

████████████████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

* BEFORE LAURIE BENNETT,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH No.: MSDE-MONT-OT-19-13236

* * * * *

DECISION

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

STATEMENT OF THE CASE

On April 26, 2019, ██████████ and ██████████ (Mother and Father individually, and Parents collectively) filed a Due Process Complaint with the Office of Administrative Hearings (OAH) requesting a hearing to review the identification, evaluation, or placement of the Student by Montgomery County Public Schools (MCPS) under the Individuals with Disabilities Education Act (IDEA or the Act). 20 U.S.C.A. § 1415(f)(1)(A) (2017).¹ On May 24, 2019, parties agreed in writing to waive an otherwise required resolution meeting.

On June 4, 2019, I conducted a pre-hearing conference (Conference) via telephone. Michael J. Eig represented the Student. Manisha Kavadi represented the MCPS. By agreement of the parties, based on my availability and that of the attorneys and their witnesses, I scheduled the hearing for August 21, 22, 23, 26, and 29, 2019. The hearing convened as scheduled except for the second day, which I cancelled due to the unexpected unavailability of the Student’s last witness.

¹ Unless noted, all U.S.C.A. citations are to the 2017 volume.

Generally, a decision on a due process complaint is due forty-five days from a triggering event, such as the parties' notice of their agreement to waive a resolution meeting. 34 C.F.R. §§ 300.510(b)(2), (c), 300.515(a), (c) (2018).² Here, the parties waived the resolution meeting on May 24, 2019, making the decision due forty-five days later, on July 8, 2019. The parties requested a specific extension of time for issuing the decision to accommodate scheduling. At the hearing, they asked for and I granted a specific extension to September 27, 2019.

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

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. 2018); COMAR 13A.05.01.15C; COMAR 28.02.01.

ISSUE

The issue is whether the MCPS' individualized education program (IEP) for the 2019/2020 school year is reasonably calculated to enable the Student to make progress appropriate in light of the Student's circumstances and, thus, will afford him a free and appropriate public education (FAPE).

² Unless noted, all federal regulation citations are to the 2018 volume.

³ Unless otherwise noted, all Education Article citations are to the 2018 Replacement Volume of the Maryland Annotated Code.

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits the Parents offered:

- P-1. Request for Due Process, 4/26/2019
- P-2. Observation Report by [REDACTED], 6/14/2016
- P-3. Comprehensive Psychological Assessment Report by Dr. [REDACTED], 8/9/2016
- P-4. NOT OFFERED
- P-5. Observation Report by [REDACTED], 11/16/2016
- P-6. Reactions to Draft MCPS IEP by [REDACTED], 3/11/2017
- P-7. MCPS Prior Written Notice, 8/10/2017
- P-8. NOT OFFERED
- P-9. Observation Report by [REDACTED], 11/8/2017
- P-10. MCPS IEP Progress Report on Annual Goals, 11/9/2017
- P-11. MCPS Secondary Teacher Report for Quarterly Progress, 1/18/2018
- P-12. MCPS Secondary Teacher Report for Quarterly Progress, 3/23/2018
- P-13. MCPS Secondary Teacher Report for Quarterly Progress, 5/25/2018
- P-14. Qualitative Reading Inventory Results Summary, October 2017 to June 2018
- P-15. MCPS Educational Assessment Report, 6/18/2018
- P-16. MCPS Speech-Language Re-Assessment, 6/18/2018
- P-17. MCPS Psychological Re-evaluation Report, 7/9/2018
- P-18. MCPS Amended IEP, 7/9/2018
- P-19. NOT OFFERED
- P-20. NOT OFFERED
- P-21. Letters between Michael J. Eig, Esq., Teresa Lucas, and [REDACTED], Esq., regarding requests for mediation and due process, 10/25/2018 to 10/29/2018
- P-22. NOT OFFERED
- P-23. MCPS IEP Progress Reports, 1/25/2018 to 11/7/2018
- P-24. Letter to Dr. [REDACTED] from [REDACTED], Esq., 12/3/2018
- P-25. Psychological Assessment Report by Dr. [REDACTED], 12/14/2018
- P-26. MCPS IEP Meeting Notes and Team Consideration of External Report, 1/8/2019
- P-27. MCPS IEP, 1/8/2019
- P-28. Letter to Teresa Lucas, OAH, enclosing Request for Due Process, 1/16/2019
- P-29. Email to [REDACTED], Esq., regarding IEP feedback, 1/23/2019
- P-30. MCPS Secondary Teacher Reports, January 2019
- P-31. MCPS Prior Written Notice, 1/28/2019
- P-32. NOT OFFERED
- P-33. Letter to Teresa Lucas, OAH, withdrawing the Request for Due Process, 2/26/2019
- P-34. NOT OFFERED
- P-35. MCPS IEP Progress Report on Goals, 4/3/2019
- P-36. MCPS Interim Progress Report, 4/4/2019
- P-37. MCPS Amended IEP, 4/11/2019
- P-38. MCPS Prior Written Notice, 4/17/2019
- P-39. Letter from [REDACTED] regarding Student, Summer 2019

