED] recalled that the Student was performing considerably below grade level in academics, had attention issues, particularly in large groups and less in small groups. Ms. [REDACTED], who has conducted 100-200 assessments, did not disagree with Dr. [REDACTED]'s psychological assessments and suggestions, many of which were incorporated in the IEP. The team considered the Student's need for psychological support. It provided in the IEP for thirty minutes of counseling per week, to meet the IEP social-emotional and self-management goals. If he needed more access to the counselor or felt overwhelmed,

more access would be available. The Student could also select a trusted adult and could get a flash pass to meet with the adult.

The team had available Dr. [REDACTED]'s evaluation but not a 2015 neuropsychological evaluation of the Student that would have described his present level of functioning as of 2015. Ms. [REDACTED] also noted that [REDACTED] MS services students in the inclusion setting who have profiles similar to the Student's. She opined that the counseling provision in the IEP meets the Student's psychological needs and can be implemented at [REDACTED] MS. She did not believe additional data was needed to evaluate Student's needs beyond the information provided by the Parents, Drs. [REDACTED] and [REDACTED], and the [REDACTED], and in the discussions in the IEP meetings.

Ms [REDACTED] testified that the IEP considered whether psychotherapy should be added to the Student's IEP, but concluded that individual counseling would be provided at [REDACTED] MS, and would be combined with the self-contained resource class, in which the Student would be assisted with his executive functioning, coping skills, and time management. Ms. [REDACTED] opined that the issues addressed in the Student's group therapy at the [REDACTED] could be addressed in the resource class as well.

3. [REDACTED]

[REDACTED], certified as a speech-language pathologist, was accepted as an expert in speech-language pathology. She was asked to assess the Student's receptive, expressive, and pragmatic language. The testing, which was delayed due to the COVID school closures, took place virtually in late May and June, 2020. The sessions ranged from 25 to 90 minutes in duration. She observed the Student as friendly, respectful, and poised, and that he used language appropriately to seek clarification, get his needs met if he needed to use the bathroom or get a drink, and that he was a good conversationalist who worked cooperatively with her.

The Student's performance on the standardized assessment measures Ms. [REDACTED] used to assess the Student's receptive, expressive, and pragmatic language skills (grammatical morphemes, nonliteral language, meaning from context, inferences, double meaning, pragmatic language, and oral passage understanding) were within age expectations with the exception of one subtest (double meaning) in which he was below grade expectations. Due to the challenge of assessing the Student's language skills virtually due to the COVID-19 pandemic, Ms. [REDACTED] sought guidance from the MCPS language office. Based on that guidance, Ms. [REDACTED] reported the Student's performance descriptively instead of by using standard scores because scores have only been standardized for in-person administration, not for virtual administration.

Nevertheless, using raw scores rather than standard scores did not diminish her confidence in the results and her interpretation of her assessment because the Student scored within age expectation, and that is what MCPS was assessing. Ms. [REDACTED] noted that Dr. [REDACTED] also administered a standardized test of pragmatic language on which the Student scored above age expectations, which shows he has the linguistic skills to manage social situations. Though Dr. [REDACTED] is not a speech-language pathologist, her findings that the Student performed within the expected age range were consistent with Ms. [REDACTED]'s, as was Dr. [REDACTED]'s finding that the Student's receptive skills were within expectations. The Student also performed well on non-standardized testing, including speech, conversational and narrative language samples.

She reviewed the parent checklist that the Parents completed and emailed to her, as well the Orion's Pragmatic Skills questionnaire. She gave some weight to the Parents' input, but also considered objective measures of assessment. Her overall conclusion was that the Student's speech-language receptive, expressive, and pragmatic skills are within age expectations, and do

not require the services of a speech-language pathologist to access the curriculum. She reviewed a 2016 assessment but not before writing her report in this matter. A four year old assessment done when the child was eight, and he is now thirteen, would be outdated and irrelevant. She noted that in the 2016 assessment the child's name was incorrectly shown as "█," the parent name was inaccurate, and there may be other misinformation in the 2016 report.

At the third and final IEP meeting held on July 9, 2020, Ms. █ reviewed and discussed her assessment. Dr. █ voiced her negative opinion that standardized scores were not provided and the results were reported descriptively. The Parents also disagreed with Ms. █'s conclusions, stating that they did not match how they saw the Student.

Ms. █ opined that the Student does not need speech-language services on his IEP, because his communication skills are within age expectation, and she does not believe he needs the services of a speech-language pathologist to access the curriculum. She explained that social language is the linguistic ability to speak in social situations, while social skills relate to behavioral aspects. She was looking at the Student's linguistic abilities, and she found he had them. She tested how he would be able to use his social language skills in a social situation. A speech-language pathologist remediates a spoken language disorder. Without a speech-language disorder, the services of a speech-language pathologist are not needed, and the concerns noted by the Parents relate to the social skills domain rather than that of speech-language pathology and services.

4. █

█ accepted as an expert in general education and special education, has 28 years of teaching in both the general education and special education (early childhood) settings, and a master's degree in early childhood special education from █

University. She is a student support teacher at ■■■ MS, working with students who are unsuccessful in school in any subject area or because of behavioral concerns or anxiety disorders. She has taught learning disabled students in the inclusion setting at ■■■ MS.

Ms. ■■■ asked Ms. ■■■ to attend the April 27, 2020 virtual IEP meeting as a general educator, because of Ms. ■■■'s experience in both general and special education. Her role at the meeting was to respond to questions about the Student's needs and possible accommodations, what the ■■■ had learned about him, and whether the MCPS could provide those same things for him. At the meeting, Dr. ■■■, whom Ms. ■■■ identified as the Student's advocate, discussed his needs in reading, and that he had speech-language needs. His Parents mentioned that he had fatigue from ■■■ and that was a big concern for them. The Parents did not provide medical documentation with respect to specific needs he had that resulted from the syndrome.

Ms. ■■■ described the inclusion setting proposed in the MCPS IEP. The Student would be in general education setting with a resource class. There would be a special education teacher or an instructional assistant (paraeducator) or both, to reduce the student-teacher ratio and provide hands-on reteaching of material. Depending on how the special educator worked with the Student, he could be pulled aside to a small group, or work one-on-one, or be retaught, or pulled out to have instruction in a quiet setting. He would be in a classroom with both general education and learning disabled peers but a special educator would sit at his table to keep him focused or provide individual assistance. The premise of the inclusion class, based on the concept of the LRE, is that the students have as much access to the curriculum and to non-disabled students as possible. Flexible grouping is built into the general education model, and the setting would be responsive to the Student's needs at the moment. For example, his world

studies class involves substantial reading, and he might be pulled out separately so the teacher could provide reading and writing support. If he had attention issues, he could be pulled out to a quiet place to write, then return to the classroom.

