

██████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

BEFORE ROBERT F. BARRY,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-MONT-OT-21-07511

**DECISION**

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

**STATEMENT OF THE CASE**

On April 2, 2021, ██████████ (Parent), by her attorney, Megan Marie Collins of Disability Rights Maryland, filed a complaint with the Office of Administrative Hearings (OAH) on behalf of her son, ██████████ (Student), requesting a due process hearing. The Parent asserted that the Montgomery County Public Schools (MCPS) denied the Student a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA) from January 2020 through the date she filed the due process complaint. The Parent requested “[a]cademic, transition,<sup>1</sup> and related services (in the areas of speech therapy and trauma therapy) and in-person behavior supports designed to support [Student’s] access to educational programming and facilitate his transition to, and participation in, the community;

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<sup>1</sup> In the context of this due process complaint, the transition services requested here are services to transition the Student from his home into a school building, not the transition services required by the IDEA to assist a child to reach the child’s appropriate postsecondary school goals. *See* 20 U.S.C.A. § 1415(d)(1)(A)(i)(VII) (2017); 34 C.F.R. § 300.320(b) (2020).

[c]ompensatory education in the areas of speech therapy, trauma therapy, and academic instruction as well as in-person behavior support for any lapses in services during the period between January 30, 2020 and the date MCPS resumes payment for or provision of these services.”<sup>2</sup>

On April 27, 2021, the parties participated in mediation without reaching an agreement. That same day I conducted a telephone prehearing conference. Ms. Collins represented the Parent. Leslie Turner Percival, Assistant General Counsel, represented the MCPS. The parties and I scheduled hearing dates in June 2021.

On May 13, 2021, attorney William H. Fields of Pessin Katz Law, P.A., entered his appearance for the MCPS, replacing Ms. Turner Percival. On May 17, 2021, attorneys Megan Berger and Aarti K. Sidhu of Disability Rights Maryland entered their additional appearances for the Parent.

On May 18, 2021, the Parent filed an amended due process complaint adding issues concerning the Student’s placement that arose from an IEP team meeting in April 2021. The Parent asserted that the MCPS: “is attempting to change [Student’s] placement without considering [Student’s] strengths, his parent’s concerns, and his academic, developmental and functional needs;” “failed to consider other placement options;” “failed to provide [Student] with the supplementary aids and services that would allow him to participate in the least restrictive environment;” and “failed to ensure that [Student’s] placement decision was based on a consideration of any potential harmful effect on [Student] or the quality of services that he needs.” The Parent invoked stay-put in the then virtual [REDACTED] Program ([REDACTED] Program) at [REDACTED] ([REDACTED]), a separate public special

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<sup>2</sup> The Parent withdrew any claim for payment for trauma therapy after March 1, 2021.

education school, and, implicitly, objected to the MCPS's proposed placement in a nonpublic special education school.

On May 24, 2021, I conducted a telephone prehearing conference. Ms. Collins represented the Parent. Mr. Fields represented the MCPS. The parties and I canceled the hearing dates in June 2021 and scheduled hearing dates in July and August 2021.

The parties participated in a resolution meeting on June 24, 2021, but they did not reach a settlement.

On July 9, 2021, the Parent filed an Emergency Motion Regarding [Parent's] Expert Witness, requesting that I issue an order requiring the MCPS to permit the Parent's expert witness to observe the Student in his current virtual learning environment (his apartment). On July 13, 2021, the MCPS filed an opposition to the Parent's motion.

On July 13, 2021, attorney Leslie Seid Margolis of Disability Rights Maryland entered her additional appearance for the Parent. That same day, the Parent filed an Emergency Motion to Exclude Exhibit and Protect from Viewing, requesting that I seal MCPS exhibit number 66, which set out the terms of a settlement offer made by the MCPS and rejected by the Parent. On July 14, 2021, the MCPS filed an opposition to the Parent's motion. In its opposition, the MCPS argued that because its written offer provided the relief requested by the Parent, "there is no dispute between the parties and the matter should be dismissed."

On July 15, 2021, I conducted a telephone prehearing conference with the parties. I granted the Parent's motion to seal MCPS exhibit number 66. I denied the Parent's request concerning her expert witness because it was unclear whether the MCPS had any authority to prohibit the Parent's expert witness from observing the Student during his virtual extended school year (ESY) instruction in his apartment. I denied the MCPS's motion to dismiss, finding

that the Parent's rejection of a settlement offer did not provide any legal basis to dismiss a due process complaint.

On July 19-21, 23, and 26-28, 2021, I conducted a remote hearing via the Webex video-conference platform. A [REDACTED]-speaking interpreter assisted the Parent. Ms. Collins represented the Parent. Mr. Fields represented the MCPS. Ms. Sidhu, Ms. Berger, Ms. Margolis, and Ms. Turner Percival observed some parts of the remote hearing.

The legal authority for the hearing is as follows: IDEA, 20 U.S.C.A. § 1415(f) (2017); 34 C.F.R. § 300.511(a) (2020);<sup>3</sup> Md. Code Ann., Educ. § 8-413(d)(2), (e)(1) (2018); and Code of Maryland Regulations (COMAR) 13A.05.01.15C.

The contested case provisions of the Administrative Procedure Act; the Maryland State Department of Education's procedural regulations; and the Rules of Procedure of the OAH govern procedure. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2020); COMAR 13A.05.01.15C; COMAR 28.02.01.

#### **Issues**<sup>4</sup>

1. Did the MCPS, as the entity legally responsible for the Student's education, deprive the Student FAPE?
2. Is the Student entitled to compensatory education for lapses in special education and related services since January 30, 2020?
3. Is the proposed placement of the Student in a nonpublic special education school the least restrictive environment in which the Student could receive FAPE?

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<sup>3</sup> All references to title 20 of the United States Code Annotated are to the 2017 volume and all references to title 34 of the Code of Federal Regulations are to the July 1, 2020, edition.

<sup>4</sup> Based on the evidence presented at the hearing, I reworded the issues contained in my second prehearing order for clarification, but for thoroughness I have also included the issues as I originally wrote them in that prehearing order.

The issues as written in my second prehearing order were as follows:

1. Did the MCPS fail to provide educational and related services to the Student between January 30, 2020, and May 23, 2020?
2. Did the MCPS fail to implement or fail to implement with fidelity a behavioral intervention plan for the Student between January 30, 2020, and May 23, 2020?
3. Between January 30, 2020, and November 2020:
  - (a) did the MCPS fail to conduct a functional behavior assessment of the Student?
  - (b) did the MCPS fail to appropriately consider whether the Student required additions or modifications to his special education and related services?
4. Between January 30, 2020, and November 2020, did the MCPS fail to provide appropriately trained staff for the Student, including paraprofessionals and in-home behavior support?
5. Did the MCPS fail to consider the Parent's concerns and the Student's academic, developmental, and functional needs when it initiated virtual instruction in mid-March 2020?
6. Did the MCPS fail to consider the potential harmful effect on the Student or on the quality of services the Student needs when it initiated virtual instruction in mid-March 2020?
7. Since November 2020, has the MCPS failed to provide the Student the educational and related services prescribed in the Student's individualized education program (IEP) and person-centered plan?
8. Since November 2020, has the MCPS failed to provide the Student in-person behavior support services; failed to conduct a new functional behavior assessment of the Student; and failed to implement a behavioral intervention plan for the Student?
9. (a) Did the MCPS fail to provide the Student consistent special education and related services and then stop providing such services to the Student as of March 1, 2021?

(b) Did the MCPS hinder the Student's progress in returning to a school-based program?

10. Did the MCPS commit any procedural violations concerning the proposed placement of the Student in a nonpublic placement?

11. Is the proposed placement of the Student in a nonpublic placement the least restrictive environment in which the Student could receive FAPE?

### **SUMMARY OF EVIDENCE**

I admitted the following exhibits into evidence for the Parent:<sup>5</sup>

- P. #2 - MSDE's Written Decision Concerning the Parent's State Complaint, March 14, 2018 (15-25)
- P. #4 - Functional Behavior Assessment, [REDACTED], Ph.D., BCBA-D [Board Certified Behavior Analyst], June 29, 2018 (27-43)
- P. #5 - Person Centered Plan, August 2019 (44-80)
- P. #6 - Agreement for Contractual Services, [REDACTED], January 15, 2020 (81-103)
- P. #7 - Attachment A: Statement of Work, Requirements, and Cost (104-115)
- P. #8 - Settlement Agreement, January 22, 2020 (116-120)
- P. #9 - Letter (Summary of Services) to MSDE, February 14, 2020 (121-122)
- P. #10 - Grade Reports: Interim Instructional Services (IIS) (123-126)
- P. #13 - Person Centered Plan, March 2020 (130-153)
- P. #15 - Observations and Progress: March 16, 2020 - April 24, 2020 (156-161)
- P. #16 - Summary Report of Special Education Services (162)
- P. #18 - Emails between the Parent and [REDACTED], April 29-30, 2020 (164-165)
- P. #19 - Draft IEP, April 2020 (166-208)

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<sup>5</sup> The exhibit numbers are the original numbers listed for the Parent's proposed exhibits. The Parent did not move for admission into evidence any exhibit not listed here.