- P-40. Resume of [REDACTED]
- P-41. Resume of Dr. [REDACTED]
- P-42. Letters of recommendation and support for Student, June to August 2019
- P-43. MCPS IEP Progress Report on Goals, 1/25/2019 to 8/2/2019 and
- P-44. MCPS Report Card from 2016/2017 School Year

I admitted the following documents for the MCPS:

- MCPS-1. Alternate Assessments Eligibility Decision Form, August 2016
- MCPS-2. IEP, 4/27/2017 with 6/8/2017 Amendment pages
- MCPS-3. Withdrawal from [REDACTED] High School, 8/8/2017; New Student Information for [REDACTED] High School Enrollment, 8/17/2017
- MCPS-4. Alternative Education Consent Form, 9/30/2017
- MCPS-5. Alternative Education Consent Form, 10/20/2017
- MCPS-6. Five Day Advance Documents for 11/20/2017 IEP meeting—Secondary Transition High School Interview, 11/1/2017; Report Card, 11/10/2017
- MCPS-7. IEP Team Meeting Report and Documents/Prior Written Notice, for 11/20/2017 IEP meeting
- MCPS-8. IEP Amendment Changes, 11/20/2017
- MCPS-9. IEP Team Meeting Report and Documents/Prior Written Notice, for 4/11/2018 IEP meeting; Notice and Consent for Assessment, 4/11/2018
- MCPS-10. Team Meeting Report and Documents/Prior Written Notice, 7/9/2018; Alternative Education Consent Form, 7/9/2018
- MCPS-11. Amended IEP, 7/9/2018 with Meeting Notes and Decisions (MC 11.33-11.34)
- MCPS-12. MCPS Request for Mediation, 10/25/2018
- MCPS-13. IEP Team Meeting Report and Documents/Prior Written Notice, for 1/8/2019 IEP meeting
- MCPS-14. Psychological Assessment Report, Dr. [REDACTED], 12/14/2018
- MCPS-15. Team Consideration of External Psychological Report, 1/8/2019
- MCPS-16. Alternate Assessments Eligibility Decision Form, January 2019
- MCPS-17. NOT OFFERED
- MCPS-18. Central IEP (CEIP) Referral Form, 2/22/2019
- MCPS-19. Emails between MCPS and Parents' Counsel re: CIEP scheduling, 3/12/2019-4/3/2019
- MCPS-20. NOT OFFERED
- MCPS-21. MCPS Educational Assessment Report, 6/18/2018
- MCPS-22. MCPS Psychological Assessment Report, 7/9/2018
- MCPS-23. MCPS Speech-Language Assessment Report, 6/18/2018
- MCPS-24. MCPS Educational Assessment Report, 11/11/2015
- MCPS-25. MCPS Psychological Assessment Report, 10/24/2015
- MCPS-26. MCPS Psychological Assessment Report, 11/17/2015
- MCPS-27. Autism Resources Services Diploma 4-year and 5-year plan
- MCPS-28. MCPS Graduation Requirements for Diploma
- MCPS-29. PARCC Algebra I Test Booklet Practice Test
- MCPS-30. PARCC English Language Arts/ Literacy Test Booklet Practice Test

