

██████████,

STUDENT

v.

BALTIMORE CITY

PUBLIC SCHOOLS

BEFORE JOCELYN L. WILLIAMS,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-CITY-OT-21-19202

**DECISION**

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

**STATEMENT OF THE CASE**

On August 25, 2021, ██████████ and ██████████ (Parents), on behalf of their child, ██████████ (Student), filed a Due Process Complaint with the Office of Administrative Hearings (OAH) requesting a hearing to review the identification, evaluation, or placement of the Student by the Baltimore City Public Schools (BCPS) under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C.A. § 1415(f)(1)(A) (2017);<sup>1</sup> 34 C.F.R. § 300.511(a) (2020);<sup>2</sup> Md. Code Ann., Educ. § 8-413(d)(1) (2018);<sup>3</sup> Code of Maryland Regulations (COMAR) 13A.05.01.15C(1).

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<sup>1</sup> 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.

<sup>2</sup> 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 2020 volume.

<sup>3</sup> All citations to the Education Article are to the 2018 bound volume and referred to as "Educ."

I held a remote prehearing conference on October 6, 2021, utilizing the Webex videoconferencing platform. The Parents were not present, but were represented by Wayne D. Steedman, Esquire. Manisha S. Kavadi, Esquire, represented the BCPS.

I held the due process hearing remotely via video utilizing the Webex videoconferencing platform hearing on November 29-30, 2021; December 1, 6, 7, 8, 14, 15, 2021; and January 7, 10, 11, 13 18, 2022.<sup>4</sup> Wayne D. Steedman, Esquire, represented the Parents. Manisha S. Kavadi, Esquire, represented the BCPS.

Under the applicable law, a decision in this case normally would be due by November 8, 2021, forty-five days after the end of the resolution period. 34 C.F.R. §§ 300.510(b)(2), (c), 300.515(a); Md. Code Ann., Educ. § 8-413(h) (2018); COMAR 13A.05.01.15C(14). However, the parties requested hearing dates outside that timeframe. 34 C.F.R. § 300.515(c); Educ. § 8-413(h). Counsel for the parties reviewed their calendars and noted multiple conflicts, notably Ms. Kavadi's unavailability as a result of two hearings before the OAH in October and being on leave or in hearings before the OAH on November 4, 5, 8, 9-15, 16-19, 22-26 and December 2, 3, 9, 10 and 13, 2021.

The parties jointly requested that the timeline for issuing the decision be extended, noting the conflicts in scheduling, as well as the preference of having consecutive hearing days. For those reasons, I found good cause to extend the regulatory timeframe as requested. 34 C.F.R. § 300.515(c). The parties agreed that the decision would be issued within thirty days from the last day of the hearing.

Procedure is governed by the contested case provisions of the Administrative Procedure Act; the Education Article; the Maryland State Department of Education (MSDE) procedural regulations; and the Rules of Procedure of the OAH. Md. Code Ann., Educ. § 8-413(e)(1)

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<sup>4</sup> By agreement of the parties, the hearing originally was scheduled to conclude on December 15, 2021. However, it became clear that additional days would be needed; therefore, the parties requested that the hearing continue on January 7, 10, 11, 13, 18, 2022. The hearing concluded on January 18, 2022.

(2018); State Gov't §§ 10-201 through 10-226 (2021); COMAR 13A.05.01.15C; COMAR 28.02.01.

### **ISSUES**

1. Whether the Individualized Education Program (IEP) developed by the BCPS for the Student for the 2021-2022 school year was developed in accordance with the procedural requirements of the IDEA.
2. Whether the IEP developed by the BCPS for the Student for the 2021-2022 school year was reasonably calculated to provide the Student a free appropriate public education (FAPE).
3. If the BCPS failed to offer the Student a FAPE, does the [REDACTED] provides the Student an appropriate educational program.

### **SUMMARY OF THE EVIDENCE**

#### Exhibits

I admitted the following exhibits on behalf of the Parents:

- Parents Ex. 1 - Due Process Complaint Packet, dated August 25, 2021
- Parents Ex. 2 - [REDACTED] - Resume
- Parents Ex. 3 - [REDACTED] - Resume
- Parents Ex. 4 - [REDACTED] - Resume
- Parents Ex. 5 - [REDACTED] - Resume
- Parents Ex. 6 - [REDACTED], M.D. - Curriculum Vitae
- Parents Ex. 7 - [REDACTED], M.Ed.<sup>5</sup> - Curriculum Vitae
- Parents Ex. 7A - [REDACTED], M.Ed. - updated Curriculum Vitae

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<sup>5</sup> Master of Education

- Parents Ex. 8 - [REDACTED] Neuropsychological Re-Evaluation Report prepared by [REDACTED], Ph.D., dated November 27, 2020
- Parents Ex. 9 - [REDACTED] Independent Educational Assessment prepared by [REDACTED], M.Ed., dated January 26, 2021
- Parents Ex. 10 - [REDACTED] Speech and Language Assessment Report prepared by [REDACTED], M.S., CCC-SLP, dated February 23, 2021
- Parents Ex. 11 - [REDACTED] Psychiatric Mental Health Program Recommendation Letter from [REDACTED], M.D., dated March 1, 2021
- Parents Ex. 12 - [REDACTED] Academic Annual Report, dated March 3, 2021
- Parents Ex. 13 - [REDACTED] PEP,<sup>6</sup> dated March 4, 2021
- Parents Ex. 14 - [REDACTED] Letter from [REDACTED], Psy.D.,<sup>7</sup> dated March 15, 2021
- Parents Ex. 15 - [REDACTED] Letter from [REDACTED], M.D., dated March 25, 2021
- Parents Ex. 16 - BCPS Child Find Referral, dated April 7, 2021
- Parents Ex. 17 - Notice of IEP Team Meeting on April 20, 2021, dated April 12, 2021
- Parents Ex. 18 - BCPS draft IEP, dated May 6, 2021
- Parents Ex. 19 - BCPS draft IEP, dated May 13, 2021
- Parents Ex. 20 - BCPS Prior Written Notice, dated May 13, 2021
- Parents Ex. 21 - [REDACTED] First Quarter Report Card, dated November 15, 2021
- Parents Ex. 22 - [REDACTED] First Quarter PEP Progress Report, dated November 3, 2021
- Parents Ex. 23 - [REDACTED] Patient Portal messages between the Parents and Dr. [REDACTED] dated March 24, 2021
- Parents Ex. 24 - [REDACTED], Psy.D. - Curriculum Vitae
- Parents Ex. 25 - [REDACTED] Patient Portal messages between the Parents and Dr. [REDACTED], dated July 19, 2021

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<sup>6</sup> Personalized Education Plan

<sup>7</sup> Doctor of Clinical Psychology

I admitted the following exhibits on behalf of the BCPS:

- BCPS Ex. 1 - Email exchange between the Parents and the BCPS, dated March 19, 2021 - April 13, 2021
- BCPS Ex. 2 - Email exchange between the Parents and the BCPS, dated April 9, 2021 - April 26, 2021
- BCPS Ex. 3 - BCPS Child Find Referral, dated April 7, 2021
- BCPS Ex. 4 - BCPS Notice of IEP Team Meeting for April 20, 2021, dated April 12, 2021
- BCPS Ex. 5 - BCPS Notice of Documents Provided to Parent for Review at an IEP Meeting, dated April 14, 2021
- BCPS Ex. 6 - BCPS Notice of No Assessment Needed, dated April 20, 2021
- BCPS Ex. 7 - BCPS Evaluation Report and Determination of Initial Eligibility - IEP Team Summary, dated April 20, 2021
- BCPS Ex. 8 - BCPS Notice of IEP Team Meeting for May 13, 2021, dated April 26, 2021
- BCPS Ex. 9 - BCPS Notice of Documents Provided to Parent for Review at an IEP Meeting, dated May 4, 2021
- BCPS Ex. 10 - BCPS Prior Written Notice, dated May 13, 2021
- BCPS Ex. 11 - Parent Input Statement, undated
- BCPS Ex. 12 - Draft IEP, dated May 13, 2021
- BCPS Ex. 13 - BCPS Transition Planning Inventory- Second Edition, dated May 5, 2021
- BCPS Ex. 14 - ██████████ PEP, dated March 4, 2021
- BCPS Ex. 15 - ██████████ Speech and Language Assessment Report prepared by ██████████, M.S., CCC-SLP, dated February 17 and 23, 2021
- BCPS Ex. 16 - ██████████ Neuropsychological Re-Evaluation Report prepared by ██████████ Ph.D., dated November 27, 2020
- BCPS Ex. 17 - ██████████ Letter from Dr. ██████████, dated March 25, 2021
- BCPS Ex. 18 - ██████████ Letter from ██████████ M.D., dated March 1, 2021
- BCPS Ex. 19 - ██████████ Letter from Dr. ██████████, dated March 15, 2021

BCPS Ex. 20 - [REDACTED] Educational Evaluation prepared by [REDACTED],  
M.Ed., January 26, 2021

BCPS Ex. 21 - Email for Parents' Counsel to the BCPS, dated August 12, 2021

BCPS Ex. 22 - NOT OFFERED

BCPS Ex. 23 - [REDACTED] - Resume

BCPS Ex. 24 - [REDACTED] - Resume

BCPS Ex. 25 - [REDACTED] - Resume

BCPS Ex. 26 - [REDACTED] - Resume

BCPS Ex. 27 - NOT OFFERED

BCPS Ex. 28 - [REDACTED] - Resume

### Testimony

The Parents testified and presented the following witnesses:

- [REDACTED], M.D., admitted as an expert in Developmental Pediatrics and the evaluation and treatment of neurodevelopmental disabilities;
- [REDACTED], admitted as an expert in School Social Work;
- [REDACTED], admitted as an expert in Special Education;
- [REDACTED];<sup>8</sup>
- [REDACTED], M.Ed., admitted as an expert in Special Education;
- [REDACTED], admitted as an expert in Special Education; and
- [REDACTED], Psy.D., admitted as an expert in Neuropsychology and neuropsychological testing.