- P. #20 - Weekly Notes, [REDACTED]'s Speech and Language Therapy Services, April 29-30, 2020 (209)
- P. #22 - Summary Report of Special Education Services (211-213)
- P. #23 - Summary of Notes from [REDACTED], March 13, 2020 - May 21, 2020 (214-220)
- P. #25 - Diagnosis and Treatment Plan, [REDACTED], LICSW,<sup>6</sup> LCSW-C (225-226)
- P. #26 - Email from [REDACTED] to [REDACTED], [REDACTED], June 12, 2020 (227)
- P. #27 - Summary of Notes from [REDACTED], June 11, 2020 - June 26, 2020 (228-234)
- P. #28 - Service Update, [REDACTED], BCBA, [REDACTED], June 26, 2020 (235-243)
- P. #29 - Report, [REDACTED], LICSW, June 29, 2020 (244)
- P. #30 - Summary of Notes from [REDACTED] June 27, 2020 - July 10, 2020 (245-250)
- P. #31 - Draft IEP, July 2020 (251-293)
- P. #32 - Post-Meeting IEP, July 2020 (294-338)
- P. #33 - Prior Written Notice, July 14, 2020 (339-340)
- P. #36 - Summary of Notes from [REDACTED], July 11, 2020 - July 24, 2020 (345-350)
- P. #37 - Summary of Notes from [REDACTED], July 25, 2020 - August 7, 2020 (351-353)
- P. #38 - Draft IEP, August 2020 (354-400)
- P. #40 - Post-Meeting IEP, August 2020 (402-447)
- P. #41 - Prior Written Notice, August 14, 2020 (448-450)
- P. #42 - Report, [REDACTED], LICSW, August 14, 2020 (451)

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<sup>6</sup> The LICSW is a District of Columbia license.

- P. #43 - Service Update, [REDACTED], BCBA, [REDACTED], August 17, 2020 (452-458)
- P. #45 - Report, [REDACTED], LICSW, August 28, 2020 (461)
- P. #47 - Summary of Notes from [REDACTED], August 22, 2020 - September 4, 2020 (463-467)
- P. #50 - Summary of Notes from [REDACTED], September 5, 2020 - September 18, 2020 (471-475)
- P. #51 - Report, [REDACTED], LICSW, September 9, 2020 (476)
- P. #54 - Report, [REDACTED], LICSW, September 22, 2020 (476)
- P. #55 - Summary of Informal Occupational Therapy Consultation, [REDACTED], Licensed Occupational Therapist, September 22, 2020 (482-486)
- P. #56 - Accessible Technology Consideration: Student, Environment, Tasks, and Tools, September 22, 2020 (487-489)
- P. #57 - Summary of Notes from [REDACTED], September 19, 2020 - October 2, 2020 (490-495)
- P. #59 - Summary of Notes from [REDACTED], October 3, 2020 - October 16, 2020 (499-504)
- P. #60 - Report, [REDACTED], LICSW, October 6, 2020 (505)
- P. #61 - Report, [REDACTED], LICSW, October 20, 2020 (506)
- P. #65 - Service Update, [REDACTED], BCBA, [REDACTED], November 3, 2020 (510-521)
- P. #68 - Report, [REDACTED], LICSW, November 4, 2020 (525)
- P. #69 - Assistive Technology Occupational, [REDACTED], November 5, 2020 (526-527)
- P. #72 - Emails between the Parent and Ms. [REDACTED], November 30, 2020 (532-533)
- P. #74 - Service Update, [REDACTED], BCBA, [REDACTED], December 20, 2020 (535-544)
- P. #75 - Progress Report: December 14, 2020 - December 23, 2020 (545-547)



- P. #76 - Informal Educational Assessment Report, [REDACTED], M.Ed., Instructional Specialist, December 28, 2020 (548-558)
- P. #77 - Service Update, [REDACTED], BCBA, [REDACTED], January 4, 2021 (559-570)
- P. #78 - Report, [REDACTED], LICSW, December 18, 2020 (571)
- P. #82 - Draft Transition Goals,<sup>7</sup> January 27, 2021 (614-618)
- P. #87 - Prior Written Notice, January 20, 2021 (628-630)
- P. #88 - Emails between the Parent and [REDACTED], January 19-20, 2021 (631-632)
- P. #91 - Report, [REDACTED], LICSW, January 29, 2021 (637)
- P. #94 - Informal Educational Assessment Report, [REDACTED], M.Ed., Instructional Specialist, revised February 9, 2021 (642-652)
- P. #95 - Draft IEP, February 10, 2021 (653-684)
- P. #96 - Emails between the Parent and [REDACTED], M.Ed., February 10, 2021 (685-686)
- P. #100 - Prior Witten Notice, February 12, 2021 (691-692)
- P. #101 - Email from [REDACTED] to the Parent, February 15, 2021 (693)
- P. #102 - Email from [REDACTED] to [REDACTED], February 15, 2021 (694)
- P. #103 - Draft IEP, February 17, 2021 (695-734)
- P. #104 - Notes and Decisions, February 17, 2021 (735-736)
- P. #105 - Prior Written Notice, February 18, 2021 (737-738)
- P. #106 - Informal Educational Assessment Report, [REDACTED], M.Ed., Instructional Specialist, revised February 17, 2021 (739-749)
- P. #108 - Report, [REDACTED], LICSW, March 2, 2021 (752)
- P. #109 - Email from [REDACTED] to the Parent's attorney, March 3, 2021 (753)

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<sup>7</sup> This reference to transition is to the transition services required by the IDEA to assist a child to reach the child's appropriate postsecondary school goals.

- P. #111 - Prior Written Notice, April 9, 2021 (757-759)
- P. #113 - Draft IEP, April 9, 2021 (761-804)
- P. #114 - Description of [REDACTED] [REDACTED] [REDACTED] (805)
- P. #115 - Description of [REDACTED] (806)
- P. #116 - Description of [REDACTED] (807)
- P. #117 - Description of [REDACTED] Campus (809)
- P. #118 - Referral Packet to Non-Public Schools (810-968)
- P. #119 - Email from [REDACTED] to the Parent, May 10, 2021 (969)
- P. #120 - Email from [REDACTED] to the Parent, April 30, 2021 (970-971)
- P. #121 - Email from [REDACTED] to the Parent, May 4, 2021 (972-973)
- P. #122 - Email from [REDACTED] to the Parent, May 7, 2021 (974-975)
- P. #124 - Letter from the [REDACTED] to [REDACTED], May 12, 2021 (977)
- P. #126 - IEP, amended May 19, 2021 (979-999)
- P. #127 - Notes and Decisions, May 19, 2021 (1000-1001)
- P. #129 - Prior Written Notice, May 24, 2021 (1004-1005)
- P. #131 - Report, [REDACTED], LICSW, undated (1008)
- P. #133 - IEP, amended June 8, 2021 (1011-1054)
- P. #134 - Prior Written Notice, June 22, 2021 (1055)
- P. #137 - Emails between [REDACTED], a paraeducator with [REDACTED], and [REDACTED] of MCPS, June 14, 2021 (1058)
- P. #138 - Report, [REDACTED], LICSW, undated (1059)
- P. #139 - Curriculum Vitae [REDACTED], Ph.D., BCBA-D (1060-1063)
- P. #140 - Résumé, [REDACTED], LICSW, LCSW-C

I admitted the following exhibits into evidence for the MCPS:

- MCPS #1 - Amended Due Process Complaint, May 18, 2021 (1-9)
- MCPS #2 - Report of Home Visits: [REDACTED], October 13, 2017 (10-11)
- MCPS #3 - Functional Behavior Assessment, [REDACTED], June 29, 2018 (12-28)
- MCPS #4 - Application for IIS, September 11, 2018 (29-30)
- MCPS #5 - Letter to the Assistant State Superintendent, February 14, 2019 (31)
- MCPS #6 - Prior Written Notice, August 27, 2019 (32-33)
- MCPS #7 - Person Centered Plan, August 2109 (34-70)
- MCPS #8 - Application for IIS, September 12, 2019 (71-72)
- MCPS #9 - IEP, September 12, 2019 (73-115)
- MCPS #10 - Related Services Log Notes (Speech Language), September 11, 2019 - December 18, 2019 (116-127)
- MCPS #11 - Settlement Agreement, January 22, 2020 (128-132)
- MCPS #12 - [REDACTED] Project Timeline, January 28, 2020 (133)
- MCPS #13 - Grade Reports for IIS, Marking Period 3 for 2019-2020 School Year (134-136)<sup>8</sup>
- MCPS #14 - Press Release, State Superintendent Announces Temporary Closure of Maryland Public Schools (137)
- MCPS #15 - Documentation, [REDACTED], March 16, 2020 (138)
- MCPS #16 - Teaching and Training Notes, [REDACTED]: March and April 2020 (139-144)
- MCPS #17 - Teaching and Training Notes for Family and Service Providers (145)
- MCPS #18 - Teaching and Training Notes, [REDACTED]: April 2020 (146-149)

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<sup>8</sup> Parent's exhibit number 10 contains an additional page of Grade Reports for IIS not included in MCPS's exhibit number 13.