- MCPS-31. [REDACTED] Government Assessment Practice Test
- MCPS-32. [REDACTED] Integrated Science Assessment Practice Test
- MCPS-33. Student Transcript
- MCPS-34. MAP Scores, 2017-2018, 2018-2019; Evidence of Learning Data; Reading Student Status Norms Chart
- MCPS-35. Curriculum 2.0 Algebra I Standards with Student's Algebra I Work Samples
- MCPS-36. Curriculum Science Standards with Student's Science Work Samples
- MCPS-37. Curriculum English 9A Writing and Language Standards with Student's Work Samples
- MCPS-38. Curriculum Grade 9 U. S. History and Common Core Social Studies Standards with Student's Work Samples
- MCPS-39. Qualitative Reading Inventory, 2017-2018 school year
- MCPS-40. Teacher Reports, 2016-2017 School Year, [REDACTED] Program
- MCPS-41. Progress Reports, 2016-2017 School Year, [REDACTED] Program
- MCPS-42. Student's Work Samples, 2016-2017 School Year, [REDACTED] Program
- MCPS-43. Secondary Transition High School Interview, 10/17/2016, [REDACTED] Program
- MCPS-44. Teacher Reports, 1/3/2019, [REDACTED] Program
- MCPS-45. NOT OFFERED
- MCPS-46. Progress Reports, 2018-2019 School Year, [REDACTED] Program
- MCPS-47. MSDE Complaint Letter of Findings, 1/12/2017
- MCPS-48. Transition Authorization of Release of Information to DDA/SMRO, 8/23/2018
- MCPS-49. MCPS-49 Transition Developmental Disabilities Administration Application for Eligibility, 8/23/2018
- MCPS-50. Secondary Transition High School Interview, 11/1/2017, 10/18/2018
- MCPS-51. Student's In-School Work Tasks, [REDACTED] High School
- MCPS-52. Resume – [REDACTED]
- MCPS-53. Resume – [REDACTED]
- MCPS-54. Resume – [REDACTED]
- MCPS-55. NOT OFFERED
- MCPS-56. Resume – [REDACTED]
- MCPS-57. Resume – [REDACTED]
- MCPS-58. NOT OFFERED
- MCPS-59. NOT OFFERED
- MCPS-60. NOT OFFERED
- MCPS-61. NOT OFFERED

Testimony

The Student presented the following witnesses:

- The Father
- [REDACTED], [REDACTED], expert in special education
- [REDACTED], Ph.D., psychologist, expert in clinical psychology

MCPS presented the following witnesses:

- [REDACTED], MCPS, Instructional Specialist, expert in special education
- [REDACTED], MCPS, Transition Teacher, [REDACTED] High School, expert in special education and transitioning students with disabilities with a focus on autism
- [REDACTED], MCPS, currently at [REDACTED] High School, expert in special education
- [REDACTED], MCPS, expert in special education with an emphasis on teaching students on the autism spectrum
- [REDACTED], MCPS, expert in special education in the placement of students with disabilities

FINDINGS OF FACT

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

1. The Student was born in [REDACTED] 2001 and was several weeks shy of his eighteenth birthday at the time of the August 2019 hearing.
2. The Student lives with the Parents and a younger sister.
3. The Student has an autism spectrum disorder.
4. At all relevant times, the Parents had enrolled Student with the MCPS, where he is eligible for and has received special education and related services under the IDEA.

Accordingly, he has an IEP.

5. On or about August 26, 2016, an IEP team decided the Student should progress toward a Maryland Certificate of Program Completion (certificate) rather than a diploma for the

2016/2017 school year.^{4, 5} The Parents were not in agreement with the team's decision, but they did not challenge it at a due process hearing. The MCPS implemented the Student's IEP at [REDACTED] High School ([REDACTED]) in its [REDACTED] program ([REDACTED]).

6. A certificate program includes some academics but primarily focuses on the acquisition of life skills that prepare a student for life after school. Earning a certificate does not require passage of academic courses, proficiency in any subject, or passage on the statewide assessments. A student may receive a certificate at the conclusion of his high school experience.

7. The Student did well at the [REDACTED] he received As in his courses. The Parents believed he was not sufficiently challenged and the work was easy for him. They wanted him to pursue a diploma.

8. Effective July 1, 2017, Maryland law gave parents of students with disabilities the right to refuse their child's assignment to a certificate program. Where parents offer a written objection to a certificate program, a local education agency, like MCPS, may challenge the parents' objection by pursuing due process as provided under the IDEA; at a due process hearing, the administrative law judge would rule whether the student should pursue a certificate or a diploma. If the parents do not express disagreement, the local education agency may place the student in a certificate program. If the parents object to a certificate program and the local education agency does not pursue due process, the student shall pursue a diploma.