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<sup>8</sup> Mr. [REDACTED] was offered as an expert in Special Education, but after voir dire he was not accepted as an expert, as he is not content certified in the subject area he teaches and has been a certified special education teacher for less than two years. COMAR 28.02.01.21D. He was instead permitted to qualify as a fact witness.

The BCPS presented the following witnesses:

- [REDACTED], admitted as an expert in Special Education;
- [REDACTED], admitted as an expert in Speech-Language Pathology;
- [REDACTED], admitted as an expert in Special Education;
- [REDACTED], admitted as an expert in School Psychology; and
- [REDACTED], admitted as an expert in Special Education.

### STIPULATIONS

1. The Student is a sixteen year old girl (date of birth: [REDACTED], 2004) who is a rising tenth grade student.<sup>9</sup>
2. The Student was adopted from [REDACTED] by the Parents when she was [REDACTED] months old.
3. The Student was parentally placed at the [REDACTED] ([REDACTED]), a private separate day school for children with learning disabilities, other health impairments, and other disabilities, when she entered the first grade and has continued there since.
4. The Parents contacted the BCPS Child Find office to initiate the IEP process.
5. On, or about April 5, 2021, the Parents informed the Child Find office that the evaluations and Personalized Education Plan (PEP) had been completed.
6. On or about April 8, 2021, the Parents emailed the assessments and PEP to [REDACTED] in the Child Find office.
7. On or about, April 9, 2021, the Parents received an email from [REDACTED] at [REDACTED] High School offering dates for an IEP meeting.
8. An IEP was eventually developed on or about May 13, 2021.

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<sup>9</sup> At the time of the hearing, the Student was seventeen years old, and a tenth grade student.

9. The Parents decided to continue the Student at the [REDACTED] for the 2021-2022 school year and now seek an order to require the BCPS to fund the Student's placement.<sup>10</sup>

10. On August 12, 2021, the Parents gave unilateral notice to the BCPS through their attorney, that they rejected the IEP and have decided to continue the Student at the [REDACTED] for the 2021-2022 school year.

### **FINDINGS OF FACT**

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

1. The Student currently attends the [REDACTED] where she receives full-time specialized instruction of thirty-three hours, thirty minutes per week, outside the general education environment.

2. The Student has a history of social anxiety disorder, attention deficit hyperactivity disorder (ADHD), obsessive compulsive disorder (OCD), and [REDACTED] disorder.<sup>11</sup>

3. The Student is currently in psychotherapy at [REDACTED] ([REDACTED]) to address the [REDACTED] disorder.

4. The Student has not experienced a panic attack since she was six year old.

5. The Student is prescribed medications for [REDACTED] and ADHD.

6. On November 27, 2020, [REDACTED] Ph.D., conducted a neuropsychological re-evaluation of the Student, during which she administered multiple tests, including the Wechsler Adult Intelligence Scale – Fourth Edition (WAIS-IV); Wechsler Individual Achievement Test – Third Edition (WIAT-III); Beery-Buktenica Developmental Test of Visual-Motor Integration – Sixth Edition (VMI); Grooved Pegboard Test; Delis-Kaplan Executive

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<sup>10</sup> I edited the stipulation for ease of reading.

<sup>11</sup> [REDACTED] disorder is defined as [REDACTED]



Function System (D-KEFS); Child and Adolescent Memory Profile (ChAMP); Tower of London – Drexel Edition (TOL-Dx); Conners Continuous Performance Test – Third Edition (CPT3); Behavior Rating Inventory of Executive Function – Second Edition (BRIEF-2); Multidimensional Anxiety Scale for Children – Second Edition (MASC-2); and Comprehensive Behavior Rating Scale (Conners CBR5).

7. The neuropsychological re-evaluation noted the Student’s intellectual functioning to be in the low average range with a Full Scale IQ of 80, which placed her in the tenth percent as compared to her same age peers.

8. The Student’s scores in the area of attention/executive functioning were within normal limits (WNL) for ADHD, in both the areas of inattention and hyperactivity/impulsivity. The Student’s score for working memory was noted to be below average.

9. The Student’s language abilities were noted to be “commensurate with her intellectual functioning and fell mostly within the low average range,” with weaknesses in field of knowledge skills. Verbal fluency was noted to be an area of strength. (Parents Ex. 8; BCPS Ex. 16).

10. The Student’s visual and motor skills were noted to be within age expectations.

11. The Student’s overall learning and memory were noted as age appropriate, as she scored in the average range, and she benefited from multiple exposures to the information to aid in memory.

12. The Student’s academic skills scores were “commensurate with her intellectual functioning and mostly fell in the low average to average range. She had below average performance on tasks assessing speed of reading and spelling.” (*Id.*).

13. With regard to social, emotional and behavioral functioning, the Student denied elevated symptoms of anxiety on her self-report. The vast majority of scores were WNL.

14. Overall, the neuropsychological re-evaluation revealed that many of the Student's skills were within the low average range, however; the evaluation also showed the Student has some strengths in the average to high average range, and diagnoses of executive function deficit and anxiety order, unspecified.

15. The neuropsychological re-evaluation outlined academic recommendations, executive functioning recommendations for home, behavioral health recommendations, and college planning recommendations.

16. On January 26, 2021, [REDACTED] administered testing using the Woodcock-Johnson IV Test of Achievement (WCJ-IV) as part of an independent educational assessment of the Student. At the time of testing, the Student was in the ninth grade, and was sixteen years, [REDACTED] months old.

17. On the WCJ-IV, the Student received a Standard Score (SS) of 82 in broad reading, which placed her in the low average classification, with an age equivalent (AE) of ten years, eleven months and a grade equivalent (GE) of fifth grade, five months. In broad mathematics, the Student received a SS of 72, which placed her in the low classification, with an AE of ten years and a GE of fourth grade, six months. In written language, the Student received a SS of 93, which placed her in the average classification, with an AE of thirteen years, four months and a GE of seventh grade, nine months.

18. On February 17 and 23, 2021, the [REDACTED] conducted a Speech and Language Assessment of the Student. The Speech and Language Assessment was composed of several tests, including the Clinical Evaluation of Language Fundamentals – Fifth Edition (CELF-5); the Clinical Evaluation of Language Fundamentals – Metalinguistics (CELF-5 Metalinguistics); the Peabody Picture Vocabulary Test – Fifth Edition (PPVT-5); the Expressive Vocabulary Test –

Third Edition (EVT-3); and the Listening Comprehension Test – Adolescent: Normative Update (LCT-A:NU).

19. The CELF-5 was administered during the speech/language assessment. This test assesses receptive and expressive language skills within a variety of tasks requiring spoken and/or pointing responses.

20. The CELF-5 Metalinguistics was administered during the speech/language assessment. This assessment is designed to identify students who have not acquired the expected level of communicative competence and metalinguistics for their age.

21. The PPVT-5 was administered and required the Student to listen to verbally presented words, look at four pictures and select the picture that best represents the vocabulary word.

22. The EVT-3 was administered to assess ability to label pictured or provided synonyms for named and pictured words. It also assessed word retrieval efficiency.

23. The LCT-A:NU was administered and is a norm-referenced test that yields results regarding listening comprehension skills, to gain information related to strengths and weaknesses in specific listening comprehension skills related to classroom listening situations.

24. The collective results of the speech/language assessment indicate the Student has a “mild-moderate receptive/expressive language delay characterized by deficits in metalinguistic skills, word retrieval skills, executive functioning deficits, and language organization.” (Parents Ex. 10; BCPS Ex. 15).

25. The speech/language assessment outlines specific strategies to implement in the classroom and at home and recommended direct speech language pathology services at a frequency of one, thirty minute session per week to target the following areas:

- Word retrieval weaknesses;
- Making inferences;
- Understanding figurative language;
- Understanding ambiguous language;
- Formulating complex sentences; and
- Linguistic flexibility.