- MCPS #19 - Documentation, [REDACTED], March 17, 2020 (150-151)
- MCPS #20 - Summary Report of Special Education Services (152)
- MCPS #21 - Documentation, [REDACTED], March 18-31, 2020 (153-167)
- MCPS #22 - Executive Order 20-03-30-01, March 30, 2021 (168-175)
- MCPS #23 - Special Announcement: School Closure Extended to May 15, April 17, 2020 (176-177)
- MCPS #24 - Summary of Notes from [REDACTED]: March 13, 2020 - May 21, 2020 (178-184)
- MCPS #25 - Weekly Notes, [REDACTED]'s Speech and Language Therapy Services, April 29-30, 2020 (185)
- MCPS #26 - Summary Report of Special Education Services, April 1, 2020 (186)
- MCPS #27 - IEP, amended May 4, 2020 (187-228)
- MCPS #28 - Prior Written Notice, May 7, 2020 (229)
- MCPS #29 - Maryland's Recovery Plan for Education, June 2020 (231-232)
- MCPS #30 - Summary of Notes from [REDACTED], June 11, 2020 - June 26, 2020 (233-239)
- MCPS #31 - Service Update, [REDACTED], BCBA, [REDACTED], June 26, 2020 (240-248)
- MCPS #32 - Summary of Notes from [REDACTED], June 27, 2020 - July 10, 2020 (249-254)
- MCPS #33 - Summary of Notes from [REDACTED], July 11, 2020 - July 24, 2020 (255-260)
- MCPS #34 - Prior Written Notice, July 14, 2020 (261-262)
- MCPS #35 - Prior Written Notice, August 14, 2020 (263-264)
- MCPS #36 - Summary of Notes from [REDACTED], August 8, 2020 - August 21, 2020 (265-270)
- MCPS #37 - Summary of Informal Occupational Therapy Consult, September 22, 2020 (271-275)

- MCPS #38 - Summary of Notes from [REDACTED], September 5, 2020 - September 18, 2020 (276-282)
- MCPS #39 - Accessible Technology Consideration, September 22, 2020 (283-285)
- MCPS #40 - Summary of Notes from [REDACTED], September 19, 2020 - October 2, 2020 (286-291)
- MCPS #41 - Summary of Notes from [REDACTED], October 3, 2020 - October 16, 2020 (292-297)
- MCPS #42 - Service Update, [REDACTED], BCBA, [REDACTED], November 3, 2020 (298-309)
- MCPS #43 - Assistive Technology Consultation, [REDACTED], November 5, 2020 (310-311)
- MCPS #44 - Informal Educational Assessment Report, [REDACTED], M.Ed., December 28, 2020 (312-322)
- MCPS #45 - Report, [REDACTED], LICSW, December 18, 2020 (323)
- MCPS #46 - Progress Report, December 14, 2020 – December 23, 2020 (324-326)
- MCPS #47 - Service Update, [REDACTED], BCBA, [REDACTED], December 20, 2020 (327-336)
- MCPS #48 - Service Update, [REDACTED], BCBA, [REDACTED], January 4, 2021 (337-348)
- MCPS #49 - Report, [REDACTED], LICSW, January 29, 2021 (349)
- MCPS #50 - Informal Educational Assessment, [REDACTED], M.Ed., revised February 17, 2021 (350-360)
- MCPS #51 - Service Update, [REDACTED], BCBA, [REDACTED], February 10, 2021 (361)
- MCPS #52 - Service Update, [REDACTED], BCBA, [REDACTED], March 2, 2021 (362-374)
- MCPS #53 - Person Centered Plan, March 2020 (375-398)
- MCPS #54 - Service Update, [REDACTED], BCBA, [REDACTED], March 2, 2021 (399-411) (same as MCPS #51)
- MCPS #55 - Overall Summary of Notes from [REDACTED], February 2020 - March 2021 (412-416)

- MCPS #56 - Report, [REDACTED], LICSW, March 2, 2021 (417)
- MCPS #57 - Prior Written Notice, April 9, 2021 (418-419)
- MCPS #58 - Summary Report of Delays, Interruptions, or Non-provision of Services, [REDACTED], April 13, 2021 (420-436)
- MCPS #59 - IEP, amended June 8, 2021 (437-480)
- MCPS #60 - Prior Written Notice, June 22, 2021 (481)
- MCPS #61 - Résumé, [REDACTED] (482-483)
- MCPS #62 - Résumé, [REDACTED] (484-487)
- MCPS #63 - Résumé, [REDACTED], (488-490)
- MCPS #64 - Résumé, [REDACTED] (491-492)
- MCPS #65 - Résumé, [REDACTED] (493-494)
- MCPS #66 - MCPS Settlement Offer (not admitted) (495)

**Testimony**<sup>9</sup>

The following witnesses testified:

1. [REDACTED], Assistant Director, [REDACTED]
2. [REDACTED], Supervisor, Central Placement Unit, MCPS, who testified as expert in special education
3. [REDACTED], BCBA, [REDACTED]
4. [REDACTED], speech language therapist
5. [REDACTED], Support Speech Pathologist, MCPS
6. [REDACTED], Supervisor of [REDACTED], previously the Coordinator of the [REDACTED] Program, who testified as an expert in special education

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<sup>9</sup> The Parent called all of these witnesses, most of whom were listed by both parties on their list of witnesses, in her case-in-chief, but I directed the MCPS to conduct its cross-examination and direct examination of each witness so we would not have to recall any witness except for rebuttal. The MCPS presented rebuttal testimony from Ms. [REDACTED] and Ms. [REDACTED].

7. [REDACTED], LICSW [licensed independent clinical social worker], LCSW-C, who testified as an expert in trauma therapy<sup>10</sup>
8. [REDACTED], Ph.D., BCBA-D, who testified as an expert in special education, autism, behavior analysis, and behavior evaluation and intervention
9. [REDACTED], Director of Education, [REDACTED]
10. Parent

### FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. The Student is nineteen years old; he lives with his mother and sister in an apartment in [REDACTED]. The Student's father resides in [REDACTED], [REDACTED]
2. The Student, who was diagnosed at age two with autism spectrum disorder, initially received services through the Montgomery County Infants and Toddlers Program; he then received special education services through the MCPS when he attended [REDACTED] [REDACTED].
3. The Student's current diagnoses include autism spectrum disorder with intellectual disability, post-traumatic stress disorder (PTSD), and generalized anxiety disorder.
4. The Student's primary disability for purposes of the IDEA is autism, which affects communication, math calculation, reading comprehension, written language expression, daily living skills, social interaction skills, independent community living, and vocational skills.
5. The Student attended a [REDACTED] ([REDACTED]) program at [REDACTED] Middle School, working toward a Maryland High School Certificate of Program Completion.

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<sup>10</sup> The MCPS objected to Ms. [REDACTED] testifying as an expert witness. Citing an unreported decision from the United States District Court for the District of Maryland and a case from the United States Bankruptcy Court for the Eastern District of Tennessee, the MCPS argued that Ms. [REDACTED] had a conflict of interest because she initially provided services through [REDACTED] but now provided services pursuant to a third-party contract with the MCPS. I found no reason to bar Ms. [REDACTED]'s expert testimony based on her current contract with the MCPS, leaving it as an issue of potential bias that the MCPS could deal with on cross-examination.

6. The Student receives services through the Maryland Department of Health's Home and Community-Based Services Waiver for Children with Autism Spectrum Disorder (Autism Waiver).

7. At approximately age twelve, the Student was sexually assaulted by a male Autism Waiver service provider.<sup>11</sup>

8. In middle school, the Student exhibited disruptive behaviors and was often absent from school.

9. The Appellant began ninth grade in the Autism Program at ██████████ High School in 2016, where he displayed significant negative behaviors, including physical aggression and ██████████.

10. In November 2016, the MCPS assigned the Student to IIS, the MCPS's version of home and hospital teaching; the Student has never returned to a physical school building.

11. On April 13, 2017, the MCPS referred the Student to several nonpublic special education schools.

12. ██████████ accepted the Student, but its staff, due to home visits canceled by the Parent and the Student's nonengagement, could not even begin a process of getting the Student out of his apartment.

13. On January 16, 2018, the Parent filed a complaint with the State Department of Education concerning MCPS's compliance with the IDEA regarding the Student.

14. On March 14, 2018, the State Department of Education ordered the MCPS to pay for an independent educational evaluation and determine "the comprehensive supports linking home and school services to assist [Student] in returning to a school-based program. (P. #2).

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<sup>11</sup> The parties presented scant evidence concerning the sexual assault. According to a 2017 psychological evaluation, included in Parent exhibit #118, the Parent noted changes in the Student's behavior, including sexualized behaviors, and his reluctance to engage with a male care provider. Ms. ██████████, the Student's trauma therapist, also testified that the Student had been sexually assaulted.