He would also have the resource class every other day with a special educator and a paraeducator for ninety minutes, for instruction on executive functioning or to work on assignments. The goals in the IEP would be worked on in the resource class. Ms. [REDACTED] described the advantages of the inclusion class: The Student would be surrounded by typically-developing students who do not have disabilities and are fluid with the instructional content. This would provide the Student with peer modeling. It is healthy for students not to be isolated with only other students with special needs. In the inclusion setting, students fit in better with their peers and continue to grow with them. Some IEP students are gifted, and the inclusion setting builds their confidence and lessens stigma. They can be more willing to work on weaknesses, because their strengths have been highlighted elsewhere.

Ms. [REDACTED] also addressed how students with medical needs are met at [REDACTED] MS. [REDACTED] MS has students with feeding tubes, who have special needs for feeding and toileting, or who use a wheelchair. Teachers use discretion to avoid embarrassing incidents. The school nurse is involved in developing a health plan when necessary, including for taking medication at particular times a day. The nurse works closely with the school's health tech. They deal with injections and other medications. [REDACTED] MS could also deal with the Student's asthma. Ms. [REDACTED] opined that all of the services and accommodations called for in the MCPS IEP can be provided in the general education inclusion setting.

5. Dr. [REDACTED]

Dr. [REDACTED], accepted as an expert in special education, is the special education supervisor for MCPS Area Three, one of MCPS's three areas. She supervises special education programs for six schools, both inclusion and self-contained programs. She participated in the April 27 and the July 9, 2020 IEP meetings. The IEP team approved the IEP, but because the Parents did not consent to its implementation, MCPS has not implemented it.

In creating the IEP, the team considered input from the Parents and the evaluations provided by Dr. [REDACTED] and Dr. [REDACTED]. The team made adjustments to the IEP based on Dr. [REDACTED]'s suggestions. Dr. [REDACTED] opined that the general education inclusion setting would be flexible, and would meet the Student's needs. The special education teacher in the general education classes could serve as co-teacher with the general education teacher, or the Student could be pulled outside the classroom into a small group, and one-on-one instruction is provided when needed. The IEP calls for reading intervention for ninety minutes every other day, and the counseling services to be provided would address the Student's social-emotional needs.

Dr. [REDACTED] testified that the team did not receive information from the Parents or the Students' doctors regarding any specific health needs of the Student. So MCPS did not have enough information to establish a health plan in the IEP, but the information MCPS used to create the IEP was sufficient to meet his needs. She testified that the IEP can be implemented virtually during the pandemic. She acknowledged that the IEP team must review observations of the Student, but that the observation need not be performed by an *MCPS* member of the IEP team. Dr. [REDACTED], who (together with the Parents), was considered a member of the IEP team, submitted her classroom observation to the MCPS, and the packet submitted by the Parents also included the classroom observation of the Student by a [REDACTED] teacher, Ms. [REDACTED].

Analysis

A. The Inclusion Setting at [REDACTED] MS Offers a FAPE

The record establishes that the Student, a child of average to above-average intelligence, has significant learning disabilities, manifesting as delayed progress in mastering basic reading and writing skills, and to a somewhat lesser extent math skills, that his processing speed is slow, he has significant attentional and executive functioning issues, and social-emotional needs centering around anxiety. The Student has a rare genetic syndrome, [REDACTED], which can affect his learning, and he needs specialized academic support. The question for decision under the *Andrew F.* standard is whether the IEP offered by MCPS was “reasonably calculated to enable the Student to make progress appropriate in light of the Student’s circumstances.” 137 S. Ct. at 998. To satisfy this standard, the MCPS must “be able to offer a cogent and responsive explanation for [its] decisions.” *Id.* at 1002.

1. Class sizes/Least restrictive environment (LRE)

The Parents and their witnesses argued that the inclusion model offered by the MCPS IEP failed to offer a FAPE because the Student’s needs far exceed his opportunity to succeed in a general education inclusion setting where, they argued, he would be overwhelmed. For example, Dr. [REDACTED] testified that at the [REDACTED], even with a class size of 11 or 12, three staff members were insufficient at times to hold the Student’s attention. The Parents’ other witnesses also opined that his placement in the inclusion setting proposed by the MCPS would be inappropriate, that his placement at the [REDACTED] was proper, and that under the Student’s unique circumstances the [REDACTED] represented the Student’s LRE.

The MCPS responded that under its IEP, which the Parents rejected, the Student could make appropriate progress in the general education inclusion setting at his home school, ■■■MS. In the inclusion setting, he would be in a class of about 22-24 students, two-thirds of whom would be his non-disabled peers, and not more than six students would have an IEP. The English and math classes would be co-taught with a general educator and a special educator. World studies and science would be taught by a general educator and a paraeducator. He would have a separate reading intervention class taught by a reading specialist and a paraeducator, and would also attend a separate resource class of about twelve students, taught by a special educator and a paraeducator. The resource class would focus on executive function and organization and offer individualized assistance as needed.

Having considered and weighed the totality of the evidence, I conclude that the Parents did not satisfy their burden of showing that the MCPS IEP failed to offer the Student a FAPE. The evidence shows that the MCPS IEP offers a FAPE in the least restrictive environment—the general education inclusion setting at ■■■MS, the Student’s home school— and that this placement is appropriate.