9. The Parents exercised their rights under the new law and objected to the Student's continued placement in a certificate program. On August 8, 2017, the Mother withdrew the Student from [REDACTED].

⁴ Some official MCPS documents refer to an "alternative education program." For purposes of this Decision, an alternative education program means a certificate program.

⁵ The Student's school experience before 2016/2017 is of no consequence to this Decision.

10. On August 9, 2017, an IEP team proposed that the Student pursue a certificate and the alternative education assessment aligned with the MSDE's alternative curriculum. In accordance with the new law, the MCPS gave the Parents fifteen days to provide written consent or refusal. The Father signed a written refusal that day.

11. On August 10, 2017, the MCPS issued Prior Written Notice to the Parents that it had recommended the Student's placement in a certificate program and the Parents had declined.

12. On August 17, 2017, the Mother authorized the Student's enrollment at [REDACTED] High School ([REDACTED]) where he would pursue a diploma

13. For the 2017/2018 school year, an MCPS IEP team developed and agreed on an IEP that was geared toward the Student receiving a diploma. As with all IEP meetings for the Student, one or both of the Parents participated. The MCPS recommended to the Parents moving the Student to a certificate program because MCPS personnel believed the Student lacks higher level thinking that is necessary to achieve a diploma and he would be better served by focusing on life skills to benefit him after high school. The Parents did not relent.

14. The MCPS implemented the Student's IEP in the 2017/2018 school year at [REDACTED] in the [REDACTED] program ([REDACTED]).

15. At the [REDACTED] the Student received some instruction in fundamental life skills while he pursued academics in the general education curriculum. Had he been in a certificate program, he would have spent more time learning life skills and would have pursued some academics.

16. On October 20, 2017, an IEP team proposed that the Student pursue a certificate and the alternative education assessment aligned with the MSDE's alternative curriculum. In accordance with the new law, the MCPS gave the Parents fifteen days to provide written consent or refusal. The Father signed a written refusal that day.

17. The Student made minimal progress in the 2017/2018 school year. He did not master any academic goals on his IEP.

18. In July 2018, an IEP team met to consider the Student's IEP for the 2018/2019 school year. An MCPS IEP team developed and agreed on an IEP that was geared toward the Student receiving a diploma. As with all IEP meetings for the Student, one or both of the Parents participated. The MCPS recommended to the Parents moving the Student to the [REDACTED] certificate program at [REDACTED] because MCPS personnel believed the Student lacks higher level thinking that is necessary to achieve a diploma and he would be better served by focusing on life skills to benefit him after high school. The Parents did not relent.

19. On October 25, 2018, the MCPS filed a request for mediation to consider whether the Student should pursue a certificate. The Parents declined to participate in mediation. The MCPS did not request a due process hearing.

20. On October 26, 2018, the Parents filed a due process complaint requesting that the MCPS develop an education program suitable to the Student's needs. The parties reached a settlement in which the Student would submit to an independent educational evaluation (IEE) at public expense.

21. The MCPS retained Dr. [REDACTED], Licensed Psychologist, to perform the IEE to assess the Student's cognitive abilities.⁶ The Parents did not participate in the MCPS' decision retain Dr. [REDACTED]. Dr. [REDACTED] performed an IEE on December 14, 2018, and issued her report five days later. Dr. [REDACTED] recommended that an appropriate placement for the Student was one that would address his academic, behavioral, social, and adaptive functioning needs, such as [REDACTED] School [REDACTED]) or [REDACTED] School [REDACTED]), both nonpublic schools.

⁶ Dr. [REDACTED] performed an IEE at public expense on August 9, 2016.

22. On January 8, 2019, an IEP team met to consider Dr. [REDACTED]'s IEE results and recommendation. The Parents requested nonpublic placement; the MCPS refused. The Parents filed a due process complaint. The parties settled for a referral to the Central IEP (CIEP) team, which would consider a more intensive program than the Student was receiving at the [REDACTED]. The CIEP team rejected the Parents' request for nonpublic placement.

23. On January 28, 2019, the MCPS issued written notice to the Parents that it had reviewed Dr. [REDACTED]'s report. The MCPS again proposed that the Student pursue a certificate. The Parents declined.