15. The Student continued to receive IIS.
16. On June 29, 2018, Dr. [REDACTED] a Board Certified Behavior Analyst (BCBA), issued a Functional Behavioral Assessment (FBA) of the Student, identifying target behaviors of noncompliance, aggression (including physical contact), and school refusal.
17. Dr. [REDACTED] recommended that a team, headed by a BCBA, work with the Student on a daily basis to increase his compliance to directions, a process that “could take months to be successful.” (P. #4). Dr. [REDACTED] recommended consultation from a trauma therapist, female staff to the extent possible, and support and training for the Parent so the Student’s compliance would continue in his home setting.
18. Dr [REDACTED] provided eleven strategies designed to gradually decrease the Student’s noncompliance and disruptive behaviors when a demand is made upon him.
19. In July 2019, [REDACTED] recruited [REDACTED] to possibly provide services to return the Student to school.
20. [REDACTED], [REDACTED] Assistant Director, prepared a Person Centered Plan for the Student, incorporating aspects of the FBA, including his need for a BCBA and a trauma therapist.
21. On August 27, 2019, the Students IEP “team agreed to add data from [Student’s] Person Centered Plan to the present levels of his IEP.” (MCPS #6).
22. The Student’s IEP team conducted an annual review on September 12, 2019; Ms. [REDACTED] attended the IEP team meeting.
23. As to present levels of academic achievement and functional performance, the IEP team reported that the Student, now almost eighteen years old, read comfortably at a first grade level and read with redirection at a second grade, second quarter level. The Student could count money and greet and say goodbye to people. He could answer “Wh” questions and

understand and follow verbal directions given in short clear sentences and respond in three-to-four-word sentences.

24. As a strength, the Student likes his electronic devices and can learn from computer programs and community activities.

25. The Student's IEP included goals and objectives for behavior, written language expression, math calculation, communication, daily living skills, vocational reading comprehension, and independent community living.

26. Information about the Student contained in Person Centered Plan is referred to in the Present Levels of Academic Achievement and Functional Performance section of the IEP.

27. In the Special Considerations and Accommodations section of the IEP, the IEP team noted that the special education teacher, paraeducator, and speech/language pathologist would implement the Student's Person Centered Plan consistently across all settings throughout the school day; there is no mention of a BCBA or trauma therapist.

28. The IEP team did not include BCBA services and trauma therapy as special considerations and accommodations in the Student's IEP. (Nor does the Student's May 4, 2020, IEP include BCBA services and trauma therapy as special considerations and accommodations.)

29. The IEP team listed the Student's placement at [REDACTED], a public separate special education school located within [REDACTED] Middle School, a comprehensive middle school, in [REDACTED].

30. On January 15, 2020, the MCPS and [REDACTED] entered into an Agreement for Contractual Services by which MCPS agreed to pay [REDACTED] \$142,998.30 to create and coordinate a team, including a special education teacher, a speech language therapist, a board certified behavior analyst, and a therapist experienced in trauma and autism, to transition the Student into a full time classroom setting by June 2020.

31. [REDACTED] was responsible for developing a person centered plan for the Student and recruiting, hiring, and training a team, including training in conflict resolution through the Mandt System.

32. Under the contract, the special education teacher was responsible for providing 25 hours per week of services using the IEP developed on September 12, 2019. To facilitate a “pairing” process where increasing demands would be placed on the Student as his relationship with the special education teacher developed, the special education teacher would also function as the Student’s one-to-one aide with the intention that the special education teacher would transition with the Student into a school setting.

33. Under the contract, the Student would receive 1.5 hours per week of speech language therapy as provided in his IEP for verbal communication and verbal expression.

34. Under the contract, a BCBA was responsible for creating a behavior plan to implement the strategies recommended by Dr. [REDACTED] and providing seven hours per week of BCBA services.

35. Under the contract, a trauma therapist was responsible for providing two hours per week of therapy to address the Student’s PTSD and anxiety to assist the team in evaluating whether the pace of services was healthy for the Student.

36. All of [REDACTED]’s services were to be provided in the Student’s home.

37. Under the contract, [REDACTED] proposed a timeline that would have the Student walking into a school to meet teachers who he will be in contact with by February 2020; attending school each day for 10 minutes a day by March 2020; attending a full class, five days a week by April 2020; and attending two full classes, five days a week by May 2020; and attending a full month of classes each day by June 2020.

38. On January 22, 2020, the Parent and the MCPS reached a settlement concerning the Student's educational services for the 2019-2020 school year. Under the settlement agreement, [REDACTED] was responsible for providing wrap-around educational and behavior support services to facilitate the Student's return to a school-based program.

39. Under the settlement agreement, if the Student was unable to successfully transition to a school-based program by the end of the 2019-2020 school year, [REDACTED]'s contract would continue through the end of the fourth full quarter following the full implementation of the settlement agreement.

40. The MCPS agreed to provide IIS for the Student until [REDACTED] began to implement its contract with the MCPS.

41. The Parent and the Student were outside the United States between January 2, 2020 and January 20, 2020.

42. [REDACTED], an IIS teacher, provided fifteen days of service between January 20, 2020 - March 5, 2020, in English, math, science, and social studies, one subject per day. The Student generally refused to work with the teacher or refused to do any work; one day he completed a true/false worksheet concerning Earth day and on three days he worked on alphabetizing and listing states.

43. [REDACTED] recruited professionals and trained them in the Mandt system; she also updated the Student's Person Centered Plan.

44. On March 12, 2020, the State Superintendent of Schools ordered a temporary closure of State public schools, effective March 16, 2020.

45. [REDACTED], who was retained by [REDACTED] to provide special education services, provided in-person services to the Student daily between March 16, 2020, and April 1, 2020.

46. On March 30, 2020, the governor issued a stay-at-home order due to the COVID-19 pandemic.

47. As of April 3, 2020, all of the Student's services were provided virtually, causing many difficulties in providing services. The Student often would not stay in front of the computer screen, or he would be using his personal electronic devices instead of participating with the professional.

48. [REDACTED], who was retained to provide speech and language therapy, provided virtual services between April 29 and June 30, 2020, the end date of [REDACTED]'s initial contract. Ms. [REDACTED] was pessimistic about the Student's progress because his behaviors were impeding his ability to learn.

49. The Student received no speech and language therapy between July 1 and December 31, 2020.

50. In April 2020, [REDACTED] retained [REDACTED], M.S., BCBA, a Clinical Supervisor with [REDACTED], a company that provides Applied Behavioral Analysis (ABA) services to individuals diagnosed with autism.

51. Ms. [REDACTED] has a master's degree in clinical psychology and a certificate in applied behavior analysis. Ms. [REDACTED] began providing telehealth services in May 2020 sessions with the teacher two or three times per week to support the teacher and the Student's family. Ms. [REDACTED] attempted to increase the Student's appropriate behaviors and decrease his maladaptive behaviors to help the Student's transition back into school.

52. With Ms. [REDACTED] the Student required intense and frequent prompting to participate in daily lessons. The Student's unlimited access to his preferred electronic devices made it very difficult for her to gain the Student's attention.

53. [REDACTED], a licensed social worker and trauma therapist, began treatment on May 23, 2020, for the Student's PTSD, with a goal of developing and implementing coping skills to allow the Student to carry out normal responsibilities and to participate in relationships and social activities.

54. Ms. [REDACTED] worked with the Student consistently, three or four days per week, with the Student usually participating from his bedroom. The Student made some marginal progress toward addressing his trauma in that he became comfortable working with Ms. [REDACTED].

55. After the MCPS terminated its contract with [REDACTED] in March 2021, it retained Ms. [REDACTED] to continue to provide trauma therapy.

56. In December 2020, [REDACTED], a speech and language therapist, was retained to provide services for the Student, but she only had one or two virtual sessions with the Student, who was still working on basic receptive and expressive skills.

57. The Student's IEP team met on April 6, 2021, and May 19, 2021. The IEP team reviewed the Student's present levels of achievement and functional performance, which had not changed.

58. The IEP team determined that the Student requires a small group setting, high staff-to-student ratio, and integrated social/emotional and behavioral supports and services to access curriculum.

59. The IEP team added counseling from a social worker or therapist as a related service due to the Student's past trauma, difficulty establishing relationships, building trust, and school avoidance.

60. The Student's IEP continued to provide for special education instruction and speech and language therapy.

61. The IEP team recommended placement in nonpublic special education school and noted that the nonpublic school would need to create a transition plan to get the Student into a school building.

62. [REDACTED] is for students who are 18-21 years old who are pursuing a certificate of completion and are working on vocational and other work-ready skills.

63. Classes in the [REDACTED] consist of eight or nine students who exhibit challenging behaviors, but who typically have a baseline of school readiness

64. [REDACTED] currently provides some virtual services, including the Extended School Year (ESY) services the Student received during this summer.

65. [REDACTED] is not an appropriate placement for the Student.

66. The Student requires a smaller class size and more intensive support than the [REDACTED] can provide. Given the supports that the Student needs to access instruction and his behavior needs, the Student needs a more restrictive setting than the [REDACTED] can provide.