The assessment further recommended weekly integrated services and consultation, and proposed a goal to be included in the Student's PEP.

26. The [REDACTED] PEP is designed to outline the special education needs of students who do not have IEPs. The [REDACTED] PEP includes present levels of performance, goals, and objectives.

27. The March 3, 2021 [REDACTED] Academic Annual Report provided a summary of the Student's present levels of performance, progress towards the goals and objectives as outlined in her March 2020 PEP, and proposed goals and objectives to be included in the Student's March 2021 PEP.

28. On March 4, 2021, the [REDACTED] conducted a PEP team meeting to develop an updated PEP which included the Student's present levels of performance, goals and objectives.

29. [REDACTED] High School is the BCPS high school closest to the Student's residence.

30. The [REDACTED] High School IEP Team was assigned to convene an IEP team meeting for the Student.

31. The Parents participated in the IEP meetings held virtually with the IEP team based at [REDACTED] High School. The Parents were informed of their *Procedural Safeguards and Parental Rights* under the IDEA.

32. It is not uncommon for school-based IEP teams to draft an IEP for students they have never previously worked with or met. The team drafts the IEP based on a variety of sources of information, including but not limited to, the student's assessments, progress and reports from the student's current school, input from parents and other experts, etc., who have provided special education and services to the student. If a student comes to the school with an IEP drafted by another public school district, the school team implements the IEP until it can be revised.

33. On April 20, 2021, an IEP team meeting was convened by video conference to review and consider the Child Find Referral and all the documents provided by the Parents, which included the [REDACTED] PEP, dated March 4, 2021; [REDACTED] letters of diagnosis, dated March 25, 2021; [REDACTED] Speech and Language Assessment, dated February 23, 2021; [REDACTED] Neuropsychological Re-evaluation, dated November 18, 2020; Independent Educational Evaluation, dated January 26, 2021; [REDACTED] Academic Annual Progress Report, dated March 2021; and the Parents' input statement and the team's discussion. The Parents and [REDACTED], educational consultant, attended the IEP team meeting and participated in the discussions.

34. During the April 20, 2021 IEP team meeting, it was determined that there was adequate information to determine eligibility for special education supports and services. The IEP team determined that the Student was eligible as a Student with Multiple Disabilities and that no further data or assessments were needed. A Notice of "No Assessment Needed" was issued to the Parents.

35. The BCPS provided the Parents with a draft IEP prior to the IEP meeting, which was scheduled for May 13, 2021. Portions of the document were pre-filled to enable the printing and saving of the document.

36. On May 13, 2021, the IEP team convened a meeting via video conference to develop the Student's IEP for the 2021-2022 school year. The IEP team, including the Parents and Ms. [REDACTED], agreed that the Student was properly identified pursuant to the IDEA as having Multiple Disabilities – Specific Learning Disability (SLD) and Other Health Impairments and required special education services. Specifically, the Student's difficulty with working memory and verbal comprehension deficits as well as ADHD, anxiety and executive functioning deficits all negatively impacted her ability to receive an education if she did not receive specialized instruction.

37. The IEP team indicated the areas affected by the Student's disability as follows:

- Academic – Cognitive;
- Academic – Math Calculation;
- Academic – Math Problem Solving;
- Academic – Reading Comprehension;
- Academic – Speech and Language Expressive Language;
- Academic – Speech and Language Pragmatics;
- Academic – Speech and Language Receptive Language;
- Academic – Written Language Expression;
- Academic – Written Language Mechanics;
- Behavioral – Self-Management; and
- Behavioral – Social Emotional/Behavioral.

38. The IEP included all the present levels of academic achievement and functional performance, as drafted and indicated in the Student's PEP from the [REDACTED]. All members of the IEP team agreed with the Student's present levels of achievement and functional performance, as drafted in the IEP.

39. The Student's present level of academic achievement in the area of reading fluency noted her current instructional grade level performance as low average. Her academic skills are commensurate with her intellectual functioning. The Student received a SS of 88 in sentence reading fluency on the WCJ IV. The Student's low average reading fluency does not impact her academic achievement.

40. The Student's present level of academic achievement in the area of reading comprehension noted her current instructional grade level performance as grade five, per her scores on the WCJ IV. The Student's present level of performance in reading comprehension at the fifth grade level impacts her academic achievement.

41. The Student's present level of academic achievement in the area of math calculation noted her current instructional grade level performance as grade five. The Student's present level of performance at the fifth grade level in math calculation impacts her academic achievement.

42. The Student's present level of academic achievement in the area of math problem solving noted her current instructional grade level performance as grade four. The Student's present level of performance at the fourth grade level in math problem solving impacts her academic achievement.

43. The Student's present level of academic achievement in the area of written language mechanics noted her current instructional grade level performance as low average. The Student's low average written language mechanics impacts her academic achievement.

44. The Student's present level of academic achievement in the area of written language expression noted her current instructional grade level performance as grade eight. The Student's present level of performance at the eighth grade level in written language expression does not impact her academic achievement.

45. The Student's present level of functional performance in the area of speech and language receptive language noted her current instructional grade level performance as borderline. The Student's borderline functioning in speech and language receptive language impacts her functional performance.

46. The Student's present level of functional performance in the area of speech and language expressive language noted her current instructional grade level performance as below average. The Student's below average functioning in speech and language expressive language impacts her functional performance.

47. The Student's present level of functional performance in the area of speech and language pragmatics noted her current instructional grade level performance as borderline. The Student's borderline functioning in speech and language pragmatics impacts her functional performance.

48. The Student's present level of academic achievement in the area of cognition and notes her Full Scale IQ of 80, in the low average range. The Student's low average cognition impacts her academic achievement.

49. The Student's present level of functional performance in the behavioral areas of social/emotional behavioral and self-management, denotes that she is impacted in these areas, per the [REDACTED] Neuropsychological Re-evaluation and the [REDACTED] PEP.

50. The Parents provided a written input statement which was included in the IEP, discussed at the May 13, 2021 IEP team meeting, and considered by the BCPS-based IEP team. (Parents Ex. 19; BCPS Exs. 12 and 11).

51. The IEP team considered the recommendations made in the November 14, 2021 [REDACTED] Neuropsychological Re-evaluation and incorporated them in the IEP.



52. The IEP team considered the Student's need for assistive technology to increase, maintain or improve her functional capabilities and determined that the Student required the use of assistive technology but did not require an assistive technology device or assistive technology services.

53. The IEP team determined that the Student required supplementary aids, services, program modifications, supports, instructional and testing accommodations.

54. With regard to testing and instructional accommodations, the Student requires the following:

- blank scratch paper to write notes;
- directions read, repeated and clarified;
- the use of highlighter tools to direct attention to important information;
- headphones or noise buffers during independent assignments to reduce distraction;
- spell check or external spell check device;
- graphic organizers to organize thoughts prior to writing and assist in comprehension;
- redirection to tasks;
- small group environment with a low student-teacher ratio;
- calculation device and mathematics tools and monitoring of test responses;
- frequent teacher guided breaks to refocus and support attention, reduced distractions to the Student; and
- extended time, up to fifty percent to provide ample think/processing time.

55. All BCPS high school students are provided with a school-issued personal computing device, for use at school and home.

56. To assist the Student with reduced distractions, the IEP team determined the Student required small group, frequent breaks, and reduce distractions to self.

57. With regard to instructional and assessment accommodations, the IEP team determined that the Student required calculation device and mathematics tools (on Calculation Sections of the Mathematics assessment), calculation device and mathematics tools (on Non-Calculation Sections of the Mathematics assessment), and a monitor test response.

58. The Student requires the instructional and assessment accommodations because of her inattention and executive functioning deficits.

59. With regard to timing accommodations, the Student required extended time by fifty percent to fully complete assignments and assessments, due to her inattention and executive functioning deficits. She was to be provided ample thinking and processing time.