24. The MCPS implemented the Student's IEP in the 2018/2019 school year at [REDACTED] at [REDACTED]. The Student made minimal progress. The Student made minimal progress in the 2017/2018 school year. He did not master any academic goals on his IEP.

25. On April 17, 2019, the MCPS issued Prior Written Notice to the Parents that it had denied the Parents' request for a referral to nonpublic placement; it had previously determined the Student should receive FAPE in an alternative learning framework (*i.e.*, a certificate program) and participation in alternative assessments; and the Student could make meaningful progress in the [REDACTED].

26. On April 11, 2019, the MCPS convened a Central IEP team meeting to consider the Students' future education program. The Parents, one or both of whom were present, requested nonpublic placement at [REDACTED], in its [REDACTED] program, or [REDACTED]. The team could not reach consensus. Mr. [REDACTED], as the IEP chair, decided to return the Student to the [REDACTED] where, as the Parents wanted, he would pursue a diploma.⁷

⁷ The parties agree that an IEP decision is not based on a majority vote of team members. When the team could not reach consensus, Mr. [REDACTED] exercised his authority to make a final decision.

27. On April 17, 2019, the MCPS issued Prior Written Notice to the Parents that it had previously recommended the Student's placement in a certificate program and the Parents had declined, thus prompting the MCPS to propose implementing the Student's IEP in the [REDACTED] at [REDACTED]

28. To graduate from a Maryland high school, students must earn twenty-two credits, including certain required courses (*e.g.*, Algebra I, Geometry, four credits in English, biology and additional science, U.S. history, world history, and U.S., state, and local government); pass State assessments⁸ in mathematics, English, science, and government, or receive a certain cumulative total score on the assessments, or receive a waiver of the assessment requirement, or participate in the Bridge Plan for Academic Validation in lieu of a passing score on an assessment; and complete service hours.

29. As of the end of the 2018/2019 school year, the Student had a total of about seven credits, only three and one-half of which were for mandatory courses.

30. The Bridge Plan for Academic Validation allows students who cannot pass a state-wide assessment for graduation to complete a project on the subject to "bridge" the gap to graduation requirements. Before a student may begin a bridge project, the student must first receive a passing grade in the pre-requisite course for an assessment (*i.e.*, Government, English, Algebra and Science), and fail the corresponding assessment. The Student must then try to pass the assessment a second time. Bridge projects are challenging. A bridge project may take as much as forty-five clock hours to complete. If, for example, the student's assessment score is 720 out of 725, the student will do a small project; the lower the score, the bigger the bridge project. The MCPS has granted 12,000 bridge plans, including several hundred at [REDACTED]

⁸ State assessments generally mean the Partnership for Assessment of Readiness for College and Careers (PARCC) or other assessments the MSDE has approved. I gather that the type of statewide assessments change periodically as the parties would often refer to them as the PARCC or other assessments. I, too, mean whatever assessments the MSDE requires for the Student's high school term.

31. [REDACTED], the Parents' educational consultant, mentioned the possibility of the Student completing a bridge project to the MCPS when the Student attended [REDACTED]. The MCPS did not subsequently mention a bridge project to the Parents because the Student had not taken (and failed) any of the assessments or passed the prerequisite courses. The Student is slated to take the science assessment in 2020. The Student has twice failed English Language Arts 10 and has not taken the corresponding assessment.

32. When a student is on a diploma track, the MCPS can modify the manner in which the Student is instructed in the general education curriculum; the MCPS is not permitted to modify the curriculum itself.

33. The MCPS has not sought an administrative law judge's order on whether the Student should pursue a certificate because the MCPS did not want to force the decision on the Parents.

DISCUSSION

This case comes before the OAH in a most unusual posture. For the 2016/2017 school year, an IEP team determined the Student should pursue a certificate of completion rather than a diploma. The Parents disagreed with the team's decision but did not challenge it at a hearing, as it had the right to do. Thus, for that year, the Student pursued a certificate.