67. The MCPS sent a referral packet to four non-public special education schools, with eighteen attachments, including a Bilingual Psychological Evaluation, [REDACTED], Ph.D., Licensed Psychologist, [REDACTED], January-February 2017; the Person Centered Plan, August 2020; Functional Behavior Assessment. Dr. [REDACTED], June 29, 2018; Draft IEP, January 6, 2021; and Informal Educational Assessment Report, [REDACTED] [REDACTED] M.Ed., revised February 17, 2021.

68. [REDACTED] accepted the Student based on the information in the MCPS's referral packet.

69. [REDACTED] cannot enter the Student's apartment to facilitate a transition plan to get the Student into a school building; it would need the assistance of the MCPS create such a transition plan.

70. [REDACTED] can provide the services outlined in the Student's IEP.

71. A nonpublic special education school is the least restrictive environment in which the Student can receive FAPE.

## **DISCUSSION**

### **Burden of Proof**

The Parent bears the burden of production and the burden of persuasion by a preponderance of the evidence. *Schaffer v. Weast*, 546 U.S. 49 (2005).

### **Introduction**

As noted in the parties' closing arguments, the legal issues are whether the MCPS, as the entity legally responsible for the Student's education, deprived the Student FAPE; whether the Student is entitled to compensatory education for lapses in special education and related services since January 30, 2020; and whether the MCPS's proposed placement of the Student in a nonpublic special education school is consistent with the IDEA's least restrictive environment requirement. The evidence clearly indicates that for many reasons, including the severity of the Student's disability and [REDACTED] inability to provide meaningful virtual services, the Student made essentially no progress on any of the goals prescribed in his IEP, and is no more ready to attend school in a school building than he was when the MCPS and the Parent agreed to retain [REDACTED] to transition the Student back into a school building. The evidence also indicates that the Student is entitled to some compensatory education, but only for deprivations of FAPE due to a failure to provide special education and



related services prescribed in his IEP. Finally, the evidence indicates that the MCPS's proposed placement of the Student in a nonpublic special education school is consistent with the IDEA's least restrictive environment requirement.

### **FAPE**

FAPE means special education and related services that have been provided at public expense, under public supervision, and without charge; meet the standards of the State educational agency; include an appropriate preschool, elementary school, or secondary school education in the State involved; and are provided in conformity with the IEP required under section 1414(d) of the IDEA. 20 U.S.C.A. § 1401(9). The Supreme Court recently revisited the meaning of 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 and 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 student with a disability 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).

The issue here, except perhaps the Parent’s concerns about an FBA<sup>12</sup> and a consideration of additions or modifications to the Student’s special education and related services,<sup>13</sup> is not the adequacy of the Student’s IEP, which detailed the Student’s present level of achievement and

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<sup>12</sup> The Parent’s expert witness, Dr. [REDACTED], testified that the Student does not need another FBA because her 2018 FBA is still valid – the reasons for the Student’s behaviors, especially school avoidance, have not changed.

<sup>13</sup> The Parent did not explain what these additions or modifications were.

functional performance and prescribed special education and related services reasonably calculated to enable the Student, despite his severe disability, to make progress, at least if he were capable of attending an actual school. The issue here is whether the failure to implement the Student's IEP since January 2020 denied him FAPE.

Since January 2020, the Student has not received the special education and related services prescribed in his IEP. He received some instruction from an IIS teacher and some special education services from [REDACTED], first in-person and then virtually, but not nearly the 29 hours per week listed in his IEP or the 25 hours listed in [REDACTED] contract. (Those hours of special education might be required as a matter of State education law, but due to his behavioral issues the Student is available for instruction for only a small fraction of the hours prescribed.) Citing testimony from Ms. [REDACTED], Ms. [REDACTED], and Dr. [REDACTED], the MCPS argued that the Student made progress while receiving services from [REDACTED]. None of that purported progress, which primarily dealt with the Student's behavior, concerned academics. Ms. [REDACTED] consistently reported that the Student often would not participate in even nondemanding interactive lessons. [REDACTED] conducted educational assessments of the Student between December 28, 2020, and February 17, 2021, indicating that the Student had comprehension skills up to grade 3 level when a passage was read aloud and could answer questions by pointing to answers. The Student could write his first name and write some numbers up to 10. The Student could use a word processor and smartphone and he could write one-syllable words. These reports reflect very little or no academic progress since the IEP team meeting in September 2019.

Ms. [REDACTED] testified that the Student made some progress in trauma therapy simply by developing trust in her. Dr. [REDACTED] testified about an uneventful trip the Student took with his mother and sister to [REDACTED] and [REDACTED] in July 2021 to demonstrate progress in the

Student's behavior. Neither Ms. [REDACTED] nor Dr. [REDACTED] described progress with the Student's compliance when demands are made upon him. The Student interacts virtually with Ms. [REDACTED] from his bedroom, a favorite location of his, and Dr. [REDACTED] observed the Student while he was engaged in a favored activity with his immediate family. This outing simply reflects the Student's baseline even before January 2020 – he can participate in favored activities with his mother and sister – but says nothing about his ability to participate in disfavored activities such as academics, speech language therapy, behavioral therapy, or entering a school building. That is not progress that indicates that the Student is moving toward a return to a school building or accessing even slightly demanding academic tasks.

The Student's IEP provides for 90 minutes of speech and language therapy per week as a related service designed to improve the Student's communication skills, especially his expressive language skills, which currently are generally limited to short, often stereotypical, responses. The Student went without speech and language therapy for many weeks at a time – January 30 through April 29 (when Ms. [REDACTED] began providing services); July 1 through December 20, 2020 (after Ms. [REDACTED] stopped providing services and before [REDACTED] retained Ms. [REDACTED]); and since March 2021. The MCPS did not contend that the Student made any progress concerning his communication skills.

The MCPS, as the entity legally responsible for the Student's education, deprived the Student FAPE at least as to special education and related services actually prescribed in the Student's IEP.

### **Compensatory Education**

The Parent requested compensatory education not just for the denial of FAPE related to special education and speech and language therapy, but also for a purported denial of FAPE related to BCBA services and trauma therapy. The Parent provided an overall estimate of hours

of services not provided through the end of the due process hearing: 126 hours of special education services; 380 hours of behavioral intervention services; 77.25 hours of speech and language therapy; and 81 hours of trauma therapy.<sup>14</sup> The Parent asserted that BCBA services and trauma therapy were incorporated into the Student's relevant IEPs. The Parent argued that the "hour for hour calculation is appropriate in this case and even likely a conservative estimate of the impact on [Student's] education." (T. 590). The Parent emphasized the Student's need for consistency and how interruptions in service interfered with the Student's progress. The Parent also cited federal and State guidance concerning recovery services for a school system's failure to provide a FAPE due to the COVID-19 pandemic as an analytic framework to determine an appropriate award of compensatory education.

The MCPS conceded that [REDACTED] failed to provide all of the special education and related services specified in its agreement with the MCPS. It reiterated its argument concerning progress and asserted that the Student was not entitled to any compensatory education for the special education and related services prescribed in the IEP. The MCPS asked that if I were to grant compensatory education for special education services and speech language therapy that I analyze the issue based upon a model that focuses upon the effect of any lapse of service on the Student and which takes into consideration equitable factors such as unreasonable parental conduct. *See Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 520 (D.C.C. 2005). The MCPS further argued that it is not responsible under the IDEA for any failure to provide BCBA services or trauma therapy because those related services were not specified in the Student's relevant IEPs, but only in the Student's Person Centered Plan and the MCPS's agreement with [REDACTED].

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<sup>14</sup> I am not sure how the Parent calculated these hours, but I accept them as a reasonable estimate of hours of services not provided to the Student since January 30, 2020.

The threshold issue is whether BCBA services and trauma therapy were incorporated into the Student's relevant IEPs. [REDACTED] created a Person Centered Plan for the Student in August 2019. On August 27, 2019, the IEP "team agreed to add data from [Student's] Person Centered Plan to the present levels of his IEP." (MCPS #6). [REDACTED] discussed the Person Centered Plan, which at that time contained no specific details as to the services to be provided by a BCBA or a trauma therapist, at an IEP team meeting on September 12, 2019. Information about the Student contained in the Person Centered Plan is referred to in the Present Levels of Academic and Achievement and Functional Performance section of the IEP. In the Special Considerations and Accommodations section of the IEP, it is noted that the special education teacher, paraeducator, and speech/language pathologist would implement the Student's Person Centered Plan consistently across all settings throughout the school day. (MCPS #9). There is no mention of a BCBA or trauma therapist. (Nor does the Student's May 4, 2020, IEP mention a BCBA or trauma therapist.)

On January 22, 2020, the Parent and the MCPS reached a settlement concerning the Student's educational services for the 2019-2020 school year. Under the settlement agreement, [REDACTED] was responsible for providing wrap-around educational and behavior support services to facilitate the Student's return to a school-based program. The settlement agreement is silent as to its relationship to the Student's IEP.