60. The IEP team considered the Student's needs regarding supplementary aids, services, program modifications and supports. After discussing her needs, the team determined the Student required:

- Instructional support: wait time to process the information and produce her work, weekly;
- Instructional support: provide study guide in advance of exams for all courses at least one week prior to any scheduled exams, and sample questions similar to what will appear on the exam, monthly;
- Instructional support: use of step-by-step instructions for lessons or tasks with sufficient repetition to facilitate organized processing and recall later, daily;
- Instructional support: provide alternate ways for students to demonstrate learning, provide opportunities for multi-sensory/modal approaches to teaching and learning, daily;

- Instructional support: provide Student with a copy of student/teacher notes, mnemonics and/or other reference on desk to refer to when needed, monthly;
- Instructional support: provide assistance with organization due to executive function deficits, opportunities to practice organizational skills and explicit teaching of organizations skills, weekly;
- Instructional support: use of word bank to reinforce vocabulary and/or when extended writing is required, weekly;
- Instructional support: repetition of directions due to inattention, daily;
- Instructional support: provide information in a succinct manner, brief and to the point, daily;
- Instructional support: monitor independent work, teachers will check independent assignments to ensure the Student remains on task, attends to relevant information and uses appropriate strategies on specific tasks, daily;
- Instructional support: provide proofreading checklist, to allow the Student to check her work for clarity, grammar and completeness daily;
- Instructional support: allow use of manipulatives, daily;
- Instructional support: allow use of organizational aides, to remain on task visual organizers, math process charts and checklists will be provided, daily;
- Instructional support: have student repeat and/or paraphrase information, to ensure understanding of content, daily;
- Instructional support: check for understanding, to ensure comprehension of information, daily;

- Program modifications: break down assignments into smaller units, to facilitate organized processing and later recall, multiple directions should be avoided while complex directions should be simplified when possible, daily;
- Program modifications: chunking of text, to support inferential comprehension; daily;
- Social/behavioral support: provide frequent changes in activities or opportunities for movement, daily;
- Social/behavioral support: leadership opportunities, the Student likes to help others, monthly;
- Social/behavioral support: advance preparation for schedule changes, to support executive functioning deficits, monthly;
- Social/behavioral support: encourage student to ask for assistance when needed, the Student needs assistance to self-advocate, daily;
- Social/behavioral support: strategies to initiate and sustain attention, to include fidgets, alternative seating and movement breaks, teacher to provide prompts to begin assignments and frequent prompts to remain on task, gain the Student's attention prior to giving instructions, daily;
- School personnel/parental support: classroom instruction consult, the special education teacher will consult with general education teachers to discuss IEP implementation, progress towards goals, accommodations, modifications, supports and services, thirty minutes monthly; and
- School personnel/parental support: Psychologist will consult with teachers to support executive functioning and social/emotional progress in the classroom and measure progress towards goal, monthly.

61. The IEP team determined that the Student required annual goals and objectives to address the Student's cognitive and academic deficits in math calculation, math problem solving, reading comprehension, speech and language expressive language, speech and language receptive language, speech and language pragmatics, written language expression, written language mechanics, and executive functioning.

62. The IEP included all the goals and objectives, as drafted in the Student's PEP, and added additional goals and objectives in the area of speech and language.

63. The Student's May 13, 2021 IEP goals included:

- Reading Comprehension: Given access to a pre-selected selection of grade-level text, and opportunities to look back at the text, [the Student] will answer comprehension questions by citing strong and thorough textual evidence to support what the text says explicitly and infers, with 95% accuracy in 4 out of 5 opportunities, as measured by informal assessments, work samples and observations.
- Written Language Expression: Given pre-filled graphic organizer and a teacher created rubric, [the Student] will compose written work that meets assignment expectations with 85% accuracy in 4 out of 5 opportunities as measured by informal assessments, work samples and observations.
- Math Calculation: Given access to process charts, graphic organizers and calculation devices, [the Student] will perform arithmetic operations for positive and negative integers and simplify fractions with 80% accuracy in 4 out of 5 opportunities as measured by informal assessments, work samples and observations.
- Speech and Language Receptive Language: Given curriculum-based text (literary or informational), and provided with visuals (ex. illustrations, graphic organizers, graphs/tables, photographs), [the Student] will answer questions about targeted concepts (including but not limited to: inference, multiple-meaning words, and figurative language) in 80% of opportunities, as measured by therapy/clinical data and informal measures.
- Speech and Language Expressive Language: Given curriculum-based materials and graphic organizers, [the Student] will retell 5 important events to summarize a story or a personal experience in sequential order and include story grammar markers (people involved, setting, problem, solution) with 80% accuracy as measured by informal procedures.

- Speech and Language Pragmatics: Given verbal and visual cues, [the Student] will demonstrate appropriate pragmatic language skills (i.e., verbal and non-verbal) in conversations by appropriately in social scenarios/ real interactions with 80% accuracy, as measured by informal procedures.
- Behavioral - Self-management: [The Student] will utilize rubrics, checklists and/or teacher feedback to revise her work in 4 out of 5 opportunities.
- Behavioral – Social Emotional/ Behavioral: Given direct psychological services, [the Student] will demonstrate improved independent of self-monitoring and regulation across environment as demonstrated by using effective strategies to communicate, advocate, and cope with challenging situations and emotions at least 80% of the time, as measured by clinical observations, teacher report, and self-report.
- Written Language Mechanics: Given an editing checklist and a teacher created rubric, [the Student] will revise her work to meet grade level expectations with 85% accuracy in 4 out of 5 opportunities as measured by work samples and observations
- Math Problem Solving: Given the use of graphic organizers, process guides and calculation devices, [the Student] will analyze, model and solve single and two-step word problems with 85% accuracy in 4 out of 5 opportunities as measured by informal assessments, work samples and observations.

(Parents Ex. 19 at 34-47; BCPS Ex. 12)

64. The Parents agreed with the annual goals developed to address the Student's deficits.

65. The IEP team considered all of the placement options on the continuum of options. They were required to consider the least restrictive environment (LRE). The team determined the Student would receive specialized instruction in the general education inclusion setting, in an LRE-A program in which the Student would be in the general education environment at least eighty percent of the school day.

66. The BCPS-based members of the IEP team determined that the Student should receive special education inclusion support in her English and Math classes.

67. The May 13, 2021, IEP notes that the Student has communication needs in the areas of pragmatic language, expressive language, and receptive language.

68. The BCPS-based members of IEP team determined the Student would receive the related service of direct speech/language therapy for thirty minutes per week, outside general education in a small group setting.

69. Speech/language consultative services with classroom teachers was not specified in the IEP but are provided to all BCPS students who receive direct speech/language services.

70. The IEP team determined the Student would receive the related service of counseling for thirty minute per week, outside general education.

71. The Parents agreed with the psychological services the Student was to receive under the May 13, 2021 IEP.

72. On May 13, 2021, the BCPS issued a Prior Written Notice which summarized the discussions at the IEP team meeting and provided an explanation of the actions proposed and rejected by the BCPS.

73. The IEP could be implemented at any BCPS high school that offers an [REDACTED] program, including [REDACTED] High School.

74. No specific school was selected by the IEP team for the Student, because the BCPS offers School Choice for all high school students. The Parents were provided information on how to research and select a school of their choice for the Student to attend.

75. The BCPS was unable to provide specific information regarding class size or composition to the Parents, as no school was selected for the Student to attend and have the IEP implemented.

76. The Parents contacted several BCPS high schools. They did not visit any BCPS high schools.

77. The IEP is reasonably calculated to meet the unique needs of the Student and to provide a FAPE in the least restrictive environment for the 2021-2022 school year.

## DISCUSSION

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

FAPE is, in part, furnished through the development and implementation of an IEP for each disabled child. *Andrew F. v. Douglas Cty. Sch. Dist.*, 137 S. Ct. 988, 999 (2017); *Bd. of Educ. of the Hendrik Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 181-82 (1982). 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 goals, objectives, activities, and materials must be adapted to the needs, interests, and abilities of each student. 20 U.S.C.A. § 1414(d).

The Supreme Court set forth the following “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. *Id.* at 207, 102 S. Ct. 3034. 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. *Id.* at 208-209, S. Ct. 3034. Any review of an IEP must appreciate that the question is whether the IEP is *reasonable*, not whether the court regards it as ideal. *Id.* at 206-207, 102 S. Ct. 3034.



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. See §§ 1414(d)(1)(A)(i)(I)-(IV). 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.”’ *Rowley*, 458 U.S., at 179, 102 S. Ct. 3034 (*quoting* H.R. Rep. No. 94-332, p. 2 (1975)). 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 “*pecially designed*” to meet a child’s “*unique needs*” through an “[*i*]ndividualized education program.” §§ 1401(29), (14) (*emphasis added*).

*Andrew F.*, 137 S. Ct. at 998-99.

Notwithstanding the above language in *Andrew F.*, providing a student with access to specialized instruction and related services does not mean that a student is entitled to “[t]he best education, public or non-public, that money can buy” or all the services necessary to maximize educational benefits. *Hessler v. State Bd. of Educ. of Md.*, 700 F.2d 134, 139 (4th Cir. 1983) (*citing Rowley*, 458 U.S. at 176). It does, however, require the State to provide personalized instruction with sufficient support services to permit the student to benefit educationally.

In addition to the IDEA’s requirement that a disabled child receive appropriate educational benefit, the child must be placed in the LRE to achieve FAPE, meaning that, ordinarily, disabled and non-disabled students should be educated in the same classroom. 20 U.S.C.A. § 1412(a)(5); 34 C.F.R. §§ 300.114(a)(2)(i) and 300.117. Yet, placement in the general education environment may not be appropriate for every disabled child. Consequently, removal of a child from a regular educational environment may be necessary when the nature or severity of a child’s disability is such that education in a regular classroom cannot be achieved. 34 C.F.R. § 300.114(a)(2)(ii).