Significantly, the MCPS IEP’s description of the Student’s needs (including difficulties with reading and writing fluency, processing speed, executive functioning, and social-emotional issues) and goals (to make appropriate progress in these areas), substantially matched the ■■■ ■■■ IEP’s portrayal of his needs and goals,⁸ and Dr. ■■■’s description of his needs and goals. The MCPS IEP includes a panoply of educational services, accommodations, and supplementary aids that are reasonably calculated to meet the Student’s academic needs and goals for reading, writing, and math, as well as his self-management and social-emotional

⁸ Compare MCPS 23, at p. 000230 (MCPS IEP) with MCPS 19, at p. 000123 (■■■ IEP).

needs.⁹ Dr. [REDACTED]'s psychological testing disclosed the Student's needs in the areas of memory, processing speed, attention, executive functioning, and behavior. These needs are also identified in the MCPS IEP, which includes numerous services and supports calculated to meet them.¹⁰

In light of the overlap between the parties' respective descriptions of the Student's needs and goals, the focus of the present dispute is whether the MCPS's proposed *placement* in the [REDACTED] MS inclusion program is reasonably calculated to enable him to make appropriate progress in meeting those needs and goals. The Parents and their witnesses essentially framed the issue as requiring a choice between a large class of 22-24 at [REDACTED] MS versus small classes of 11 or 12 at the [REDACTED]. But defining the issue in these terms sets up a false choice, because it ignores the flexibility that MCPS offered in the inclusion program. The Student could be pulled out of the large general education classroom, as needed, into a smaller group or instructed on a one-on-one basis, as needed. In addition, the resource class as well as the separate reading intervention class offered by MCPS would address the Student's executive functioning and reading needs in smaller settings than the general education seventh grade classroom. This flexibility mitigates the class size differential between the [REDACTED] and the inclusion setting at [REDACTED] MS.

I was persuaded by the testimony of the MCPS educators, including Ms. [REDACTED], Ms. [REDACTED], and Dr. [REDACTED], that the MCPS has the experience, resources, personnel and capability in the inclusion setting at [REDACTED] MS of educating students with needs similar to or greater than the Student's. Ms. [REDACTED], a special education resource teacher at [REDACTED] MS, credibly testified that the MCPS IEP can be implemented in the [REDACTED] MS setting, and that students with similar profiles to that of the Student (though she was not referring to students with [REDACTED]), or with greater delays

⁹ See Findings of Fact 104-105, 115-117, 119-121.

¹⁰ See *id.*

are educated in that setting. Ms. [REDACTED], a [REDACTED] MS student support teacher who works with students who are unsuccessful in school in any subject area or have behavioral concerns or anxiety disorders, and who has taught learning disabled students in the inclusion setting at [REDACTED] MS, credibly testified that of the services and accommodations offered in the MCPS IEP can be implemented in the [REDACTED] MS inclusion program. Dr. [REDACTED], the special education supervisor for one of MCPS's three areas and supervises special education programs for six schools, which offer inclusion and self-contained programs, credibly testified that with its flexibility, the [REDACTED] MS inclusion program would meet the Student's academic and social emotional needs.

I was not persuaded by the testimony of the Parents' witnesses that it is more likely that the Student would not make appropriate progress in the [REDACTED] MS inclusion program. None of the Parents' witnesses have ever observed the Student in a flexible inclusion setting like the one proposed by MCPS. And not only has the Student never attended an MCPS or any other inclusion program, he has not attended a public school since pre-school. There is no historical evidence of the Student's performance in a public or private elementary or middle school inclusion setting supports the Parents' and their experts' prediction that he would not make appropriate progress in the MCPS-proposed inclusion program.

At the [REDACTED], though the Student has made progress,¹¹ he is not achieving at grade level. The [REDACTED]'s Teacher Referral Form included in the referral packet that the Parents submitted to the MCPS reported that the Student, then in the sixth grade, had a reading level of 5.5 and a math level of 4.5, below grade level. *See* MCPS 5. On the Woodcock-Johnson achievement test, an objective measurement instrument, many of his reading and writing subtest scores were in single-digit percentiles, and Dr. [REDACTED] assessed his proficiency in those areas

¹¹ *See* P-32 ([REDACTED] progress report).

as low. *See* P-20. The Student's progress at the [REDACTED] deserves weight in the analysis of whether the MCPS IEP offered him a FAPE. But the Parents did not establish that he probably would fail to make comparable progress under the MCSP IEP, given the evidence that the MCPS has the resources and capability of meeting his needs and goals under its IEP, which is substantially modeled on his [REDACTED] IEP. As the Student has not attended a public school setting since pre-school, it is not the case here (unlike it was in *Andrew F.*), that the Student "[made] a degree of academic progress [at the [REDACTED]] that had eluded him in public school." 137 S. Ct. 997.

The Student's inability to make appropriate progress at the [REDACTED], which he attended up to the second grade before starting at the [REDACTED], also does not show that MCPS's proposed placement in the inclusion program at [REDACTED] MS is inappropriate. The [REDACTED] setting is quite different from the [REDACTED] MS inclusion setting [REDACTED] is not a special education school, and did not provide special education services except for a private tutor that the Parents engaged for an hour a day at [REDACTED]. At [REDACTED] MS, by contrast, special educators would be directly responsible for the Student's education. In addition, the Student's experience at [REDACTED] ended when he was eight years old in the second grade. He is now thirteen and in seventh grade. His needs and abilities have changed with his maturation. In light of the differences between the [REDACTED] setting and the [REDACTED] MS inclusion setting, and the outdated nature of his [REDACTED] experience, the Student's experience at [REDACTED] does not reliably predict that he would be unsuccessful in MCPS's proposed placement. Accordingly, I was not persuaded by the Parents' expert witnesses

that the Student could not make appropriate progress if the MCPS IEP is implemented at the ■ MS inclusion setting.

Andrew F. also instructed that 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.” 137 S. Ct. at 1000.). The MCPS IEP is ambitious, but appropriately so.

Under the IDEA, a student is to be placed, when appropriate, in the least restrictive environment (LRE), which ordinarily is a setting where disabled and non-disabled students are educated in the same classroom. The Fourth Circuit held in *DeVries v. Fairfax Cty. Sch. Bd.*, 882 F.2d 876, 878-79 (4th Cir. 1989), that where appropriate the mainstreaming of disabled children into regular schools where they have opportunities to learn and socialize with non-disabled peers “is not only a laudable goal but is also a requirement of the [IDEA].”

The ■ MS inclusion program, which offers extensive special education services, supplementary aids and support in a general education setting, is reasonably calculated to meet the Student’s needs and goals and enable him to make appropriate progress. And as Ms. ■ credibly testified, an advantage of the inclusion program is that the general education students in the inclusion classroom can model behavior for students with special education needs. I conclude that the MCPS’s proposed placement in the ■ MS inclusion program is appropriate, and satisfies the LRE requirement. Therefore, the ■’s self-contained (learning-disabled students only) environment would not be the Student’s LRE.