The brief mention of the Person Centered Plan in the Student's IEP did not implicitly incorporate that plan into the IEP and the language in the IEP concerning implementation of the Person Centered Plan literally applies only to a special education teacher, paraeducator, and speech and language therapist. The parties negotiated [REDACTED]'s role and the services it would provide outside the IEP process and there is no indication that the parties intended [REDACTED]'s contract to be incorporated into the Student's IEP. The

Student's IEP team never prescribed BCBA services or trauma therapy and the MCPS is not responsible under the IDEA for [REDACTED]'s failure to fully provide those two services.<sup>15</sup>

The Student's IEP did include special education services and speech and language therapy. I find the Parent's suggestion of an hour-for-hour analysis, at least for special education services, inappropriate for practical, equitable reasons. A blanket award of more than a hundred hours of services makes little sense for a Student with an extremely limited ability to engage in academics and a short period of time to develop skills to transition to adult services. Having the Student spend 126 hours answering multiple-choice questions from second-grade level readings seems counterproductive. In her FBA, Dr [REDACTED] indicated that academic goals could be integrated into the plan to address the Student's behaviors for a transition into a school building, but the "focus should be on compliance and leaving the house with the overall goal of going to school. . . . At no point should the academic demands take precedence over the pairing and demand fading as behavioral regression is highly likely to occur making [Student] not available for learning." (P. #4). The Student would not benefit from additional hours of special education instruction.

The Student should be compensated for the significant lapse in speech and language therapy. In contrast to special education services, which the Student received on a fairly consistent if somewhat limited basis, the Student went without speech and language therapy for many weeks at a time – January 30 through April 29 (when Ms. [REDACTED] began providing services); July 1 through December 20, 2020 (after Ms. [REDACTED] stopped providing services and before [REDACTED] retained Ms. [REDACTED]); and since March 2021. The Student's IEP

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<sup>15</sup> The Parent also asserted that the MCPS failed to provide the Student in-person behavior support services since November 2020. The Student's IEP did not provide for in-person behavior support services and such services were inappropriate due to the COVID-19 pandemic.

provides for 90 minutes of speech and language therapy per week. The Parent's request for 77.25 hours of compensatory education essentially asks for one year of compensatory education for speech and language therapy, which seems reasonable. Speech and language therapy is designed to improve the Student's communication skills, especially his expressive language skills, which currently are generally limited to stereotypical responses. Compensatory education for the significant lapses in speech and language therapy is appropriate to address any deficit the Student suffered and is consistent with the Student's current needs.

### **Other Issues: Behavioral Intervention Plan**

The Parent asserted that the MCPS, through [REDACTED], failed to implement or failed to implement with fidelity a behavioral intervention plan for the Student between January 30, 2020, and May 23, 2020. The Student's September 12, 2019, IEP indicates that the MCPS implemented a behavioral intervention plan for the Student on April 5, 2017, to manage and decrease his interfering behaviors of noncompliance and aggression. As of August 27, 2019, the IEP team was "collecting data to make an informed plan." (MCPS #9). The Student's behavioral intervention plan is not part of the record. The Student received virtual BCBA services from [REDACTED] fairly consistently between April 20, 2020, and March 1, 2021. Ms. [REDACTED] conceded that in-person BCBA services, where she, rather than the Parent, could interact with the Student would have more effective, but the Parent failed to establish that Ms. [REDACTED]'s services were inadequate.<sup>16</sup> The Parent also criticized Ms. [REDACTED]'s failure to conduct an FBA. Besides Dr. [REDACTED]'s testimony that the Student did not need another FBA,

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<sup>16</sup> The Parent also asserted that the MCPS failed to appropriately consider whether the Student required additions or modifications to his special education and related services and failed to provide appropriately trained staff for the Student, including paraprofessionals and in-home behavior support. The Parent did not explain what these additions or modifications were; nor did the Parent present any rational argument for requiring the MCPS or [REDACTED] to provide in-home services during the COVID-19 pandemic. Neither the MCPS nor [REDACTED] had to risk anyone's life or health to provide in-person special education and related services to the Student.



Ms. [REDACTED] testified that she declined on ethical grounds to conduct a virtual FBA because doing so would have put the Parent's and the Student's sister's safety at risk. To conduct the assessment, Ms. [REDACTED] would have to make demands of the Student without her being there to control the situation and the Student, who had acted aggressively toward his mother and sister in the past.

#### **Other Issues: COVID-19 Pandemic Claims**

The Parent asserted generally that the MCPS failed to consider the Parent's concerns and the Student's academic, developmental, and functional needs when it initiated virtual instruction in mid-March 2020; and failed to consider the potential harmful effect on the Student or on the quality of services the Student needs when it initiated virtual instruction in mid-March 2020. The Parent did not focus on this issue at the hearing and in the unusual circumstances presented in this case it appears that the MCPS reasonably relied on [REDACTED]'s judgment concerning the Student's virtual services.

#### **Other Issues: Placement – Procedural Issues**

The Parent asserted that the MCPS committed several procedural violations concerning the proposed placement of the Student in a nonpublic placement. First, the Parent asserted that the MCPS proposed a change in the Student's placement without considering the Student's strengths, his parent's concerns, and his academic, developmental, and functional needs, in violation of subsections 1414(d)(3)(A)(i), (ii), and (iv) of the IDEA. Second, the Parent asserted that the MCPS failed to consider other placement options, including supports and services that could be provided to the Student in a less restrictive setting; failed to provide the Student with the supplementary aids and services that would allow him to participate in the least restrictive environment in violation of subsection 1412(a)(5) of the IDEA, the IDEA's general statement concerning least restrictive environment. That statute essentially permits the removal of a child

from the regular educational environment only when the nature and severity of the child's disability is such that education in the regular school environment cannot be achieved with the use of supplementary aids and services. Third, the Parent asserted that the MCPS failed to ensure that the Student's placement decision was based on a consideration of any potential harmful effect on the Student or the quality of services that he needs in violation of section 300.116 of title 34 of the Code of Federal Regulations.

The Parent's arguments concerning the MCPS's procedural compliance are without merit. Since the beginning of the 2016-2017 school year, when the Student refused to attend the autism program at [REDACTED] High School, the MCPS has considered everything the Parent claims that it has not many times over. Ms. [REDACTED] and Ms [REDACTED] testified credibly about the Student's severe disruptive behaviors and school avoidance and provided their expert opinions, which demonstrated their consideration of the appropriate factors under the IDEA.

#### **Placement – Least Restrictive Environment**

In addition to the IDEA's requirement that a disabled child receive educational benefit, the child must be placed in the "least restrictive environment" to achieve a free appropriate public education, 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); COMAR 13A.05.01.03B(71). 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 free appropriate public education might require placement of a child in a private school setting that would be fully funded by the child's public school district.

The parties' dispute about the Student's placement is problematic because the Student is currently incapable of attending any physical school building, public or nonpublic. I essentially have to analyze the issue as if the Student were ready to attend school and decide whether a nonpublic special education school is the least restrictive environment for the Student.

Since at least 2017, in the wake of the Student's inability to attend the autism program at ██████████ High School, the MCPS has consistently determined that the Student's IEP cannot be implemented in a public school, even in the restrictive environment of the ██████████ Program at ██████████. Ms. ██████████, the former Coordinator of the ██████████ Program, provided her expert opinion that the Student could not be successful in the ██████████ Program due to his inability to engage with others, especially males, and the relatively larger classes compared to a

nonpublic school. Ms. [REDACTED] testified that while the [REDACTED] Program could support or implement the Student's IEP in terms of the instruction and some behavioral support, it could not realistically provide the intensity of support that the Student needs to address his behaviors. Without those supports, the Student could not access instruction, including the transition and vocational activities emphasized in the [REDACTED] Program. Ms. [REDACTED], a supervisor in MCPS's Central Placement Unit, provided her expert opinion that the Student needs a nonpublic special education school so that his services can be provided consistently in one setting throughout the school day. She contrasted that with the last four years of the Student receiving essentially ad hoc services. I give great weight to the expert opinions of Ms. [REDACTED] and Ms. [REDACTED], two very experienced educators who are familiar with the Student and placements available through the MCPS and nonpublic schools. Their recommendation of a nonpublic special education school for a severely disabled student who is aging out of eligibility under the IDEA makes perfect sense.

To counter the opinions of Ms. [REDACTED] and Ms. [REDACTED], the Parent presented a terse opinion from Dr. [REDACTED]: "I think that [Student's] IEP can be implemented at a public separate day school." (Transcript, 7/26/2021 at 464). Dr. [REDACTED] did not address the resources available at the [REDACTED] Program; nor did she address the opinions of Ms. [REDACTED] and Ms. [REDACTED] that the [REDACTED] Program was an inappropriate placement for the Student. I give less weight to Dr. [REDACTED]'s opinion because it seemed superficial and more like advocacy than a well-considered opinion of what the Student needs.

