

XXXX XXXX

v.

HOWARD COUNTY

PUBLIC SCHOOLS

* BEFORE JOHN T. HENDERSON, JR.,

* ADMINISTRATIVE LAW JUDGE

* THE MARYLAND OFFICE

* OF ADMINISTRATIVE HEARINGS

* OAH NO.: MSDE-HOWD-OT-17-32609

* * * * *

DECISION

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STATEMENT OF THE CASE

On October 13, 2017, XXXX XXXX, (Parent), on behalf of his son, XXXX XXXX (Student), filed a Due Process Complaint with the Maryland Office of Administrative Hearings (OAH) requesting a hearing to review the identification, evaluation, or placement of the Student by Howard County Public Schools (HCPS) under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C.A. § 1415(f)(1)(A) (2017).¹

I held a telephone pre-hearing conference on November 6, 2017 with Andrew W. Nussbaum, Esquire, who represented HCPS. The Parent participated and represented the Student. By agreement of the parties, the hearing was scheduled for December 6, 2017.²

¹ U.S.C.A. is an abbreviation for United States Code Annotated.

² I advised the parties at the telephone prehearing conference of the time requirements for issuing a decision. The parties requested that these timeframes be strictly adhered. Therefore, in accordance with the regulations, the decision is due to be issued on or before Thursday, December 21, 2017, which is forty-five days after the end of mediation, Monday, November 6, 2017. 34 C.F.R. §§ 300.510(c), 300.515(a) (2016).

I held the hearing on December 6, 2017. Mr. Nussbaum represented HCPS. The Parent represented the Student. The legal authority for the hearing is as follows: IDEA, 20 U.S.C.A. § 1415(f) (2017); 34 C.F.R. § 300.511 (2017)³; Md. Code Ann., Educ. § 8-413(e)(1) (Supp. 2017); and Code of Maryland Regulations (COMAR) 13A.05.01.15C.

At the conclusion of the Student's case, HCPS moved for judgment arguing that the Student failed to meet his burden of proof. COMAR 29.02.01.12E. My decision on HCPS's motion for judgment is provided after my findings of fact herein.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act; Maryland State Department of Education procedural regulations; and the Rules of Procedure of the OAH. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2017); COMAR 13A.05.01.15C; COMAR 28.02.01.

ISSUES

1. Is the Individualized Education Program (IEP) and recommended placement developed by the HCPS reasonably calculated to provide the Student with a Free and Appropriate Public Education (FAPE) for the 2017-2018 school year, and if not;

2. Will the Parent's request to change the Student's placement to [School 1] ([School 1]) in Howard County, Maryland, be appropriate and reasonably calculated to provide the Student with FAPE for the 2017-2018 school year?

³ The abbreviation "C.F.R." stands for Code of Federal Regulations.

SUMMARY OF THE EVIDENCE

A. Exhibits

The Parent offered the following exhibits on behalf of the Student, which I admitted into evidence:

Student Ex. 1: Individualized Education Program (IEP) Team Meeting Report, October 6, 2017

Student Ex. 2: IEP report, amended October 6, 2017

HCPS moved for judgment at the conclusion of the Student's case and did not offer any exhibits into evidence.

B. Testimony

The Student was not present. The Parent testified.

HCPS moved for judgment at the conclusion of the Student's case and did not present any witnesses.

FINDINGS OF FACT

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

1. The Student is six years old and attends kindergarten at [School 2] ([School 2]) for the 2017-2018 school year from 8:40 a.m. to 3:20 p.m.
2. The Student attended pre-kindergarten at [School 2] during the 2016-2017 school year.
3. The Student is identified under the IDEA as a student with a disability, specifically autism.
4. The Student lives with his mother, XXXX XXXX, and his father (parents).
5. Sometime during the end of September 2017, the Parent received a telephone message from [School 2]. He returned the call and was advised [School 2] sought an IEP team

meeting to discuss the Student's behavioral issues. The school reported that the Student had been kicking, hitting, and spitting upon teachers and peers.

6. On October 6, 2017, the IEP team met with the parents to discuss behavioral issues concerning the Student. The Parent and his wife attended the meeting. The IEP team told the parents what was happening with the Student regarding his behavior, to include attempts to elope from school.