Effective July 1, 2017, however, Maryland law gave parents greater control over decisions about whether their children would pursue a certificate or a diploma. Educ. Article § 8-405(f) (2018).⁹ Under the new law, "an individualized education program team shall obtain written consent from a parent if the team proposes to ...[e]nroll the child in an alternative education program that does not issue or provide credits toward a Maryland high school diploma." *Id.* 8-405(f)(1)(i). If the parent does not consent, the local education agency, such as the MCPS,

⁹ See Laws of Md. 2017 ch. 727 § 1, effective July 1, 2017.

may request due process as provided by section 8-413. Due process includes a hearing and mediation. *Id.* 8-413(b) and (c); *see also* 34 C.F.R. § 300.506 and 511. With the advent of the new law, the Parents notified the MCPS that they wanted the Student to pursue a diploma. The MCPS disagreed with that decision and, on October 25, 2018, requested mediation. The next day, the Parents requested a hearing to consider whether the MCPS had denied the Student a FAPE. The parties settled their dispute with an agreement for an IEE. The MCPS did not pursue due process again. Accordingly, the Student would pursue a diploma as the Parents had requested.

An IEP team decided to implement the Student's diploma-gearred IEPs at the [REDACTED] at [REDACTED] for the 2017/2018 and 2018/2019 school years. At every IEP meeting, MCPS personnel recommended to the Parents moving the Student to a certificate; the Parents declined. The MCPS did not pursue a hearing to secure an order from an administrative law judge to move the Student to a certificate program because the MCPS wanted to work with the family and not force a decision on them.

The Parents became disenchanted with the Student's progress at the [REDACTED]. The Student had not mastered any academic goals on his IEP, although he had made some progress. The Parents filed the Due Process Complaint at issue here on the basis the MCPS has denied the Student a FAPE and they requested that the MCPS fund the Student's nonpublic placement. They propose either [REDACTED] or [REDACTED]. The MCPS asserts that it has provided FAPE and it can implement the Student's diploma-track IEP at [REDACTED] in the [REDACTED]. At the same time, the MCPS asserts that the Student is not capable of earning diploma because he lacks the capacity for higher level learning and he therefore will not earn a diploma in the [REDACTED]. In fact, the MCPS asserts that no education program, public or nonpublic, will enable the Student to earn a diploma. The MCPS further asserts that the IEP as implemented at [REDACTED] is nevertheless appropriate because it is reasonably calculated to enable the Student to make educational

progress given his circumstances – that is, the Parents’ decision that he will pursue diploma. In short, the MCPS asserts it is doing the best it can under the circumstances.

The MCPS’ witnesses were questioned at the hearing about whether the MCPS should permit the Student to at least try to earn a diploma in a nonpublic setting and if he is not successful, he would receive a certificate at the end of his high school experience. The witnesses testified the decision to pursue a diploma for now is not a benign choice; rather, it is harmful for the Student to spend time pursuing a diploma because it takes time away from life skills instruction (*e.g.*, learning to use public transportation, understanding what to do if the bus does not arrive or he gets off at the wrong stop, filling out a job application, attending a job interview). The Student currently receives some life skills training, although he primarily focuses on academics. A certificate program would include academics, although not as much as in a diploma program. The MCPS asserts that time is of the essence for the Student to acquire life skills because the Student has only a maximum of four more years in high school.

The Parents are unpersuaded by the MCPS’ concern that the Student is incapable of earning a diploma or that pursuing a diploma is harmful to the Student. The Parents are not prepared to give up hope that their son will earn a diploma and they remain committed to giving him that opportunity. The Father testified that his entire family and close friends believe the Student should have a chance to earn a diploma, and if it becomes apparent in a nonpublic school that the Student cannot meet that goal, the Father will make the decision to switch him to a certificate program. The Student argues he is capable of earning a diploma with the proper services in a nonpublic school like [REDACTED] or [REDACTED]. Neither school has accepted the Student for enrollment, although the Father testified that [REDACTED] at least remains interested in the Student.

The parties agree that I do not have the authority to override the Parents' decision to have the Student pursue a diploma. I could only make that decision if the MCPS had filed for due process under the new law. Rather, I am only authorized to decide whether the 2019/2020 IEP provides a FAPE. If I find that the MCPS has provided FAPE, the Parents (who understandably cannot afford nonpublic placement on their own) have limited choices. The Student could remain in a diploma program in the [REDACTED] at [REDACTED] with the same IEP that has failed him over the last two years without any reasonable expectation of earning a diploma and at the end of his time in high school, the MCPS would issue him a certificate by virtue of the fact he is ending his high school experience. Or, the Parents can capitulate and allow the MCPS to move him to a certificate program in a public school.¹⁰ The Student steadfastly rejects the MCPS's assertion that he will only achieve success in a certificate program and, as a result, he and the Parents reject the MCPS's best judgment.