The Parents argued that the MCPS’s placement decision is not entitled to deference because MCPS did not perform its own evaluation of the Student, but instead used the

evaluations and data supplied by Dr. [REDACTED], Dr. [REDACTED], and the [REDACTED]. The Parents relied for this argument on *Z.B. v. District of Columbia*, 888 F.3d 515, 524 (D.C. Cir. 2018), which, quoting the IDEA, stated:

[a] school has an affirmative obligation to ‘conduct a full and individual initial evaluation’ of an eligible student ‘before’ it begins providing services. 20 U.S.C. § 1414(a)(1)(A). If it considers only whatever information parents pass along, a school may miss what reasonable evaluation would uncover and, as a result, offer an inadequate education.

The *Z.B.* court further stated that “[t]he school may not simply rubber stamp whatever evaluations parents manage to procure.” *Id.* at 525. The court qualified this statement, however, by noting:

The [IDEA] welcomes parental input, but specifically charges the evaluation of the student and the framing of an adequate IEP to the school. *To be sure, that evaluation does not always require a school to conduct additional testing. When “existing ... evaluations and information provided by the parents” and “observations by teachers” and other professionals provide the IEP Team with a reasonable picture of the student's skills and needs, the school may finalize an IEP without any further testing unless requested by the child's parents.* [20 U.S.C.] §§ 1414(c)(1)(A)-(B), (c)(4).

(*Id.* at 523.)

While the Parents argued that the MCPS failed to apply its expertise and judgment to the Student, the evidence shows that the MCPS IEP team (a) applied its expertise in evaluating the Student’s eligibility for special education services and developing its IEP, including by reviewing the documents in his referral packet, communicating with Dr. [REDACTED] and accepting many of her revisions to the MCPS IEP, and (b) reasonably exercised its educational judgment by making the decisions reflected in its IEP regarding the Student’s needs, goals, services, and placement.

The MCPS did not simply rubber stamp—that is, automatically approve without proper consideration—the evaluations, observations, and other information provided by the

Parents, their consultants and the [REDACTED]. MCPS properly considered the extensive, externally-originating evaluations and data at the MCPS IEP team meetings, attended by Dr. [REDACTED], [REDACTED] staff, and the Parents. MCPS considered Dr. [REDACTED]'s multiple revisions to its IEP, adopting many, if not most, of them. From this material, MCPS derived a "reasonable picture" of the Student's "skills and needs," and was not required to conduct additional testing before finalizing its IEP. *Z.B.*, 888 F.3d at 523. The Parents did not pinpoint any additional testing or evaluations that would have brought into greater focus the reasonable picture of the Student's needs and ability that the external material provided. When the parents requested speech-language therapy (which he had not been provided at the [REDACTED] on a direct, individual basis), MCPS's speech-language pathologist, Ms. [REDACTED], conducted an assessment of his speech-language ability.

In *S.M. v. Arlotto*, No. RDB-17-3294, 2018 WL 4384156 (D. Md. Sept. 14, 2018), the court upheld an IEP, as here, that provided a combination of co-taught, self-contained, and general education classes. The parents challenged the Anne Arundel County Public Schools' placement of the student in a class of 25 or more students, where he would be taught in a combination of co-taught, self-contained, and general education classes. The parents enrolled him in a private school where the largest class had five students to one teacher. Finding that the IEPs there provided a FAPE in the LRE, Judge Bennett wrote:

[T]he issue was not whether an environment like [the private placement] was required for S.M. to make meaningful progress; rather, the issue was whether the IEPs proposed for [the public placement] permitted S.M. to make meaningful progress.

The Plaintiffs' main argument is that [the student] required classes with a smaller teacher-student ratio. In fact, they insist that even the November of 2016 IEP, that provided for 15 of the 32 hours per week [the student] spent in school to be in self-contained classes, was insufficient for him to make meaningful progress. In response, the [school system] witnesses testified that the combination of co-

taught, self-contained, and general education classes along with the numerous aids and supplements allowed [the student] to make meaningful progress while remaining with his non-disabled peers. The individuals crafting [the student's] IEPs used their experience and balanced [the student's] needs to construct a schedule whereby he was provided the instruction he needed in self-contained classes, but was also educated with his non-disabled peers in the regular educational environment with the help of special education teachers and the various accommodations and supplementary aids.

Each IEP provided for [the student] ensured that he received the attention and instruction he needed, through a combination of co-taught, self-contained, and general education classes, while ensuring that he was not unnecessarily removed from the regular educational environment. The testimony of the AACPS witnesses demonstrates that they carefully balanced [the student's] needs and crafted an IEP that permitted him to make meaningful progress in the least restrictive environment, as required by the IDEA. *See* 20 U.S.C. § 1415(a)(5) (“[R]emoval of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”).

2018 WL 4384156, at *12. Judge Bennett’s reasoning in *Arlotto* applies with equal force to this case, given the structural similarity of the *Arlotto* IEPs to the MCPS IEP at issue here.

Giving weight to the substantial overlap between the MCPS IEP and the Student’s [REDACTED] IEP, the flexibility offered in the [REDACTED] MS inclusion setting, the MCPS experts’ credible testimony that students with similar profiles to that of the Student have been appropriately educated in the [REDACTED] MS inclusion setting, the absence of evidence that the Student has ever failed to make meaningful progress in a similar inclusion setting, and the benefits of an environment in which the Student would be educated with his non-disabled peers, I conclude that the Student’s placement in the [REDACTED] MS inclusion program MCPS IEP is reasonably calculated to enable to the Student to make meaningful progress in light of his circumstances.

I will next address in turn the Parents’ objections to the MCPC’s decisions not to include the following interventions in its IEP: (a) speech-language services, (b) individual and/or group psychotherapy, (c) vision services, (d) Orton Gillingham reading instruction, and (e) a health

plan.

2. *Speech-language services*

The Student is currently receiving integrated speech-language services at the [REDACTED], but not direct speech-language therapy. The Parents argued that the Student has benefited from the [REDACTED]'s classroom integration of speech-language services, and disagreed with MCPS's decision not to include speech-language services in the Student's IEP, a decision it based on Ms. [REDACTED]'s speech-language assessment.

[REDACTED], a speech-language pathologist and reading instructor at the [REDACTED], testified to the important role of speech-language pathologists in teaching reading, and that a speech-language pathologist teaches his reading class. Dr. [REDACTED] noted that the Student benefited from the [REDACTED] provision of integrated speech-language services by an in-classroom speech-language pathologist. Dr. [REDACTED] testified that the Student has difficulty with social language. The Parents criticized Ms. [REDACTED]'s assessment of the Student's pragmatic (social) language because, while she observed that he knew what to say in social situations, she did not ask [REDACTED] staff about his use of social language.