7. The amended IEP dated October 6, 2017, reported that the Student's total language score is at a two year, two month old age level; and that his functioning falls within the severe language impairment range.

8. The IEP team advised the parents that [School 2] could not implement the Student's IEP due to the behavioral issues and that a change in school placement was necessary. The IEP team recommended [School 3] ([School 3]) located in Howard County.

9. The parents did not object to the Student changing school placement from [School 2] due to behavioral issues. The Parent wanted the Student to attend [School 1] ([School 1]) in XXXX, Maryland, which is near the Student's home.

10. The October 6, 2017 meeting reconvened on October 9, 2017 after the parents visited [School 3] and [School 1].

11. The parents preferred the Student attend [School 1].

12. The IEP team determined that [School 1] was not equipped to manage the Student's difficulty with speech communication because he is not at a level of development where he can sufficiently communicate with peers and staff at [School 1].

13. The IEP team determined that [School 3], which has a behavioral specialist on staff and utilizes the XXXX (XXXX)⁴ program, is the more appropriate placement for the Student for the 2017-2018 school year.

14. The IEP team determined that the XXXX program at [School 3] will meet the Student's needs behaviorally, communicatively, and academically.

15. The Parent enrolled the Student with the [School 4] ([SCHOOL 4]) to supplement his educational needs. The Student began attending on November 14, 2017. The Parent transports the Student to a XXXX, Maryland [SCHOOL 4] location twice a week from kindergarten.

DECISION ON MOTION FOR JUDGMENT

As the party who filed the request for due processing hearing, the Student bears the burden of proof by a preponderance of the evidence. *Schaffer v. Weast*, 546 U.S. 49 (2005); Md. Code Ann., State Gov't § 10-217 (2014). At the conclusion of the Student's case, HCPS moved for judgment, arguing that the Student failed to meet his burden of proof. The OAH's Rules of Procedure, COMAR 28.02.01, apply to this matter. A Motion for Judgment is governed by COMAR 28.02.01.12E, which states the following:

E. Motion for Judgment.

- (1) A party may move for judgment on any or all of the issues in any action at the close of the evidence offered by an opposing party. The moving party shall state all reasons why the motion should be granted. No objection to the motion for judgment shall be necessary. A party does not waive the right to make the motion by introducing evidence during the presentation of any opposing party's case.
- (2) When a party moves for judgment at the close of the evidence offered by an opposing party, the judge may:

⁴ The XXXX program utilizes access to behavior supports to include crisis intervention and a calming space. The program supports development of functional communication and academics. Students within the XXXX program, when appropriate, have access to peers. (Student Ex. 1, pg. 3 of 5.)

- (a) Proceed to determine the facts and to render judgment against an opposing party; or
 - (b) Decline to render judgment until the close of all evidence.
- (3) A party who moves for judgment at the close of the evidence offered by an opposing party may offer evidence if the motion is not granted, without having reserved the right to do so and to the same extent as if the motion had not been made. In so doing, the party withdraws the motion.

HCPS argues that the Parent failed to present evidence that the change in placement is not appropriate for the Student's needs and that [School 3]⁵ is not an appropriate placement.

The Parent argues he has presented evidence that [School 1] can provide the Student with the necessary behavioral interventions and support for speech communication, that [School 3] is too far from the Student's home, and it is not an appropriate placement for his son.

Having considered the testimony of the Parent and the exhibits admitted into evidence, I decided to determine the facts at the hearing. I granted HCPS's motion for judgment for the reasons stated at the hearing and below.

DISCUSSION

Legal Framework

As noted above, the burden of proof in an administrative hearing under IDEA is placed upon the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49 (2005). Accordingly, the Student has the burden of proving by a preponderance of the evidence that the IEP and recommended school placement developed by the HCPS is not reasonably calculated to provide the Student with FAPE for the 2017-2018 school years, and that the Parent's request to change school

⁵ [School 3] is a public day school for students ages 3 to 21 years old. The staff and facility at [School 3] provide services to students experiencing significant disabilities as well as students with autism. Parents are an integral part of the program and a resource for assisting with the instructional process, in addition to being on the educational team for their child. [website]

placement to [School 1] is appropriate and reasonably calculated to provide the Student with FAPE for the 2017-2018 school years.