In her brief testimony, the Parent described a behaviorally-compliant Student and indicated that she wanted the Student to continue to receive his current services (virtual ESY services through the [REDACTED] Program) because he now has an established routine. The Parent clarified that she wants virtual services until there is a plan to transition the Student to a school

building. The Parent's description of the Student's behaviors is inconsistent with the reports from many different professionals over the past five years (and inconsistent with the level of services the parent has advocated for) and is simply not credible. The Student has some ability to participate in favored activities, but that ability has not transferred to non-favored activities such as special education and speech and language therapy. As to placement, it is difficult to understand the Parent's objection to a nonpublic special education school, which seems to offer the Student the best chance to receive some educational benefit in the next two years.

Finally, I note the testimony of [REDACTED] concerning [REDACTED] [REDACTED] the only nonpublic school to accept the Student. He explained that he received the MCPS's referral packet, reviewed the attachments, and determined that the [REDACTED] [REDACTED] could provide the services outlined in the Student's IEP. He cited the school's ability to provide counseling and support through its behavior program. Mr. [REDACTED] did not seem knowledgeable about the Student and seemed to be saying that the Student fit the profile of students who attend the [REDACTED]. Mr. [REDACTED] conceded that the [REDACTED] could not enter the Student's apartment and would have to need to create a transition plan in collaboration with the MCPS to get the Student into its school building. The MCPS did not present an especially strong case for the [REDACTED] [REDACTED] in particular, but a nonpublic special education school, with limited class size and more resources than a public school, is the least restrictive environment for the Student, if he is ever able to attend a school.

## CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude that the MCPS, as the entity legally responsible for the Student's education, deprived the Student FAPE as to his special education services and speech and language therapy. 20 U.S.C.A. § 1401(9); *Endrew F. v. Douglas Cty. Sch. Dist.*, 137 S. Ct. 988 (2017). I further conclude that Student is entitled to 77.5 hours of speech and language therapy as compensatory education for lapses in his related services since January 30, 2020. *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 520 (D.C.C. 2005). I further conclude that the MCPS's proposed placement of the Student in a nonpublic special education school is the least restrictive environment in which the Student can receive FAPE. 20 U.S.C.A. § 1412(a)(5); 34 C.F.R. §§ 300.114(a)(2)(i), 300.117.

## ORDER

I **ORDER** that the Montgomery County Public Schools shall provide the Student 77.5 hours of speech and language therapy as compensatory education for lapses in his related services since January 30, 2020; and I further

**ORDER** that the Student's placement for the 2021-2022 school year shall be a nonpublic special education school at public expense; and I further

**ORDER** that the Montgomery County Public Schools shall, within thirty days of the date of this decision, provide proof of compliance to the Chief of the Complaint Investigation and Due Process Branch, Division of Special Education and Early Intervention Services, the Maryland State Department of Education.

August 27, 2021  
Date Report and Order Issued

Robert F. Barry  
Administrative Law Judge

RFB/kkc  
#192465

## **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 & Emailed To:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



██████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

BEFORE ROBERT F. BARRY,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-MONT-OT-21-07511

**EXHIBIT LIST**

I admitted the following exhibits into evidence for the Parent:<sup>17</sup>

- P. #2 - MSDE's Written Decision Concerning the Parent's State Complaint, March 14, 2018 (15-25)
- P. #4 - Functional Behavior Assessment, ██████████ Ph.D., BCBA-D [Board Certified Behavior Analyst], June 29, 2018 (27-43)
- P. #5 - Person Centered Plan, August 2019 (44-80)
- P. #6 - Agreement for Contractual Services, ██████████, January 15, 2020 (81-103)
- P. #7 - Attachment A: Statement of Work, Requirements, and Cost (104-115)
- P. #8 - Settlement Agreement, January 22, 2020 (116-120)
- P. #9 - Letter (Summary of Services) to MSDE, February 14, 2020 (121-122)
- P. #10 - Grade Reports: Interim Instructional Services (IIS) (123-126)
- P. #13 - Person Centered Plan, March 2020 (130-153)
- P. #15 - Observations and Progress: March 16, 2020 - April 24, 2020 (156-161)
- P. #16 - Summary Report of Special Education Services (162)
- P. #18 - Emails between the Parent and ██████████, April 29-30, 2020 (164-165)
- P. #19 - Draft IEP, April 2020 (166-208)

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<sup>17</sup> The exhibit numbers are the original numbers listed for the Parent's proposed exhibits. The Parent did not move for admission into evidence any exhibit not listed here.

- P. #20 - Weekly Notes, [REDACTED]'s Speech and Language Therapy Services, April 29-30, 2020 (209)
- P. #22 - Summary Report of Special Education Services (211-213)
- P. #23 - Summary of Notes from [REDACTED], March 13, 2020 - May 21, 2020 (214-220)
- P. #25 - Diagnosis and Treatment Plan, [REDACTED], LICSW,<sup>18</sup> LCSW-C (225-226)
- P. #26 - Email from [REDACTED] to [REDACTED], [REDACTED], June 12, 2020 (227)
- P. #27 - Summary of Notes from [REDACTED], June 11, 2020 - June 26, 2020 (228-234)
- P. #28 - Service Update, [REDACTED], BCBA, [REDACTED], June 26, 2020 (235-243)
- P. #29 - Report, [REDACTED], LICSW, June 29, 2020 (244)
- P. #30 - Summary of Notes from [REDACTED] June 27, 2020 - July 10, 2020 (245-250)
- P. #31 - Draft IEP, July 2020 (251-293)
- P. #32 - Post-Meeting IEP, July 2020 (294-338)
- P. #33 - Prior Written Notice, July 14, 2020 (339-340)
- P. #36 - Summary of Notes from [REDACTED], July 11, 2020 - July 24, 2020 (345-350)
- P. #37 - Summary of Notes from [REDACTED], July 25, 2020 - August 7, 2020 (351-353)
- P. #38 - Draft IEP, August 2020 (354-400)
- P. #40 - Post-Meeting IEP, August 2020 (402-447)
- P. #41 - Prior Written Notice, August 14, 2020 (448-450)
- P. #42 - Report, [REDACTED], LICSW, August 14, 2020 (451)

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<sup>18</sup> The LICSW is a District of Columbia license.

- P. #43 - Service Update, [REDACTED], BCBA, [REDACTED], August 17, 2020 (452-458)
- P. #45 - Report, [REDACTED], LICSW, August 28, 2020 (461)
- P. #47 - Summary of Notes from [REDACTED], August 22, 2020 - September 4, 2020 (463-467)
- P. #50 - Summary of Notes from [REDACTED], September 5, 2020 - September 18, 2020 (471-475)
- P. #51 - Report, [REDACTED], LICSW, September 9, 2020 (476)
- P. #54 - Report, [REDACTED], LICSW, September 22, 2020 (476)
- P. #55 - Summary of Informal Occupational Therapy Consultation, [REDACTED], Licensed Occupational Therapist, September 22, 2020 (482-486)
- P. #56 - Accessible Technology Consideration: Student, Environment, Tasks, and Tools, September 22, 2020 (487-489)
- P. #57 - Summary of Notes from [REDACTED], September 19, 2020 - October 2, 2020 (490-495)
- P. #59 - Summary of Notes from [REDACTED], October 3, 2020 - October 16, 2020 (499-504)
- P. #60 - Report, [REDACTED], LICSW, October 6, 2020 (505)
- P. #61 - Report, [REDACTED], LICSW, October 20, 2020 (506)
- P. #65 - Service Update, [REDACTED], BCBA, [REDACTED], November 3, 2020 (510-521)
- P. #68 - Report, [REDACTED], LICSW, November 4, 2020 (525)
- P. #69 - Assistive Technology Occupational, [REDACTED], November 5, 2020 (526-527)
- P. #72 - Emails between the Parent and Ms. [REDACTED], November 30, 2020 (532-533)
- P. #74 - Service Update, [REDACTED], BCBA, [REDACTED], December 20, 2020 (535-544)
- P. #75 - Progress Report: December 14, 2020 - December 23, 2020 (545-547)

- P. #76 - Informal Educational Assessment Report, [REDACTED], M.Ed., Instructional Specialist, December 28, 2020 (548-558)
- P. #77 - Service Update, [REDACTED], BCBA, [REDACTED], January 4, 2021 (559-570)
- P. #78 - Report, [REDACTED], LICSW, December 18, 2020 (571)
- P. #82 - Draft Transition Goals,<sup>19</sup> January 27, 2021 (614-618)
- P. #87 - Prior Written Notice, January 20, 2021 (628-630)
- P. #88 - Emails between the Parent and [REDACTED], January 19-20, 2021 (631-632)
- P. #91 - Report, [REDACTED], LICSW, January 29, 2021 (637)
- P. #94 - Informal Educational Assessment Report, [REDACTED], M.Ed., Instructional Specialist, revised February 9, 2021 (642-652)
- P. #95 - Draft IEP, February 10, 2021 (653-684)
- P. #96 - Emails between the Parent and [REDACTED], M.Ed., February 10, 2021 (685-686)
- P. #100 - Prior Witten Notice, February 12, 2021 (691-692)
- P. #101 - Email from [REDACTED] to the Parent, February 15, 2021 (693)
- P. #102 - Email from [REDACTED] to [REDACTED], February 15, 2021 (694)
- P. #103 - Draft IEP, February 17, 2021 (695-734)
- P. #104 - Notes and Decisions, February 17, 2021 (735-736)
- P. #105 - Prior Written Notice, February 18, 2021 (737-738)
- P. #106 - Informal Educational Assessment Report, [REDACTED], M.Ed., Instructional Specialist, revised February 17, 2021 (739-749)
- P. #108 - Report, [REDACTED], LICSW, March 2, 2021 (752)
- P. #109 - Email from [REDACTED] to the Parent's attorney, March 3, 2021 (753)

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<sup>19</sup> This reference to transition is to the transition services required by the IDEA to assist a child to reach the child's appropriate postsecondary school goals.