The MCPS argued the fact that [REDACTED] students receive integrated speech-language services does not establish that the Student needs integrated speech-language services at MCPS. Ms. [REDACTED], a highly experienced speech-language pathologist, whom I found a responsive and credible witness, conducted a speech-language assessment of the Student, over four virtual sessions. She was the only speech-language pathologist who testified who had actually assessed the Student in this area. Based on her standardized and non-standardized tests and measures, she

credibly concluded that the Student did not need speech-language services. The IEP team concurred, and decided not to include speech-language services in his IEP.

With respect to the Parents suggestion that Ms. [REDACTED] should have spoken with [REDACTED] staff regarding the Student's use of social language, she credibly explained that while speech-language pathologists treat *spoken* language disorders, *social* language difficulty is the domain of counselors and educators. The IEP includes special education and counseling services that would address the Student's social skills. I conclude that Ms [REDACTED]'s objective assessment of the Student's speech-language ability outweighs the Parents' witnesses' opinion that he requires individual speech-language therapy, a service that he is not receiving at the [REDACTED]. Accordingly, I find that the MCPS provided a cogent and responsive explanation for its decision not to include speech-language services in its IEP.

3. *Psychological vs. counseling services*

The Parents strenuously disagreed with the decision of MCPS to include thirty minutes of counseling services per week in the IEP, but not individual or group psychotherapy. Dr. [REDACTED], the [REDACTED] psychologist, has worked with the Student in individual and group therapy for several years. Dr. [REDACTED]'s individual sessions with the Students are thirty minutes in duration. He works with the Student on attention, anxiety, and social relationship, and stated the Student is making progress but still requires individual and group psychological services. Dr. [REDACTED], Dr. [REDACTED], and the Parents each testified that the Student needed continuation of these services.

The MCPS responded that although the Student receives thirty minute therapy sessions per week from Dr. [REDACTED], a psychologist whose degree is in counseling psychology (not clinical psychology), he would receive under the MCPS IEP an equivalent thirty minutes of counseling sessions per week, and that the counseling sessions are reasonably calculated to meet the

Student's psychological needs. The MCPS IEP provides that the school counselor would work with the Student on strategies and coping mechanisms to reduce anxiety, increase focus, and cope with his attention deficits as well developing strategies to improve his social skills.¹²

An MCPS school psychologist, [REDACTED], explained the difference between counseling and psychotherapy. A school counselor helps students to reduce the symptoms of underlying psychological issues, while a psychotherapist addresses and treats the underlying psychological issues themselves. Dr. [REDACTED] stated in his 2019-20 end-of-SY note that he helped the Student further his understanding of his attention-based issues and manage his emotional reactivity and social-emotional experiences.¹³ Dr. [REDACTED] noted in her report that the Student's [REDACTED] IEP includes goals for social skills, ADHD, and anxiety. Ms. [REDACTED] testified that a school counselor can help students develop coping mechanisms and strategies to manage their psychological issues in school, which is the same focus as Dr. [REDACTED]'s work. Ms. [REDACTED] also testified that the special educator and paraeducator in the general education inclusion classes would be able to help the Student make progress on the social-emotional and self-management goals in his IEP.

Though the [REDACTED] describes Dr. [REDACTED]'s services as "psychotherapy," while the MCSP IEP offers psychological services in the form of "counseling," the evidence shows that the MCPS's counseling services are reasonably calculated to meet the Student's psychological needs in the same areas on which Dr. [REDACTED]'s work is focused: attention, anxiety, and social relationships. In addition, under the MCPS IEP, the Student's attention, anxiety, and social skills would be addressed not only in the thirty-minute weekly counseling sessions, but also in the self-contained resource class. At the [REDACTED], Dr. [REDACTED] provides psychological support from for

¹² See MCPS 23, pp. 000269-71.

¹³ See P-38.

the Student's his attention, anxiety, and social relationship issues. The Student would receive comparable support in these same areas of difficulty under the counseling component of the MCPS IEP.

Accordingly, I conclude that the MCPS IEP did not deny a FAPE by failing to include a provision for individual and/or group psychotherapy, and that MCPS provided a cogent and responsive explanation for its decision not to include psychotherapy in its IEP: namely, that the counseling services offered by the MCPS, together with the resource class MCPS offered in the IEP, are reasonably calculated to enable the Student to progress in the areas of attention, anxiety, and social skills, and are the functional equivalent of the psychological services the Student is receiving at the [REDACTED], which Drs. [REDACTED] and [REDACTED] recommended be continued.

4. OT/vision services

Though the Parents did not press the issue at the hearing, they initially requested that occupational therapy (OT) vision services were needed in view of a visual screening from the [REDACTED].¹⁴ The MCPS IEP team found that this screening was insufficient to warrant adding OT vision services in the IEP. The MCPS team needed to consider additional testing from a developmental optometrist, which the [REDACTED] vision screening specifically recommended, but the Student's mother testified that due to the pandemic the Student has not yet seen a developmental optometrist. Dr [REDACTED] testified that that the Parents were not requesting that vision services be included in the IEP, but that the supplementary aids included in the MCPS IEP should include vision findings once the Parents were able to have the Student evaluated by a developmental optometrist. I conclude on this record that the MCPS cogently and responsively

¹⁴ See MCPS 15.

explained that it appropriately decided not to include OT (vision) services in the IEP, because insufficient information was available to the MCPS on which to base such a provision.

5. *Orton-Gillingham Reading Instruction*

The Parents objected to the non-inclusion in the MCPS IEP of the Orton-Gillingham reading intervention, which provides a multi-sensory learning approach. The Parents' expert in reading instruction, [REDACTED], testified that Orton-Gillingham is the gold standard of reading instruction, and should have been included in the IEP.

The MCPS IEP, however, calls for the use of multi-sensory techniques, of which Orton-Gillingham is one. The reading intervention class at [REDACTED] MS would be taught by a reading specialist and there was no evidence that Orton-Gillingham would not be used at [REDACTED] MS.