The identification, assessment and placement of students in special education is governed by the IDEA, 20 U.S.C.A. §§ 1400-1487, 34 C.F.R. Part 300, Md. Code Ann., Educ. §§ 8-401 through 8-417 (2014 & Supp. 2017), and COMAR 13A.05.01. The IDEA provides that all children with disabilities have the right to a FAPE. 20 U.S.C.A. § 1412(a)(1).

FAPE is statutorily defined as “special education and related services” that are provided “in conformity with the individualized education program required under section 1414(d)” of the IDEA. 20 U.S.C.A. § 1401(9).⁶ In 2017, the United States Supreme Court ruled that FAPE “requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 1001 (2017). Rejecting the “merely more than *de minimis*’ test applied by the Tenth Circuit, *see id.* at 1000, the Court iterated and clarified principles originally set forth in *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176 (1982).

Directly adopting language from *Rowley*, and expressly stating that it is not making any “attempt to elaborate on what ‘appropriate’ progress will look like from case to case,” the *Endrew F.* Court instructs that the “absence of a bright-line rule ... should not be mistaken for ‘an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review.’” *Endrew F.*, 137 S.Ct. at 1001 (citing *Rowley*, 458 U.S. at 206). At the same time, the *Endrew F.* Court wrote that in determining the extent to which deference should be accorded to educational programming decisions made by public school authorities, “a reviewing court may fairly expect [school] authorities to be able to offer a

⁶ In *Endrew F.*, the Court observed that it remains “[m]indful that Congress (despite several intervening amendments to the IDEA) has not materially changed the statutory definition of a FAPE since *Rowley* was decided.” *Id.* (comparing 20 U.S.C. § 1401(18) (1976 ed.) with 20 U.S.C. § 1401(9) (2012 ed.)).

cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances.” *Andrew F.*, 137 S.Ct. at 1002.

An IEP is the “primary vehicle” through which a public agency provides a student with a FAPE. *M.S. ex rel Simchick v. Fairfax Cty. Sch. Bd.*, 553 F. 3d 315, 319 (4th Cir. 2009). To comply with the IDEA, an IEP must, among other things, allow a disabled child to advance toward measurable annual academic and functional goals that meet the needs resulting from the child’s disability or disabilities, by providing appropriate special education and related services, supplementary aids, program modifications, supports, and accommodations. 20 U.S.C.A. § 1414(d)(1)(A)(i)(II), (IV), (VI).

An IEP shall include “[a] statement of the child's present levels of academic achievement and functional performance, including” and, specifically, “[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 nondisabled children).” 34 C.F.R. § 300.320(1). If a child’s behavior impedes his or her learning or that of others, the IEP team, in developing the child’s IEP, must consider, if appropriate, development of strategies, including positive behavioral interventions, as well as strategies and supports to address that behavior, consistent with 34 C.F.R. § 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. 34 C.F.R. § 300.324(b). When an IEP team considers changing placement of a student, it is guided by the following:

(a) The placement decision-

- (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) Is made in conformity with the [least restrictive environment (LRE)] provisions of this subpart, including §§ 300.114 through 300.118;

(b) The child's placement-

- (1) Is determined at least annually;
- (2) Is based on the child's IEP; and
- (3) Is as close as possible to the child's home;

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of the services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

34 C.F.R. § 300.116 (2016).

Testimony of the Parent

The Parent testified that he, his wife, and the IEP team met on October 6, 2017. The IEP team advised the parents that [School 2] was not able to implement the IEP due to the Student's behavioral issues. The IEP team reported to the parents that the Student would act out when angered by hitting and spitting on staff and peers. He would also attempt to elope from school grounds. According to the Parent, he was not told that there were behavioral issues during the 2017-2018 school year and he presumed the Student was behaving appropriately. According to the Parent, his first notice from [School 2] of behavioral issues since the 2016-2017 school year was when he received a telephone call at the end of September 2017 from [School 2] requesting a team meeting with the parents.