Finally, when making decisions regarding the appropriate placement, the issue is not whether another school is better or even as appropriate as the school offered by the school district, but whether the school district has offered a FAPE. The Court has upheld the right of the parents to unilaterally place a learning disabled child in a private school and to recover reimbursement from the local educational agency only when the educational program offered by school authorities is not reasonably calculated to provide a FAPE. *Burlington Sch. Comm. v. Dep't of Educ.*, 471 U.S. 359 (1985).

The Parents assert that the Student was denied a FAPE based on procedural violations of IDEA, and BCPS' failure to develop an IEP that was reasonably calculated to provide the Student a FAPE. The Supreme Court has placed the burden of proof in an administrative hearing under the IDEA upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005). The standard of proof in this case is a preponderance of the evidence. COMAR 28.02.01.21K(1). 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).

In this case, the Parents are seeking relief and bear the burden of proof to show that the BCPS failed to develop an IEP for the 2021-22 school year in accordance with the procedural requirements of the IDEA, failed to develop an IEP reasonably calculated to provide the Student with a FAPE for the 2021-2022 school year, and that private placement is proper at the [REDACTED]. COMAR 28.02.01.21K(1), (2)(a).

The Parents' attorney filed a comprehensive complaint on behalf of the Student and the Parents. The Parents complained and subsequently argued that the BCPS did not develop an appropriate IEP and placement for the Student for the 2021-2022 school year. As a result, the Parents maintain they continued the Student's placement the Student at the [REDACTED], in order for the

Student to benefit from an educational program that could meet her needs. The Parents seek reimbursement for tuition at the [REDACTED] for the 2021-2022 school year on the theory that the BCPS proposed IEP was not developed to provide a FAPE and that the program at the [REDACTED] meets the Student's needs.

After reviewing all of the testimony and evidence presented in this case, I must conclude that the BCPS developed an IEP that was reasonably calculated to meet the needs of the Student for the 2021-2022 school year. I have assessed the witnesses and explain below why I have determined the school-based IEP team was correct in developing the Student's program for the 2021-2022 school year.

**The IEP developed by the BCPS for the Student for the 2021-2022 school year was developed in accordance with the procedural requirements of the IDEA**

The Parents argued that the BCPS committed three procedural violations: it predetermined the Student's placement prior to the IEP team meeting, it failed to conduct a classroom observation necessary for the SLD identification; and, it failed to specify the specific location of the high school that it proposed would implement the IEP for the Student. The Parents' first argument is that the BCPS predetermined the Student's placement prior to the IEP team meeting, when they stated at the IEP eligibility determination meeting that the IEP could be implemented in any BCPS high school. The Parents opine that the IEP was drafted to fit the placement, not the Student's unique needs, because the draft IEP sent to the Parents in advance of the May 13, 2021 IEP team meeting listed the general education teacher as the primary provider.

[REDACTED], IEP Chair for [REDACTED] High School, who was qualified as an expert in special education, credibly testified that certain selections have to be made from various drop-down menus during the drafting on IEP to print and close the document. She explained that

general education was selected as the default and was subject to change during the IEP team meeting if the team determined that the Student needed a more restrictive placement.

The Parents further argue that for the Student to be identified as having a SLD, the BCPS was required to perform a classroom observation of the Student under U.S.C. § 1414 (c)(1)(iii). A reading of that section does not contain the information cited; however, it is of note that the Student was identified as having Multiple Disabilities because she has a SLD and other health impairments. There was no disagreement by the Parents at the IEP team meeting as to the Student's identified disability and no further assessments were requested by any member of the IEP team, which included the BCPS, the Parents, and their educational consultant Ms. [REDACTED].

The Parents further argue that the BCPS' failure to identify a specific school that the Student would attend was a procedural violation of IDEA. The Parents cited the case of *A.K. ex rel. J.K. v Alexandria City School*, 484 F 3d 672 (4<sup>th</sup> Cir. 2007), in which the IEP team determined that the student required a private placement; however, the IEP team failed to identify a specific location that could meet the student's specific needs. However, a careful reading of *A.K.*, distinguishes this case. First, the Court stated in *A.K.*:

We emphasize that we do not hold today that a school district could never offer a FAPE without identifying a particular location at which the special education services are expected to be provided. There is no reason for us to frame the issue so broadly. But, certainly in a case in which the parents express doubt concerning the existence of a particular school that can satisfactorily provide the level of services that the IEP describes, the IEP must identify such a school to offer a FAPE.

*A.K. ex Rel. v. Alexandria*, 484 F.3d 672, 682 (4th Cir. 2007).

In this case, the BCPS did not identify a specific location because the BCPS offers High School Choice to all high school students. Parents and students in the BCPS system can apply to any high school, regardless of whether it is the school closest to where the student lives, as long as the student meets the admissions requirements or, in the case of a charter school, gets a spot at

the school through the lottery. Unlike in A.K., the Parents in this case did not participate in the School Choice program by visiting any schools or submitting any applications.

Further, if a student does not participate in the School Choice process, she is enrolled at the school closest to where the Student lives. In this case, the Parents knew that the high school closest to where they live is [REDACTED] High School and, in fact, that is where the IEP meeting was virtually held. The school-based IEP team at [REDACTED] High School made it clear that it believed that the IEP as drafted could be implemented in any BCPS high school. The team discussed that the IEP as drafted could be implemented at [REDACTED] High School which was the school the Student would attend by default if she did not participate in the School Choice process.

For all the reasons listed above, I find that there were no violations of the procedural requirements of IDEA, in the drafting of the 2021-2022 IEP for the Student.

**The IEP developed by the BCPS is reasonably calculated to provide the Student with a FAPE for the 2021-2022 school year**

To provide a FAPE, the educational program offered to a student must be tailored to the particular needs of the disabled child by the development and implementation of an IEP, taking 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); *see also Sch. Comm. of Burlington v. Dep't of Educ. of Mass.*, 471 U.S. 359, 368 (1985) (“The *modus operandi* of the Act is the already mentioned individualized educational program.” (internal quotation marks omitted)).

The IEP depicts the student’s current educational performance, 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, 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); accord 34 C.F.R. § 300.22; Md. Code Ann., Educ. § 8-405(a)(4).

As the “centerpiece” of the IDEA’s “education delivery system” for disabled students, an IEP is a “comprehensive plan” for the “academic and functional advancement” for the student. *Andrew F.*, 137 S. Ct. at 994, 999. It must be tailored to the student’s “unique needs” with “careful consideration” of the student’s present levels of achievement, disability, and potential for growth. *Id.*; see also 20 U.S.C.A. § 1401(29). The IEP must be “appropriately ambitious,” *Andrew F.*, 137 S. Ct. at 1000, and it must provide for “specially designed instruction” that is “reasonably calculated to enable the child to receive educational benefits” and to “make progress appropriate in light of the student’s circumstances.” *Id.* at 996, 999 (quoting *Rowley*, 458 U.S. at 207). The amount of progress anticipated for the student should be “markedly more demanding than the merely more than *de minimis* test” applied in the past by many lower courts. *Id.* at 1000 (internal quotation marks omitted).

The test for whether an IEP is “appropriately ambitious,” *id.*, and “reasonably calculated to enable the student to receive educational benefits,” *id.* at 996, is different for each student; there is no bright-line rule or formula to determine whether an IEP provides a FAPE.<sup>12</sup> *Id.* at 1000-01. For a student who is fully integrated in the regular classroom, a FAPE would generally require an IEP to be “reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.” *Id.* at 996, 999 (citing *Rowley*, 458 U.S. at 203-04). However, for a student who is not fully integrated and/or cannot be reasonably expected to achieve grade-level advancement, the “educational program must be appropriately ambitious in light of [the

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<sup>12</sup> In *Rowley*, the Supreme Court also held that a FAPE may be found to have been denied a student when a school fails to comply with the procedures set forth in the IDEA. 458 U.S. at 206; see also *Bd. of Educ. v. I.S. ex rel. Summers*, 325 F. Supp. 2d 565, 580 (D. Md. 2004).

student's] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom.” *Id.* at 1000. Regardless, “every child should have the chance to meet challenging objectives.” *Id.*

When assessing whether a student was offered, given, or denied a FAPE, a judge must “afford great deference to the judgment of education professionals . . . .” *O.S.*, 804 F.3d at 360 (quoting *E.L. v. Chapel Hill-Carrboro Bd. of Educ.*, 773 F.3d 509, 517 (4th Cir. 2014)). A judge should not substitute his or her own “notions of sound educational policy for those of the school authorities which they review.” *Andrew F.*, 137 S. Ct. at 1001 (quoting *Rowley*, 458 U.S. at 206). Additionally, a judge “should be reluctant . . . to second-guess the judgment of education professionals.” *Tice v. Botetourt Cty. Sch. Bd.*, 908 F.2d 1200, 1207 (4th Cir. 1990). A judge should be mindful that local educators deserve latitude in determining the IEP most appropriate for a disabled child, and that the IDEA does not deprive these educators of the right to apply their professional judgment. *See Hartmann v. Loudoun Cty. Bd. of Educ.*, 118 F.3d 996, 1001 (4th Cir. 1997). Additionally, a judge must be careful to avoid imposing his or her view of preferable educational methods upon a school district. *Rowley*, 458 U.S. at 207; *A.B.*, 354 F.3d at 325.