- P. #111 - Prior Written Notice, April 9, 2021 (757-759)
- P. #113 - Draft IEP, April 9, 2021 (761-804)
- P. #114 - Description of [REDACTED] [REDACTED]  
[REDACTED].] (805)
- P. #115 - Description of [REDACTED] (806)
- P. #116 - Description of [REDACTED] (807)
- P. #117 - Description of [REDACTED] (809)
- P. #118 - Referral Packet to Non-Public Schools (810-968)
- P. #119 - Email from [REDACTED] to the Parent, May 10, 2021  
(969)
- P. #120 - Email from [REDACTED] to the Parent, April 30, 2021 (970-971)
- P. #121 - Email from [REDACTED] to the Parent, May 4, 2021 (972-973)
- P. #122 - Email from [REDACTED] to the Parent, May 7, 2021 (974-975)
- P. #124 - Letter from the [REDACTED] to [REDACTED]  
May 12, 2021 (977)
- P. #126 - IEP, amended May 19, 2021 (979-999)
- P. #127 - Notes and Decisions, May 19, 2021 (1000-1001)
- P. #129 - Prior Written Notice, May 24, 2021 (1004-1005)
- P. #131 - Report, [REDACTED], LICSW, undated (1008)
- P. #133 - IEP, amended June 8, 2021 (1011-1054)
- P. #134 - Prior Written Notice, June 22, 2021 (1055)
- P. #137 - Emails between [REDACTED], a paraeducator with [REDACTED], and  
[REDACTED] of MCPS, June 14, 2021 (1058)
- P. #138 - Report, [REDACTED], LICSW, undated (1059)
- P. #139 - Curriculum Vitae, [REDACTED], Ph.D., BCBA-D  
(1060-1063)
- P. #140 - Résumé, [REDACTED], LICSW, LCSW-C

I admitted the following exhibits into evidence for the MCPS:

- MCPS #1 - Amended Due Process Complaint, May 18, 2021 (1-9)
- MCPS #2 - Report of Home Visits: [REDACTED] October 13, 2017 (10-11)
- MCPS #3 - Functional Behavior Assessment, [REDACTED], June 29, 2018 (12-28)
- MCPS #4 - Application for IIS, September 11, 2018 (29-30)
- MCPS #5 - Letter to the Assistant State Superintendent, February 14, 2019 (31)
- MCPS #6 - Prior Written Notice, August 27, 2019 (32-33)
- MCPS #7 - Person Centered Plan, August 2109 (34-70)
- MCPS #8 - Application for IIS, September 12, 2019 (71-72)
- MCPS #9 - IEP, September 12, 2019 (73-115)
- MCPS #10 - Related Services Log Notes (Speech Language), September 11, 2019 - December 18, 2019 (116-127)
- MCPS #11 - Settlement Agreement, January 22, 2020 (128-132)
- MCPS #12 - [REDACTED] Project Timeline, January 28, 2020 (133)
- MCPS #13 - Grade Reports for IIS, Marking Period 3 for 2019-2020 School Year (134-136)<sup>20</sup>
- MCPS #14 - Press Release, State Superintendent Announces Temporary Closure of Maryland Public Schools (137)
- MCPS #15 - Documentation, [REDACTED], March 16, 2020 (138)
- MCPS #16 - Teaching and Training Notes, [REDACTED] March and April 2020 (139-144)
- MCPS #17 - Teaching and Training Notes for Family and Service Providers (145)
- MCPS #18 - Teaching and Training Notes, [REDACTED]: April 2020 (146-149)

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<sup>20</sup> Parent's exhibit number 10 contains an additional page of Grade Reports for IIS not included in MCPS's exhibit number 13.

- MCPS #19 - Documentation, [REDACTED], March 17, 2020 (150-151)
- MCPS #20 - Summary Report of Special Education Services (152)
- MCPS #21 - Documentation, [REDACTED], March 18-31, 2020 (153-167)
- MCPS #22 - Executive Order 20-03-30-01, March 30, 2021 (168-175)
- MCPS #23 - Special Announcement: School Closure Extended to May 15, April 17, 2020 (176-177)
- MCPS #24 - Summary of Notes from [REDACTED]: March 13, 2020 - May 21, 2020 (178-184)
- MCPS #25 - Weekly Notes, [REDACTED]'s Speech and Language Therapy Services, April 29-30, 2020 (185)
- MCPS #26 - Summary Report of Special Education Services, April 1, 2020 (186)
- MCPS #27 - IEP, amended May 4, 2020 (187-228)
- MCPS #28 - Prior Written Notice, May 7, 2020 (229)
- MCPS #29 - Maryland's Recovery Plan for Education, June 2020 (231-232)
- MCPS #30 - Summary of Notes from [REDACTED], June 11, 2020 - June 26, 2020 (233-239)
- MCPS #31 - Service Update, [REDACTED], BCBA, [REDACTED], June 26, 2020 (240-248)
- MCPS #32 - Summary of Notes from [REDACTED], June 27, 2020 - July 10, 2020 (249-254)
- MCPS #33 - Summary of Notes from [REDACTED], July 11, 2020 - July 24, 2020 (255-260)
- MCPS #34 - Prior Written Notice, July 14, 2020 (261-262)
- MCPS #35 - Prior Written Notice, August 14, 2020 (263-264)
- MCPS #36 - Summary of Notes from [REDACTED], August 8, 2020 - August 21, 2020 (265-270)
- MCPS #37 - Summary of Informal Occupational Therapy Consult, September 22, 2020 (271-275)

- MCPS #38 - Summary of Notes from [REDACTED], September 5, 2020 - September 18, 2020 (276-282)
- MCPS #39 - Accessible Technology Consideration, September 22, 2020 (283-285)
- MCPS #40 - Summary of Notes from [REDACTED], September 19, 2020 - October 2, 2020 (286-291)
- MCPS #41 - Summary of Notes from [REDACTED], October 3, 2020 - October 16, 2020 (292-297)
- MCPS #42 - Service Update, [REDACTED], BCBA, [REDACTED], November 3, 2020 (298-309)
- MCPS #43 - Assistive Technology Consultation, [REDACTED], November 5, 2020 (310-311)
- MCPS #44 - Informal Educational Assessment Report, [REDACTED], M.Ed., December 28, 2020 (312-322)
- MCPS #45 - Report, [REDACTED], LICSW, December 18, 2020 (323)
- MCPS #46 - Progress Report, December 14, 2020 – December 23, 2020 (324-326)
- MCPS #47 - Service Update, [REDACTED], BCBA, [REDACTED], December 20, 2020 (327-336)
- MCPS #48 - Service Update, [REDACTED], BCBA, [REDACTED], January 4, 2021 (337-348)
- MCPS #49 - Report, [REDACTED], LICSW, January 29, 2021 (349)
- MCPS #50 - Informal Educational Assessment, [REDACTED], M.Ed., revised February 17, 2021 (350-360)
- MCPS #51 - Service Update, [REDACTED], BCBA, [REDACTED], February 10, 2021 (361)
- MCPS #52 - Service Update, [REDACTED], BCBA, [REDACTED], March 2, 2021 (362-374)
- MCPS #53 - Person Centered Plan, March 2020 (375-398)
- MCPS #54 - Service Update, [REDACTED], BCBA, [REDACTED], March 2, 2021 (399-411) (same as MCPS #51)
- MCPS #55 - Overall Summary of Notes from [REDACTED], February 2020 - March 2021 (412-416)



- MCPS #56 - Report, [REDACTED], LICSW, March 2, 2021 (417)
- MCPS #57 - Prior Written Notice, April 9, 2021 (418-419)
- MCPS #58 - Summary Report of Delays, Interruptions, or Non-provision of Services, [REDACTED], April 13, 2021 (420-436)
- MCPS #59 - IEP, amended June 8, 2021 (437-480)
- MCPS #60 - Prior Written Notice, June 22, 2021 (481)
- MCPS #61 - Résumé, [REDACTED] (482-483)
- MCPS #62 - Résumé, [REDACTED] (484-487)
- MCPS #63 - Résumé, [REDACTED], (488-490)
- MCPS #64 - Résumé, [REDACTED] (491-492)
- MCPS #65 - Résumé, [REDACTED] (493-494)
- MCPS #66 - MCPS Settlement Offer (not admitted) (495)