The Parent testified that he did not have experience with the Student attempting to elope from home. However, the Student had a history of spitting toward people at home; he would also scratch people when he became angry and in the past, he would bang his head in anger.

The Parent further testified that he did not object to a change of school placement from [School 2]. However, he wanted the change of placement to [School 1] and not [School 3]. He

and his wife visited both schools. They determined that [School 1] was more acceptable because it is closer to their home. In addition, [School 1] staff advised that the school was able to use positive behavioral interventions (such as a time out room), and that the Student spent a month in the summer of 2017 at [School 1] for extended school year (ESY). The parents and the IEP team reconvened on October 9, 2017 to discuss the school visits.

The Parent also testified that the Student does have speech communication problems in that he cannot express himself well. According to the Parent, the Student does understand short, three- to five-word sentences. The Parent argues that if the Student is having difficulty with speech communication, assistance can be provided by [School 1] as well as the supplemental assistance he receives from [SCHOOL 4].⁷ The Parent wants the Student to attend [School 1] at least on a trial basis.

The Amended IEP

The amended IEP dated October 6, 2017 reported the Student's level of performance regarding his behavior, as follows:

On 12/14/16, a Functional Behavior Analysis (FBA) was recommended due to an on-going pattern of non-compliance, physical aggression toward others and self-injurious behaviors. Based on data describing the frequency and intensity of behaviors, and the subsequent amount of instruction that is missed, the team determined that [Student] is demonstrating interfering behaviors that impede his learning or the learning of others. At times, his behavior also poses a safety risk to himself and others around him. The IEP Team agreed to go forward with a FBA. On 2/22/17, a Behavior Intervention Plan (BIP) was approved to address the replacement behavior goals in the BIP. Three self-management/behavior objectives were added to [Student]'s IEP on 2/22/17.

⁷ [SCHOOL 4] is an internationally recognized institution dedicated to improving the lives of children and young adults with pediatric developmental disabilities and disorders of the XXXX, through patient care, special education, research, and professional training. [website]

On October 6, 2017, the IEP team discussed with the parents the need for a change of school placement, the reason for the change, and the reasons why [School 1] is not an appropriate placement for the Student. A report of that meeting is admitted as Student's exhibit 1.

The admitted evidence further shows that the Student's speech communication is not at a level of development where he could sufficiently function at [School 1]. According to the report, [School 1] does not have the particular staff that could assist the Student's ability to communicate with staff and peers.

Although [School 1] has some capability to utilize behavioral interventions through its XXXX (XXXX) program, to make effort in preventing the Student's behavior from impeding his and other children's learning, it is not capable of assisting the student in improving his communication deficiencies. The need to use language to describe and problem solve about behaviors is a large part of the XXXX program at [School 1]. The Student's deficiencies in communication renders [School 1]'s XXXX program insufficient in meeting the Student's needs.

The IEP team reported that [School 3] not only employs behavioral specialists, but its XXXX program creates an environment where there is access to behavior supports to include crisis intervention and a calming space. The IEP team agreed that the XXXX program at [School 3] can meet the Student's needs behaviorally, communicatively, and academically.

It is true that [School 1] is closer to the Student's home than [School 3]. Due to the XXXX-minute bus ride, the parents, more than likely, would need extra time during their morning routine to ensure the Student arrives to school at [School 3] on time, if they do not transport him on their own. Nevertheless, there was no testimony from the Parent that identified problems with transportation to [School 3], other than its distance from their home.

The admitted evidence shows the IEP team considered whether the Student's behavior

impeded his learning and the learning of others, and whether his behavior created a danger to himself and others. The IEP team further concluded his behavior did create such impediments and dangers and determined [School 2] was not an appropriate educational placement. They concluded that [School 3] is the appropriate placement, as it offered the educational and behavioral services required to meet the Student's current needs.

Arguments of the Parties in support of and in opposition to the Motion for Judgment

HCPS argues that the Parent failed to meet the Student's burden of proof by a preponderance of the evidence that the IEP and recommended school placement developed by the HCPS are not reasonably calculated to provide the Student with FAPE for the 2017-2018 school year. Further, HCPS argues that [School 3] and its implementation of the XXXX program is appropriate because it is consistent with the Student's goals and objectives identified within the amended IEP dated October 6, 2017, and it will provide the Student with the educational and behavioral supports he needs.