This respect and deference, while unquestionably a well-settled principle of review under the Act, both within and without this circuit, is not limitless, however. *See Cty. Sch. Bd. of Henrico Cty. v. Z.P.*, 399 F.3d 298, 307 (4th Cir. 2005) (“Nor does the required deference to the opinions of the professional educators somehow relieve the [judge] of the obligation to determine as a factual matter whether a given IEP is appropriate.”).

“[T]he fact-finder is not required to conclude that an IEP is appropriate simply because a teacher or other professional testifies that the IEP is appropriate.” *Id.*; *see Ojai Unified Sch. Dist. v. Jackson*, 4 F.3d 1467, 1476 (9th Cir. 1993) (“Indeed, if the views of school personnel

regarding an appropriate educational placement for a disabled child were conclusive, then administrative hearings conducted by an impartial decisionmaker would be unnecessary.”).

“To give deference only to the decision of the School Board would render meaningless the entire process of administrative review.” *Sch. Bd. of Prince William Cty., Va. v. Malone*, 762 F.2d 1210, 1217 (4th Cir. 1985) (citation omitted). A reviewing judge may fairly expect the school system’s professionals “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 or her] circumstances.” *Endrew F.*, 137 S. Ct. at 1002.

The *Endrew F.* Court confirmed that a FAPE does not promise an “ideal” education. *Id.* at 999. Nor does it promise that a student with a disability will be provided with “opportunities to achieve academic success, attain self-sufficiency, and contribute to society that are substantially equal to the opportunities afforded children without disabilities.” *Id.* at 1001. A reviewing court must determine whether the IEP is “reasonable.” *Id.* at 999. It is also important to remember that the IDEA does not require “the best possible education that a school could provide if given access to unlimited funds.” *Barnett v. Fairfax Cty. Sch. Bd.*, 927 F.2d 146, 154 (4th Cir. 1991). Nor does it require the “furnishing of every special service necessary to maximize each handicapped child’s potential.” *Hartmann*, 118 F.3d at 1001.

The development of an IEP is a prospective process. *Endrew F.*, 137 S. Ct. at 998-99. Other circuits and district courts have held the test of the appropriateness of the IEP is *ex ante* and not *post hoc*. *Z.B. v. Dist. of Columbia*, 888 F.3d 515, 524 (D.C. Cir. 2018); *Adams v. State*, 195 F.3d 1141, 1149 (9th Cir. 1999); *Fuhrmann v. E. Hanover Bd. of Educ.*, 993 F.2d 1031, 1041 (3d Cir. 1993); *J.P. ex rel. Popson v. W. Clark Cmty. Sch.*, 230 F. Supp. 2d 910, 919 (S.D. Ind. 2002) (“[T]he measure of appropriateness for an IEP does not lie in the outcomes achieved.”)



The Student's IEP contained numerous testing and instructional accommodations, and the use of supplementary aids and services to help her achieve the annual goals on the IEP. The goals and objectives on the IEP were developed in accordance with the applicable law and regulations and the Parents did not dispute the developed goals when the IEP was drafted on May 13, 2021. This is very important because the annual goals are what determine the Student's program and placement.

An IEP can only be appropriate if it accurately identifies the student's present levels of performance to include academic, emotional, behavioral, social, and physical deficits which impede the Student's ability to progress in the general curriculum. Secondly, the present levels of performance should address not only weaknesses, but also strengths of the child, so that those strengths can be used to develop strategies to address areas of weakness. Additionally, the goals on the IEP must identify a specific, measurable result for the child to achieve at the end of the IEP period and the specially designed instruction must be designed to allow the child to make meaningful educational progress in the least restrictive environment, i.e., a placement involving the maximum level of integration with non-disabled students in which the child can receive appropriate instruction. Lastly, the related service intervention must be necessary to allow the student to make meaningful educational progress. The BCPS IEP meets all of the criterion.

The Student's Parents are very knowledgeable about all aspects of the Student's health and education. Additionally, it is overwhelmingly clear from the evidence that the Parents love their daughter and simply want her to be able to maximize her potential. The Parents were very clear in their testimonies regarding many of the Student's deficits and how they perceive that the Student's deficits impact her ability to progress in the general curriculum. Despite their appropriate passion and understandable zeal to want the Student to receive special education services at the [REDACTED], the Student simply does not require her program to be implemented in one

of the most restrictive placements on the continuum of placement options, in light of the fact that the BCPS developed an appropriate IEP for the Student for the school year in question. The Student's deficits are such that her program can be implemented in a comprehensive public high school and does not require a separate school given that supplementary aids and services can assist the Student with receiving FAPE in the LRE.

The Parents presented the testimony of several expert witnesses, Dr. [REDACTED], [REDACTED], [REDACTED], [REDACTED], and Dr. [REDACTED]. The expert witnesses were all of the opinion that the Student required small class sizes, arts-enhanced curriculum, and full-day special education instruction. They opined that the Mary 13, 2021 IEP as written would not provide the Student a FAPE based on her placement in the general education classroom setting, with special education instruction in English and Math and without an arts-enhanced curriculum.

Even after considering the Parents' experts, I believe that the BCPS prepared an appropriate program for the Student for the 2021-2022 school year. Ms. [REDACTED] was hired by the Parents to assist them in their decision-making process with regard to developing the Student's educational program for the 2021-2022 school year. In assessing the Student's skills, strengths, and weaknesses, Ms. [REDACTED] administered an independent educational evaluation, performed record reviews, and reviewed the results of the [REDACTED] Neuropsychological Re-evaluation conducted by [REDACTED] Ph.D., on November 18, 2020. In conjunction with anecdotal information shared by the Parents and teachers regarding the Student's grades, academic performance, and progress toward achieving the annual IEP goals, Dr. [REDACTED] evaluation helped the team determine the Student's then present levels of performance. Additionally, a review of Dr. [REDACTED] report indicates that Dr. [REDACTED] made extensive recommendations regarding the type of educational program, accommodations and supports the Student should

receive. A review of the IEP that the BCPS developed, reveals that the vast majority of Dr. [REDACTED]'s recommendations were included in the May 13, 2021 IEP.

The areas of disagreement regarding the IEP are few. The Parents argue that the IEP only provides special education in two subjects: English and math. However, the IEP provides numerous supplementary aids, services, program modifications, supports, instructional and testing accommodations to enable the Student to access the general education curriculum across all her classes.

The Parents argue that arts-enhanced curriculum is something the Student requires, but it is not included in the IEP. The Parents' experts made generalized conclusions that that a FAPE could not be provided to the Student unless she received arts-enhanced curriculum; however, they provided no foundation or background to support their opinions. While arts-enhanced curriculum is highly desirable and may be a benefit to the Student, there is a difference between a benefit and a requirement. The BCPS witnesses testified that art is embedded into the curriculum taught in BCPS high schools, in that teachers use a variety of teaching methods, and that arts-enhanced curriculum is covered in the IEP under alternative ways to demonstrate learning.

With regard to the Student's speech/language needs, there is agreement that the Student requires direct speech and language services and consultative services. [REDACTED], admitted as an expert in Speech-Language Pathology, explained that after considering all of the evaluative data, the BCPS-based members of the IEP team agreed that thirty minutes of services delivered outside of the general education classroom per week was sufficient to work on her speech-language goals. He credibly testified that although the IEP does not specifically address consultative services, every student who receives direct speech-language services automatically receives consultative services and collaboration in the classroom to address the Student's

communication needs. Mr. [REDACTED] opined that the amount of services is driven by the nature and severity of the Student's needs. Mr. [REDACTED] was very clear that he and the IEP team reviewed the IEP goals and objectives and the severity of the Student's needs and then developed the Student's program, including the hours of service, as recommended on the February 23, 2021 Speech and Language Assessment.

It is overwhelmingly clear from a review of the Student's present levels of performance and the annual goals, that the Student's needs would be addressed by the BCPS IEP which provides for thirty minutes per week of direct speech-language service. This amount of direct service would assist the Student to receive services to work on her communication skills but not exclude her from benefiting from the general curriculum. Specifically, I agree with Mr. [REDACTED] that placement in the general education environment would provide opportunities for the Student to practice her communications skills and the various strategies she's taught in direct speech-therapy in a "real world" situation with her nondisabled peers.

Lastly, every area in which the Student has a deficit in skills that impact her ability to make progress in the general curriculum are fully addressed in the IEP either with a related service, accommodation, modification, supplementary aid, or annual goal/objective. When I reviewed the Student's identified deficits, I was able to find where those deficits are addressed in the IEP (see Findings of Fact numbers 60 through 63 above) in order to assist the Student to make progress in the general curriculum.