The evidence did not support the Parents' contention that in order to provide the Student with appropriate, specially designed instruction, MCPS was *required* to include Orton-Gillingham reading instruction in its IEP in order to provide a FAPE. Dr. [REDACTED] suggested a variety of reading methodologies, and mentioned the Lindamood-Bell reading method, as well as Orton-Gillingham. MCPS has not ruled out Orton-Gillingham, and the evidence as to the Student's need for that particular teaching methodology was insufficient to tie the hands of MCPS to the Orton-Gillingham method to the exclusion of Lindamood-Bell, or other appropriate reading instructional methods. On this record, the Parents did not sustain their burden of showing that absent Orton-Gillingham instruction the MCPS IEP failed to offer FAPE.

The Parents relied on a comment to the IDEA special educations regulations, at 64 Fed. Reg. 12552 (March 12, 1999), to support their contention that the MCPS IEP denied a FAPE by not providing for Orton-Gillingham reading instructions. But the comment states that only when a particular methodology is an integral part of what is individualized about a student's education

will that methodology need to be incorporated into the IEP. Here, the Parents did not show that Orton-Gillingham met this standard. The provision in the MCPS IEP for a reading intervention class taught by a reading specialist, who could use Orton-Gillingham and/or different methodologies, is reasonable and appropriate.

The MCPS cogently and responsively explained its decision not to include Orton-Gillingham in its IEP: namely, that MCPS would use multi-sensory learning tools (which could include Orton-Gillingham and/or other multi-sensory reading modalities) with the Student, that MCPS would provide an appropriate reading intervention class taught by a reading specialist, and that MCPS did not commit *not* to use Orton-Gillingham instruction.

5. Health plan

MCPS did not include a health plan in its IEP. While MCPS was made aware of the Student's [REDACTED] diagnosis, no documentation from a physician or otherwise was provided to MCPS that disclosed any specific health measures necessary to protect his safety and well-being at [REDACTED] MS, with the exception that the Parents informed MCPS that he needed to take [REDACTED] medication at every meal, which the school nurse or nurse technician at [REDACTED] MS could handle at [REDACTED] MS, and which is not unusual. Nor was medical expert testimony offered at the hearing, although two psychologists, Dr. [REDACTED] and Dr. [REDACTED], testified that the Student needs psychological services, which the MCPS has addressed by way of the weekly counseling services provided in the MCPS IEP.

Because MCPS lacked medical documentation specific to the Student's health needs, the MCPS IEP team notified the Parents that it needed additional information and documentation of the health effects of the Student's [REDACTED] in order to create a health plan to include in his IEP. The Prior Written Notice memorializing the outcome of the April 27, 2020 IEP meeting stated that a

health plan was not included in the IEP because additional documentation was needed.¹⁵ The Parents have not provided additional documentation, and a health plan was not included in the IEP. I note also that no evidence was presented as to any health plan the Student has at the [REDACTED], and although the Parents expressed the concern that he is susceptible to infections, the evidence did not show that he is under specific restrictions in his movements or activities at the [REDACTED].

In the LRE/Placement Summary section of the MCPS IEP, in response to the question: “In selecting the LRE, are there any potential harmful effects on the student or quality of services he or she needs?” the following response was recorded: “Yes. Due to [the Student’s] medical needs, there could be a potential harmful effect on his health and wellbeing. Also, due to his participation in a reading intervention program as well as resource class, he will not have access to electives.”¹⁶ The maker of these quoted statements was not identified, and thus could have been MCPS staff, the Parents, or any of the other IEP meeting participants such as Dr. [REDACTED] and [REDACTED] personnel. Absent evidence of any specific medical needs to be accommodated in school, and the lack of evidence that the Student has a specific health plan in his [REDACTED] IEP, the quoted statement does not show that the MCPS IEP inappropriately failed to include a health plan.¹⁷ I conclude that the MCPS cogently and responsively explained that it decided not to add a health plan to its IEP because additional medical documentation needed to be provided

¹⁵ See MCPS 33.

¹⁶ See MCPS 23, p. 274.

¹⁷ Given the Student’s need for the resource class and the reading intervention class, and the availability of numerous extracurricular clubs and activities at [REDACTED] MS, the unavailability of electives during the Student’s seventh-grade school year would not result in the denial of a FAPE,

before a health plan could be formulated. Under these circumstances, the absence of a health did not deny the Student a FAPE.

In sum, I conclude that that the MCPS IEP is reasonably calculated to enable the Student in the ■ MS inclusion program to make progress appropriate in light of his development, and that the MCPS provided cogent and responsive explanations for its decisions to place the Student in the general education inclusion setting at ■ MS, and to provide the services and supports identified in the MCPS IEP.

B. Claim for Reimbursement of ■ Tuition, Costs and Expenses

Under *County School District Four v. Carter*, 510 U.S. 7 (1993), and *Sch. Comm. of Burlington v. Dep't of Educ.*, 471 U.S. 359, 370 (1985), whether a parent's private placement choice is proper is analyzed only if the IEP proposed by the local education agency results in the denial of a FAPE. I have concluded in this case for the reasons set forth above that the IEP and placement offered by the MCPS provides the Student a FAPE. Therefore, under *Carter* and *Burlington* the issue of whether the Student's placement at the ■ is proper is not required to be addressed further in this decision. As the MCPS did not deny the Student a FAPE, the Parents' claim for reimbursement of the ■ tuition, costs, and expenses is respectfully denied.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the MCPS did not deny the Student a free appropriate public education by failing to provide him with an appropriate individualized education program and placement for the 2019-2020 and 2020-2021 school years. I further conclude as a matter of law that the Parents failed to prove that they are entitled to reimbursement for tuition and expenses at The ■ for

either the 2019-2020 or the 2020-2021 school years. 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

I **ORDER** that the Parents' request for placement at and reimbursement for tuition, costs and expenses at [REDACTED] for the 2019-2020 or the 2020-2021 school years is **DENIED**.

November 18, 2020
Date Decision Issued

Robert B. Levin
Administrative Law Judge

RBL/cj
#188574

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]

██████████,
STUDENT

v.