HCPS finally argues that the Student has not met the burden to prove [School 1] can appropriately provide the Student with the services and supports he needs and ensure there are no impediments with his learning. HCPS contends the evidence shows that [School 1] cannot effectively assist the Student with his communication deficiencies. HCPS asserts that the evidence shows that the Student has a history of behavioral problems, and the proposed IEP and proposed placement in [School 3] are reasonably calculated to address the Student's continuing academic and behavioral issues and to address them in the least restrictive environment (LRE).

The Parent argues that HCPS's recommendation that the Student attend [School 3] is not appropriate for the Student. The Parent denies that the Student has behavioral issues requiring exceptional interventions such as what [School 3] could provide through its XXXX program, and he argues the Student should be able to attend [School 1], which is closer to his home, and where

he has some familiarity. For those reasons, the Parent argues that the Student's placement in [School 3] is inappropriate.

Analysis

At the October 6, 2017 IEP meeting, the IEP team recommended that the Student attend [School 3] and benefit from its XXXX program and extensive behavioral supports. This recommendation was based on the IEP team's familiarity with the Student and his individual academic and behavioral needs, the nature of the XXXX program at [School 3], and the absence of appropriate academic and behavioral services and supports at [School 1], the preferred school of the Parent. The Parent participated in all of the Student's IEP meetings at issue here, which include the follow-up meeting conducted on October 9, 2017. That meeting was held to discuss the parents' school visits.

The Parent did not identify any specific disagreement with the goals and objectives, accommodations, services, and supports included in the Student's amended October 6, 2017 IEP. He did assert at the due process hearing that the Student's reported behavioral problems were not reported to the parents until the October 6, 2017 meeting. However, the amended IEP reported a recommended need for a FBA, made on December 14, 2016. The report of the October 6, 2017 IEP team meeting and the Parent's testimony on cross-examination shows that he had knowledge during the 2016-2017 school year that there were behavioral problems. In addition, the Parent testified that the Student exhibited certain behavioral problems at home, to include scratching and spitting at people, and banging his head in anger.

The Parent attended both IEP meetings identified at the due process hearing and agreed with the decision made by the IEP team to change the Student's school placement due to behavioral reasons. The Parent also agreed with the recommendation of the IEP team that the

Student needed additional behavioral supports to address his behavior; he just believed [School 1] would serve those needs.

The Parent has not challenged any specific provisions in the Student's amended October 6, 2017 IEP or any particular aspects of the services and supports provided by [School 3]. With the Student's behavioral issues that were clearly established in this record, it is evident that the school placement decisions made by the Student's IEP team were thoughtful, reasonable, clearly appropriate, and necessary to address the critical interaction between the Student's academic needs and the challenges created by his behavioral issues. The BIP has also been shown to be essential to address the Student's behavioral issues. The Parent's primary concern in this proceeding is limited to his desire to have his son attend [School 1], his neighborhood school, a short XXXX-minute automobile ride from his home.

The Parent contends that [School 3] is too far from his home and the Student would have difficulty adapting to the environment. It is evident that when a student is placed in a program that is not available at his neighborhood school, it raises certain logistical and social issues. As a result, the IDEA and accompanying regulations provide that a student shall be educated "as close as possible to the child's home." 34 C.F.R. § 300.116(b)(3) (2016). The federal regulations also require that "[u]nless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. In selecting the LRE, consideration is given to any harmful effect on the child or on the quality of services that he or she needs[.]" 34 C.F.R. § 300.116(c), (d) (2016). However, 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 with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. § 300.114(a)(2)(ii) (2016).

In addition to mandating a FAPE, the IDEA directs that children be placed in the LRE to achieve a FAPE, meaning that children with disabilities must be educated with children without disabilities in the regular education environment to the maximum extent appropriate; separate schooling or other removal from the regular educational environment should occur only when the nature or severity of the child's disability prevents satisfactory education in regular classes with the use of supplementary aids and services. 20 U.S.C.A. § 1412(a)(5)(A) (2017); 34 C.F.R. §§ 300.114(a)(2)(i) and 300.117 (2016). It is thus clear that HCPS is obligated to provide the Student with a placement that affords him at least an opportunity to interact with nondisabled peers, if he will receive educational benefit in that placement. As indicated above, in determining the educational placement of a student with a disability, the public agency must ensure that the placement decision is made by the IEP team in conformity with the LRE provisions. 34 C.F.R. § 300.116 (2016).