In sum, I conclude that the BCPS IEP offered for the 2021-2022 school year is reasonably calculated to enable the Student to make academic progress appropriate in light of her cognitive abilities, and that the BCPS provided rational and responsive explanations for its decisions.

**The BCPS proposed an appropriate IEP for the 2021-22 school year that would be implemented in the least restrictive environment**

The crux of the Parents' complaint involves the IEP team's decision to place the Student in an [REDACTED] program, which is defined as inside general education eighty percent or more, instead of the Parent's preferred placement at the [REDACTED] or their preference for placing the Student in a more restricted setting, such as is a self-contained special education classroom. The Parents believed the Student should either receive more hours of special education services inside the general education environment, or all of her special education services from a special educator outside the general education environment in a self-contained classroom or at the [REDACTED].

To the maximum extent appropriate, children with disabilities

are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aid and services cannot be achieved satisfactorily.

20 U.S.C. §1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2). However, this "mainstreaming" requirement is "not an inflexible federal mandate." *Hartmann v. Loudoun Cty. Bd. of Educ.*, 118 F. 3d 996, 1001 (4<sup>th</sup> Cir. 1997). The BCPS was obligated to provide the Student with a placement that affords her an opportunity to interact with nondisabled peers, unless it can be demonstrated that her needs will not permit her to receive educational benefit in such a placement. That is precisely the case in this matter. No persuasive evidence has demonstrated that the Student is incapable of receiving educational benefit in an environment with nondisabled peers.

Although the Student has a history of anxiety, there have been no recent incidences of anxiety interfering with the Student's ability to access her academics or having any significant adverse impact on her academics. The last noted incident of anxiety was a panic attack the Student experienced at age six. The expert witnesses from the [REDACTED] all testified that anxiety is

not an issue they see the Student exhibiting at school. While Dr. [REDACTED] and Ms. [REDACTED] opined that the Student may have anxiety if placed in a large general education class setting, they provided no background to support their opinions. Dr. [REDACTED] has never observed the Student with other children in any setting. Ms. [REDACTED] only observed the Student once in her Algebra class at [REDACTED] and has never observed her in a setting with more than five other students. Therefore, their opinions regarding the Student's potential for increased anxiety is merely speculative in nature.

The school-based IEP team members testified that they could not provide specific information regarding class size; however, Ms. [REDACTED] testified that teachers differentiate instruction and that small group instruction is offered in the general education classroom based on the specific needs of students. [REDACTED] offered extensive testimony regarding how the Student's case manager would assist the Student in her transition and adjustment to a BCPS high school. Ms. [REDACTED] testified that the role of the case manager is to help develop and implement the IEP, and ensure that aides and services are implemented across all subject matters. She explained that if the Student was assigned to her caseload, she would check in with the Student weekly, and would increase or decrease contact based upon needs and wants, respecting the Student's autonomy. Ms. [REDACTED] explained that all teachers are trained to provide special instruction under universal design of learning. She testified that the Student's needs can be met in a larger class setting because teacher use different methods to support students, such as a calm corner for students to decompress, providing seating closer to the teacher, small/flexible groupings of students at all times and intelligent implementation of supportive aids.

Additionally, direct counseling services are provided in the IEP, which would have helped the Student with the transition to a public school setting. [REDACTED] testified that as the school psychologist, she along with the guidance counselors would also assist with transitioning

the Student to the BCPS high school, including walking the Student to classes and assisting with color-coding her schedule. Coach classes are offered for additional assistance. The school-based IEP team was clear that if the Student required additional services or a modification of her IEP, any member of the IEP team could request a meeting to reconvene and the IEP could be modified.

While the Student has been diagnosed with ADHD, which is treated with medication, she is not currently receiving counseling for ADHD at [REDACTED]. Significant supports and accommodations were added to the Student's IEP to help her manage with various aspects of her executive functioning impairments. Therefore, I see nothing in this case that with regard to inclusion (i.e., the belief and practice that all students have the right to meaningfully access academic and social opportunities in general education settings) should not be implemented under the BCPS IEP. As *Andrew F.* states:

Accordingly, for a child fully integrated in the regular classroom, an IEP typically should, as *Rowley* put it, be “reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.”

...

... When a child is fully integrated in the regular classroom, as the Act prefers, what that typically means is providing a level of instruction reasonably calculated to permit advancement through the general curriculum.

... [The] 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.”

137 S. Ct. at 999-1000.

In this case, it is clear from the evidence in this case, including the prior written notice for the May 13, 2021 IEP team meeting that none of the school based IEP team members believed on May 13, 2021 that the Student required her program to be implemented in a separate day school. Consequently, the evidence indicates that a more restrictive placement with regard to the LRE was simply not necessary. The [REDACTED] staff who have worked with the Student provided a

detailed analysis of the Student's performance, strengths and deficits. The school-based members of the IEP team believe that the Student's IEP could be effectively implemented at any BCPS high school and explained to the Parents that the BCPS participates in School Choice, which means the Parents could select any BCPS high school, both public schools and charter schools<sup>13</sup> to enroll the Student, and that the IEP developed could be implemented in any of the BCPS high schools. Although the Parents and their educational consultant disagree that the IEP could be implemented in any school, the judgment of educational professionals such as these is ordinarily entitled to deference. *G. v. Ft. Bragg Dependent Schools*, 343 F.3d 295, 307 (4<sup>th</sup> Cir. 2003); *M.M. v. Sch. Dist. of Greenville Cty.*, 303 F.3d 523, 532 (4<sup>th</sup> Cir. 2002). Where appropriate, I have given deference to the BCPS staff, because the assertions concerning what the Student required are supported by concrete evaluative data regarding the Student's needs, ascertained from a variety of sources as detailed in the facts set out above.

After carefully reviewing all of the evidence presented by the Parents and the BCPS, I find that the BCPS developed an appropriate IEP and placement for the 2021-2022 school year. The IEP and placement are reasonably calculated to enable the Student to make appropriate progress in light of her unique needs as a student who has Multiple Disabilities- SLD and Other Health Impairments.

When drafting the IEP, the team included all of the supplementary aids and services the Student had at the [REDACTED]. Additionally, the team meticulously reviewed each of the Student's goals and objectives on her [REDACTED] PEP. The team included some of the goals verbatim from the [REDACTED] PEP and revised others. The ones that were revised were revised to be more specific and to ensure that all of the Student's deficits that impeded her ability to progress in the general curriculum were addressed.

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<sup>13</sup> It was noted that some schools, including charter schools have lottery and or other admission requirements.



Ms. [REDACTED] was the Chairperson for the IEP team that drafted the Student's IEP for the 2021-2022 school year. Ms. [REDACTED] wrote the Prior Written Notice (PWN) for the IEP team meeting and she was instrumental in developing the Student's IEP and program. The PWN detailed the rationale used by the IEP team in deciding what the Student's program would entail and was provided to the Parents in close proximity to when the meeting occurred.

Under 34 C.F.R. § 300.503(a), written notice that meets the requirements of 34 C.F.R. § 300.503(b) must be given to the parents of a child with a disability a reasonable time before the public agency: (1) proposes to initiate or change the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child; or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. This notice must be provided in either of these circumstances, irrespective of whether or not the proposal or refusal is made during the course of an IEP Team meeting, pursuant to 34 C.F.R. Sections 300.320-300.324. Further, under 34 C.F.R. § 300.503(b)(1) and (b)(2), the PWN must include a description of the action proposed or refused by the agency and an explanation of why the agency proposes or refuses to take the action. The PWN must also include a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; a description of the other options that the IEP Team considered; the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal. *See* 34 C.F.R. § 300.503(b)(3), (6), and (7).

The PWN, as well as the written IEP, states the Student's present levels of performance from the then most recent evaluative data, including the PEP from the [REDACTED] and the Speech and Language Assessment conducted by the [REDACTED]. All of the evaluative data including the information regarding the Student's performance as shared through the formal assessments, grades, parent and teacher information, indicate the academic, and social/emotional areas

affected by the Student's disability are math calculation, math problem solving, reading comprehension, speech and language expressive language, speech and language receptive language, speech and language pragmatics, written language expression, written language mechanics, and executive functioning. As a result the IEP and placement can only be reasonably calculated to meet the unique needs of the Student if it addresses these deficits. It is overwhelmingly clear that it does.

The BCPS-based members of the IEP team considered all of the concerns of the Parents and their advocate and memorialized in the PWN the reasons for accepting or rejecting the Parents' proposals. It is clear that that with regard to the 2021-2022 school year, the parties disagree with regard to the hours of special education instruction the Student should receive.

The Parents and their expert witnesses all testified that the Student required small class sizes, and a highly structured learning environment with a low student-to-teacher ratio, and increased hours of special education services. However, the Parents have not provided any credible evidence to support their claim that the size or structure of the program directly interferes with the Student's ability to access the curriculum or to make progress.