MONTGOMERY COUNTY
PUBLIC SCHOOLS

BEFORE ROBERT B. LEVIN,
AN ADMINISTRATIVE LAW JUDGE
OF THE MARYLAND OFFICE
OF ADMINISTRATIVE HEARINGS
OAH No.: MSDE-MONT-OT-20-11841

APPENDIX: FILE EXHIBIT LIST¹

I admitted the following exhibits on behalf of the Parents:

- P- 1. Amended Request for Due Process, 7-16-20;
- P- 2. Draft consensus guidelines for diagnosis and treatment of ██████████
██████████ by ██████████, 2011;
- P-2A. ██████████ Pulmonology Report, 5-30-15;
- P- 3. Neuropsychological Evaluation by Dr. ██████████, July 2015; P-3A. MCPS Teacher Referral Forms, 11-9-15;
- P- 4. Speech/Language Evaluation by Dr. ██████████, 6-6-16;
- P- 5. ██████████ IEP, 11-10-16;
- P- 6. Occupational Therapy Evaluation by ██████████, 11-22-17;
- P- 7. ██████████ IEP, 2-26-18;
- P-7A. ██████████ Occupational Therapy Report, July 2018;
- P- 8. ██████████ Reading Assessment Summary, 10-26-18;
- P- 9. ██████████ Reading Fluency Graph, 10-15-18 to 1-17-19;
- P- 10. ██████████ Reading Assessment Summary, 1-28-19;
- P- 11. ██████████ IEP, 1-28-19;
- P- 12. MCPS Documentation of Interventions, 2019-20 School Year;

¹ The descriptions of the exhibits herein are as shown in the parties' respective exhibit lists.

- P- 13. ██████ Intermediate End of Year Progress Report, June 2019;
- P- 14. Observation Report by Dr. ██████, 7-10-19;
- P- 15. MCPS Eligibility Screening Parent Interview/Questionnaire, 7-15-19;
- P- 16. MCPS Classroom Observation, 7-16-19;
- P- 17. MCPS Teacher Referral Form, 7-23-19;
- P- 18. ██████ Summer Tutorial Report, July 2019;
- P- 19. ██████ Occupational Therapy Progress Report, July 2019;
- P- 20. Diagnostic Educational Evaluation by Dr. ██████, 8-6-19;
- P- 21. ██████ Student Schedule, 2019-20 School Year;
- P- 22. ██████ IEP, 10-21-19;
- P- 23. Psychological Evaluation by Dr. ██████, 10-23-19; P-23A. ██████
██████ Progress Note, 1-19-19;
- P- 24. MCPS Student Referral for Special Education Services, 1-5-20;
- P- 25. MCPS Child Find Referral, 1-29-20;
- P- 26. MCPS Evaluation Report and Determination of Initial Eligibility, 2-5-20;
- P- 27. MCPS Team Consideration of External Reports, 2-5-20;
- P- 28. MCPS Prior Written Notice, 2-12-20;
- P- 29. Letter to Stacy Reid Swain, Esq. regarding special education process, 2-13-20;
- P- 30. Feedback on Draft MCPS IEP by Dr. ██████, 2-25-20;
- P- 31. Emails between Parents and MCPS regarding IEP meeting scheduling, 2-25-20 to 3-3-20;
- P- 32. ██████ IEP Progress Report, March 2020;
- P- 33. Emails between Parents and MCPS regarding IEP meeting scheduling, 3-9-20 to 4-20-20;
- P- 34. MCPS Prior Written Notice, 5-4-20;
- P- 35. Feedback on Draft MCPS IEP by Dr. ██████, 5-6-20;
- P- 36. MCPS Speech/Language Assessment Report, 6-12-20;

P- 37. Emails between Parents and MCPS regarding IEP meeting scheduling, 6-17-20 to 6-19-20;

P- 38. ██████████ Psychotherapy End of Year Note, June 2020;

P- 39. MCPS Final IEP, 7-9-20 (dated as draft, 4-30-20);

P- 40. MCPS Prior Written Notice, 7-9-20;

P- 41. Letter to MCPS serving notice, 8-17-20;

P- 42. Resume of Dr. ██████████ ;

P- 43. Resume of Dr ██████████ ;

P- 44. Resume of ██████████ ;

P- 45. Resume of ██████████ ;

P- 46. Resume of Dr ██████████ ;

P- 47. ██████████ Beginning of Year Academic Data, September 2020; and

P- 48. Orion’s Pragmatic Language Skills Questionnaire.

I admitted the following exhibits on behalf of MSPS:

Exhibit Number	Bates Label MCPS_	Description
<u>MCPS Individualized Education Plan (“IEP”) - Referral Packet Documents</u>		
1	000001-2	Documentation of Interventions (2018-19)
2	000003-5	Parent Questionnaire (07-15-2019)
3	000006-8	Classroom Observation (07-16-2019)
4	000009	Educational History (07-19-2019)
5	000010-11	Teacher Referral (12-06-2019)
6	000012-13	Private Parochial School Student Referral (01-05-2019)
7	000014	Cover page of Referral Packet (01-06-2020)
<u>Assessments, Evaluations, and Reports</u>		
8	000015-35	Neuropsychology Assessment (09-15-2015)
9	000036-39	██████████ (05-30-2015)
10	000040-43	██████████ (09-17-2015)
11	000044-47	██████████ (02-11-2016)
12	000048-51	██████████ (03-23-2017)
13	000052-58	Observation Report – ██████████ (07-19-2019)
14	000059-83	Diagnostic Educational Evaluation (09-01-2019)
15	000084-87	Comprehensive Vision Screening – ██████████ (10-07-2019)

16	000088-117	Psychological Evaluation Report (10-22&23-2019)
17	000118-131	Speech-Language Report – [REDACTED] (06-12-2020)
18	000132	[REDACTED] – Expert Testimony of [REDACTED]
<u>IEPs Prepared for Student</u>		
19	000133-147	[REDACTED] IEP (10-21-2019)
20	000148-170	MCPS Draft IEP with [REDACTED]'s Comments (02-25-2020)
21	000171-218	MCPS Draft IEP (4-30-2020)
22	000219-229	MCPS Draft IEP with [REDACTED]'s Comments (4-30-2020)
23	000230-277	MCPS Final IEP
<u>MCPS IEP-Related Documents</u>		
24	000278-280	Initial Screening Form with [REDACTED]'s Comments (01-30-2020)
25	000281-285	Evaluation and Determination of Initial Eligibility (02-05-2020)
26	000286	Consideration of External Report (02-05-2020)
27	000287	Consideration of External Psychological (02-05-2020)
28	000288	Sign-In Sheet at 2-05-2020 IEP Meeting
29	000289-290	Prior Written Notice (02-12-2020)
30	000291	5-Day Post Documents (02-12-2020)
31	000292	Prior Written Notice (02-25-2020)
32	000293-295	Specific Learning Disability Form (04-27-2020)
33	000296-297	Prior Written Notice (05-04-2020)
34	000298	5-Day Post Documents (05-04-2020)
35	000299	Request to Delay Evaluation (due to VOID) (05-04-2020)
36	000300	Prior Written Notice (07-16-2020)
<u>MCPS Expert Witnesses' Resumes and Curriculum Vitae</u>		
37	000301-302	[REDACTED] - Resume
38	000303-304	[REDACTED] - Resume
39	000305	[REDACTED] - Resume
40	000306-308	[REDACTED] - Resume
41	000309-310	[REDACTED] - Curriculum Vitae
<u>MCPS COVID-Recovery Plan</u>		
42	000311-354	MCPS Recovery Plan (08-04-2020)
43	000355-396	MCPS Recovery Plan (08-25-2020)
44	000397	Assistive Technology
45	000398	Middle School Sample Schedule
46	000399	Middle School Sample Schedule
47	000400	Remote Learning, Grades 6-12
48	000401	Sample Instructional Experience, Middle and High School
49	000402	Sample Morning, Special Education
50	000403	Sample Afternoon, Special Education
51	000404	Virtual Learning, Special Education
52	000405	Virtual Learning, Special Education—Related Services
<u>Email Correspondence</u>		