I conclude that the evidence in this record clearly demonstrates that the Student "requires some other arrangement" other than attending [School 2]. 34 C.F.R. § 300.116(c) (2016). The evidence demonstrates that the XXXX Program at [School 3] provides the services and supports the Student requires to carefully balance the fragile interaction between the Student's academic and behavioral needs. Moreover, there is no evidence to show that the Student's neighborhood school, [School 1], offers an appropriate program with sufficient academic and behavioral supports to address the Student's needs, particularly with respect to verbal communication. Therefore, I conclude that [School 3], despite apparently enrolling only disabled peers, but having the necessary behavioral supports, would provide the Student with a FAPE, and is the LRE at this time. 34 C.F.R. § 300.116(b)(3), (c), (d) (2016).

While it is understandable that the Parent seeks to have his son attend [School 1] for a variety of logistical and social reasons, the Parent has failed to prove that the placement at

[School 3] is inappropriate based on the Student's individual circumstances. The Student's longer bus ride is unfortunate but unavoidable under the circumstances.

The Parent has elected to send his child to [SCHOOL 4] for supplemental instruction and behavioral interventions. He is solely responsible for transporting the Student to a [SCHOOL 4] facility. The Parent is free to do so regardless of where the Student attends school.

The law recognizes that "once a procedurally proper IEP has been formulated, a reviewing court should be reluctant indeed to second-guess the judgment of education professionals." *Tice v. Botetourt Cty. Sch. Bd.*, 908 F.2d 1200, 1207 (4th Cir. 1990). Therefore, absent any evidence in this record to persuasively dispute the well-reasoned judgment of the HCPS IEP team, as memorialized within its minutes of October 6, 2017, I agree with HCPS that the amended October 6, 2017 IEP and placement developed by the Student's IEP team is appropriate and reasonably calculated to meet the individualized needs of the Student. In conclusion, after carefully reviewing all of the evidence presented, I find that the Student failed to meet his burden to prove that HCPS did not develop an appropriate IEP and placement for the Student for the 2017-2018 school year.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, the Howard County Public School's motion for judgment is **GRANTED**. COMAR 28.02.01.12E. Further, I conclude, as a matter of law that the Parent has failed to prove by a preponderance of the evidence that the amended, October 6, 2017 IEP offered by the Howard County Public Schools was not reasonably calculated to offer the Student educational benefit. 20 U.S.C.A. §§ 1400 - 1487 (2010).

I further conclude that the amended IEP proposed by Howard County Public Schools and recommended change in school placement to [School 3] were reasonably calculated to offer the Student a free and appropriate public education. *Bd. of Educ. of the Hendrick Hudson Cent. Sch.*

Dist. v. Rowley, 458 U.S. 176 (1982); *Florence County Sch. Dist. Four v. Carter*, 510 U.S. 7 (1993).

ORDER

I **ORDER** that the Howard County Public School's Motion for Judgment is **GRANTED**, and the Student's due process complaint filed on October 13, 2017 is **DENIED AND DISMISSED**.

December 19, 2017
Date Decision Mailed

John T. Henderson, Jr.
Administrative Law Judge

JTH/emh

REVIEW RIGHTS

Any party aggrieved by this Final Decision may file an appeal with the Circuit Court for Baltimore City, if the Student resides in Baltimore City, or with the circuit court for the county where the Student resides, or with the Federal District Court of Maryland, within 120 days of the issuance of this decision. Md. Code Ann., Educ. § 8-413(j) (Supp. 2017). A petition may be filed with the appropriate court to waive filing fees and costs on the ground of indigence.

Should a party file an appeal of the hearing decision, that party 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 court action. The written notification of the filing of the court action must include the Office of Administrative Hearings case name and number, the date of the decision, and the county circuit or federal district court case name and docket number.

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