██████████ and ██████████ are the only witnesses that have actually taught the Student. Mr. ██████████ taught the Student Algebra in ninth grade. He was offered as an expert in special education, but was not accepted as he is neither content area certified in math and had only been a certified special education teacher for one and one half to two years at the time he taught the Student. Ms. ██████████ taught the Student ninth grade English for part of the school year, in a virtual environment. She testified extensively regarding the Student's strengths and weaknesses in English and the use of instructional aides and accommodations used by the Student in English class to access the grade level curriculum. Ms. ██████████ described the Student

as a very hard worker, and noted her progress as slow but appropriate. She stated that she has not observed the Student experience any anxiety or severe behaviors in the classroom.

It is of note that none of the Parents' expert witnesses have ever taught at a BCPS high school, and therefore had no personal knowledge regarding the BCPS high school academic instruction and teaching methods. Instead, they opined that the Student requires exactly what the [REDACTED] has been providing for the past nine school years. However, even the [REDACTED] experts when questioned were unable to definitely state that the Student requires exactly what the [REDACTED] provides, just that she was making appropriate educational progress at the [REDACTED]. They had never observed the Student in a class setting with more than six to ten students and could not opine how she would perform in a larger class environment, only that the Student performed well at the [REDACTED].

#### **Appropriateness of the [REDACTED]**

Under *County School District Four v. Carter*, 510 U.S. 7 (1993), and *School Committee of Burlington v. Department of Education* 471 U.S. 359, 370 (1985), whether a parent's private placement choice is appropriate is analyzed only if the IEP proposed by the local education agency results in the denial of a FAPE. The issue of reimbursement for unilateral placement was expanded upon in *Florence County School District Four v. Carter*, 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.

I have concluded in this case for the reasons set forth above that the IEP and placement offered by the BCPS provide the Student a FAPE. Therefore, under *Carter* and *Burlington* the issue of whether the Student's placement at the [REDACTED] is proper is not required to be addressed

further in this decision. As the BCPS did not deny the Student a FAPE, the Parents' request for funding for tuition, costs, and expenses for the [REDACTED], is respectfully denied.

### CONCLUSIONS OF LAW

Based upon the foregoing Stipulations, Findings of Fact and Discussion, I conclude as a matter of law that the Baltimore City Public Schools made a free appropriate public education available to the Student and provided her with an appropriate individualized education program and placement for the 2021-2022 school year. I further conclude as a matter of law that the Parents failed to prove that they are entitled to public funding of tuition and expenses at the [REDACTED] for the 2021-2022 school year. 20 U.S.C.A. § 1400(d)(1)(A) (2017); 34 C.F.R. §§ 300.148 (2019); *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. Dist. Four v. Carter*, 510 U.S. 7 (1993); *Sch. Comm. of Burlington v. Dep't of Educ.*, 471 U.S. 359, 370 (1985); *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49 (2005).

### ORDER

I **ORDER** that the Parents' request for placement at and public funding for payment of tuition, costs and expenses at the [REDACTED] for the 2021-2022 school year is

**DENIED.**

February 16, 2022  
Date Decision Issued

Jocelyn L. Williams  
Administrative Law Judge

JLW/emh  
#196333

**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.

BALTIMORE CITY

PUBLIC SCHOOLS

BEFORE JOCELYN L. WILLIAMS,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE

OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-CITY-OT-21-19202

**FILE EXHIBIT LIST**

I admitted the following exhibits on behalf of the Parents:

- Parents Ex. 1 - Due Process Complaint Packet, dated August 25, 2021
- Parents Ex. 2 - [REDACTED] - Resume
- Parents Ex. 3 - [REDACTED] - Resume
- Parents Ex. 4 - [REDACTED] - Resume
- Parents Ex. 5 - [REDACTED] - Resume
- Parents Ex. 6 - [REDACTED], M.D. - Curriculum Vitae
- Parents Ex. 7 - [REDACTED], M.Ed. - Curriculum Vitae
- Parents Ex. 7A - [REDACTED], M.Ed. - updated Curriculum Vitae
- Parents Ex. 8 - [REDACTED] Neuropsychological Re-Evaluation Report prepared by [REDACTED], Ph.D., dated November 27, 2020
- Parents Ex. 9 - [REDACTED] Independent Educational Assessment prepared by [REDACTED], M.Ed., dated January 26, 2021
- Parents Ex. 10 - [REDACTED] Speech and Language Assessment Report prepared by [REDACTED], M.S., CCC-SLP, dated February 23, 2021
- Parents Ex. 11 - [REDACTED] Psychiatric Mental Health Program Recommendation Letter from [REDACTED], M.D., dated March 1, 2021
- Parents Ex. 12 - [REDACTED] Academic Annual Report, dated March 3, 2021

- Parents Ex. 13 - [REDACTED] PEP, dated March 4, 2021
- Parents Ex. 14 - [REDACTED] Letter from [REDACTED], Psy.D. dated March 15, 2021
- Parents Ex. 15 - [REDACTED] Letter from [REDACTED], M.D., dated March 25, 2021
- Parents Ex. 16 - BCPS Child Find Referral, dated April 7, 2021
- Parents Ex. 17 - Notice of IEP Team Meeting on April 20, 2021, dated April 12, 2021
- Parents Ex. 18 - BCPS draft IEP, dated May 6, 2021
- Parents Ex. 19 - BCPS draft IEP, dated May 13, 2021
- Parents Ex. 20 - BCPS Prior Written Notice, dated May 13, 2021
- Parents Ex. 21 - [REDACTED] First Quarter Report Card, dated November 15, 2021
- Parents Ex. 22 - [REDACTED] First Quarter PEP Progress Report, dated November 3, 2021
- Parents Ex. 23 - [REDACTED] Patient Portal messages between the Parents and Dr. [REDACTED] dated March 24, 2021
- Parents Ex. 24 - [REDACTED], Psy.D. - Curriculum Vitae
- Parents Ex. 25 - [REDACTED] Patient Portal messages between the Parents and Dr. [REDACTED], dated July 19, 2021

I admitted the following exhibits on behalf of the BCPS:

- BCPS Ex. 1 - Email exchange between the Parents and the BCPS, dated March 19, 2021 - April 13, 2021
- BCPS Ex. 2 - Email exchange between the Parents and the BCPS, dated April 9, 2021 - April 26, 2021
- BCPS Ex. 3 - BCPS Child Find Referral, dated April 7, 2021
- BCPS Ex. 4 - BCPS Notice of IEP Team Meeting for April 20, 2021, dated April 12, 2021
- BCPS Ex. 5 - BCPS Notice of Documents Provided to Parent for Review at an IEP Meeting, dated April 14, 2021
- BCPS Ex. 6 - BCPS Notice of No Assessment Needed, dated April 20, 2021

- BCPS Ex. 7 - BCPS Evaluation Report and Determination of Initial Eligibility - IEP Team Summary, dated April 20, 2021
- BCPS Ex. 8 - BCPS Notice of IEP Team Meeting for May 13, 2021, dated April 26, 2021
- BCPS Ex. 9 - BCPS Notice of Documents Provided to Parent for Review at an IEP Meeting, dated May 4, 2021
- BCPS Ex. 10 - BCPS Prior Written Notice, dated May 13, 2021
- BCPS Ex. 11 - Parent Input Statement, undated
- BCPS Ex. 12 - Draft IEP, dated May 13, 2021
- BCPS Ex. 13 - BCPS Transition Planning Inventory- Second Edition, dated May 5, 2021
- BCPS Ex. 14 - ██████████ PEP, dated March 4, 2021
- BCPS Ex. 15 - ██████████ Speech and Language Assessment Report prepared by ██████████, M.S., CCC-SLP, dated February 17 and 23, 2021
- BCPS Ex. 16 - ██████████ Neuropsychological Re-Evaluation Report prepared by ██████████ Ph.D., dated November 27, 2020
- BCPS Ex. 17 - ██████████ Letter from Dr. ██████████, dated March 25, 2021
- BCPS Ex. 18 - ██████████ Letter from ██████████ M.D., dated March 1, 2021
- BCPS Ex. 19 - ██████████ Letter from Dr. ██████████, dated March 15, 2021
- BCPS Ex. 20 - ██████████ Educational Evaluation prepared by ██████████, M.Ed., January 26, 2021
- BCPS Ex. 21 - Email for Parents' Counsel to the BCPS, dated August 12, 2021
- BCPS Ex. 22 - NOT OFFERED
- BCPS Ex. 23 - ██████████ - Resume
- BCPS Ex. 24 - ██████████ - Resume
- BCPS Ex. 25 - ██████████ - Resume
- BCPS Ex. 26 - ██████████ - Resume



BCPS Ex. 27 - NOT OFFERED

BCPS Ex. 28 - [REDACTED] - Resume