53	000406-407	Emails re: 2015 neuropsychology assessment (09-24-2015)
54	000408-409	██████████ email to ██████████ re: ██████████. reading progress (10-05-2015)
55	000410-411	Emails re: private schools considered by ██████████ (11-18-2015)
56	000412-414	██████████ email exchange re: private school search (12-09-2015)
57	000415-416	██████████ emails with ██████████ re: application to MCPS (01-07-2016)
58	000417-419	██████████ emails with ██████████ re: MCPS and ██████████ (01-12-2016)
59	000420-421	██████████ emails with ██████████ re: package to MCPS (02-02-2016)
60	000422-423	██████████ emails re: rejection from ██████████ (02-19-2016)
61	000424-427	██████████ emails with ██████████ re: application (03-03-2016)
62	000428-429	██████████ emails with ██████████ re: MCPS 2016 app (03-17-2016)
63	000430-432	Emails re: MCPS Referral Packet (03-18-2016)
64	000433-434	Emails re: ██████████ admission to ██████████ (04-07-2016)
65	000435-443	██████████ intro emails exchanged with ██████████ (06-06-2019)
66	000444-449	██████████ email to ██████████ re: IEPs (06-23-2019)
67	000450	██████████ email to ██████████ re: 2015 assessment (07-02-2019)
68	000451-455	██████████ email to ██████████ re: ██████████. absences (07-10-2019)
69	000456-461	██████████ emails with ██████████ re: absences (07-11-2019)
70	000462-466	██████████ emails with ██████████ re: MCPS app (07-14-2019)
71	000467	██████████ email to ██████████ re: funding process (07-14-2019)
72	000468	██████████ email re: Eig - close personal friend (07-14-2019)
73	000469-471	██████████ email to ██████████ re: 2016 packet (07-14-2019)
74	000472	██████████ email to ██████████ re: examination/funding (07-15-2019)
75	000473-476	██████████ email to ██████████ re: ██████████ (07-15-2019)
76	000477-480	██████████ email re: revision of observation report (07-30-2019)
77	000481-483	██████████ email re: inadequate ██████████ IEP (08-01-2019)
78	000484-485	██████████ emails with ██████████ re: vision testing (08-27-2019)
79	000486-488	██████████ email to ██████████ re: 2016 MCPS Process (09-03-2019)
80	000489-490	██████████ email to ██████████ re: no speech services (09-23-2019)
81	000491-494	██████████ email to ██████████ re: no speech services (09-26-2019)
82	000495	██████████ email with grandfather re: ██████████ speech (09-27-2019)
83	000496-497	██████████ email to ██████████ re: outcome of funding (10-14-2019)
84	000498-499	██████████ email to ██████████ re: ██████████ IEP revisions (11-01-2019)
85	000500-502	██████████ emails with ██████████ re: mark up of ██████████ IEP (11-10-2019)
86	000503	██████████ email to ██████████ re: missing payment (11-22-2019)
87	000504-505	██████████ email to ██████████ re: funding (12-04-2019)
88	000506	██████████ email to ██████████ re: funding (12-06-2019)
89	000507-515	██████████ email to MCPS re: referral packet submission (01-10-2020)
90	000516-522	Emails scheduling 02-05-2020 IEP Meeting
91	000523-527	██████████ email with MCPS re: markup of Initial Screening
92	000528-530	██████████ email re: speech testing
93	000531-534	██████████ emails with ██████████ re: IEP (02-06-2020)
94	000535	MCPS email to ██████████ re: speech testing (02-13-2020)
95	000536	██████████ email with 5-day Documents (02-13-2020)
96	000537-539	MCPS emails re: not enough info. for OT services (02-13-2020)
97	000540	██████████ email with 5-day Post Documents (02-14-2020)

98	000541-542	Emails re: scheduling March IEP Meeting (02-18-2020)
99	000543-544	Emails re: coordinating March 3, 3030 IEP Meeting (02-18-2020)
100	000545-546	██████████ email to MCPS re: edits to IEP (02-25-2020)
101	000547	MCPS emails re: speech testing (02-28-2020)
102	000548-550	██████████ email re: reschedule IEP—██████████ sick (03-03-2020)
103	000551-555	Emails re: delay of testing due to COVID (04-23-2020)
104	000556	██████████ Post Docs (05-04-2020)
105	000557-559	██████████ email re: no follow up on vision testing (05-04-2020)
106	000560	██████████ re: Post IEP Notice Docs (05-05-2020)
107	000561-562	██████████ email re: delay form due to COVID (05-05-2020)
108	000563-564	██████████ email re: markup of IEP (05-05-2020)
109	000565-567	██████████ email with IEP incorporating edits (05-07-2020)
110	000568-570	██████████ emails with ██████████ re: speech testing (05-14-2020)
111	000571	██████████ email to ██████████ re: speech testing results (06-17-2020)
112	000572-573	Emails scheduling IEP Meeting (06-17-2020)
113	000574	Prior Written Notice (07-21-2020)
114	000575-576	██████████ email re: ██████████ testing (07-25-2020)
115	000577	Sign In Sheet from Second IEP Meeting (04-27-20)
116	000578	Sign In Sheet from Third IEP Meeting (07-09-20)
117	000579-581	Child Find Referral (Revised)
118	000582-596	██████████ Edits to ██████████ IEP (10-13-2019)