Although Section 8-405(f) has no analog in federal law, the IDEA does permit parents some latitude to reject a local education agency's best judgment about the special education services a student needs to receive a FAPE. If a parent does not consent to testing, the local education agency may pursue due process options; "[p]arental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services." 20 U.S.C.A. §1414(a)(1)(D)(i)(I). "An agency that is responsible for making a free appropriate public education available to a child with a disability under this subchapter shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child." 20 U.S.C.A. §1414(a)(1)(D)(i)(II). If a parent does not consent

¹⁰ If the Student remains in a diploma program in a public school, the Student could leave the [REDACTED] and enter general education classes at [REDACTED]. The MCPS asserts that this option would cause even more problems for the Student because he could not handle general education. I do not need to consider whether the Student should enter general education classes and IEP team has not proposed that option.

to an initial evaluation, the local education agency may pursue due process to obtain an order for an evaluation. 20 U.S.C.A. §1414(a)(1)(D)(ii)(I). If, however, a parent refuses to consent to services, the local education agency may not provide special education services to the child and it may not pursue due process. 20 U.S.C.A. §1414(a)(1)(D)(ii)(II). Thus, the Parents have the ultimate right to reject special education services. While the Parents here have not outright rejected special education services, they have rejected the type of services the MCPS has recommended. They have that right, absent the MCPS' successful due process complaint on the issue of whether the Student should pursue a certificate instead of a diploma. With this background in mind, I will discuss the general framework of the IDEA.

Special education is governed by the IDEA. 20 U.S.C.A. § 1400 (2017). The IDEA is intended “to ensure that all children with disabilities have available to them a free appropriate public education [FAPE] that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” *Id.* § 1400(d)(1)(A); *see also* Educ. § 8-403 (2018). The IDEA defines FAPE as special education and related services that:

- (A) have been provided at public expense, under public supervision and direction, and without charge;
- (B) meet the standards of the State educational agency;
- (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (D) are provided in conformity with the individualized education program required under section 1414(d) of this title.

20 U.S.C.A. § 1401(9) (2017); *see also* Educ. § 8-401(a)(3).

The United States Supreme Court was first called upon to interpret what Congress meant by FAPE in *Bd. of Educ. of the Hendrick Hudson Central School Dist. v. Rowley*, 458 U.S. 176 (1982). In *Rowley*, the Court held that “if personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction, and the other

items on the definitional checklist are satisfied, the child is receiving a ‘free appropriate public education’ as defined by the Act.” *Id.* at 189. The Court explicitly rejected the petitioner’s argument that the IDEA requires the provision of services “sufficient to maximize each child’s potential commensurate with the opportunity provided other children.” *Id.* at 198 (internal quotation marks omitted). Instead, the Court concluded that the “‘basic floor of opportunity’ provided by the Act consists of access to specialized instruction and related services which are individually designed to provide educational benefit to the . . . child.” *Id.* at 201 (footnote omitted). The Court did not seek to define educational benefit, but held that an IEP “should be reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.” *Id.* at 203-04 (footnote omitted).

The Supreme Court most recently refined the meaning of FAPE in *Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988 (2017), where it held that for an educational agency to meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a student to make progress appropriate in light of the student’s circumstances. The United States Court of Appeals for the Fourth Circuit recently reexamined its precedent to bring it in line with the standard announced by the U.S. Supreme Court in *Endrew F.* See *R.F. v. Cecil Cty. Pub. Sch.*, 919 F.3d 237 (4th Cir. 2019). Even so, 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). Further, the IDEA does not require the “furnishing of every special service necessary to maximize each handicapped child’s potential.” *Hartmann*, 118 F.3d at 1001.

The IEP is the mechanism by which FAPE is achieved. After a local educational agency has evaluated a child and determined that the child has a disability and is eligible for services

under the IDEA, the local educational agency is required to have in place an IEP. The IEP must take into account:

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

20 U.S.C.A. § 1414(d)(3)(A) (2017). The IDEA defines an IEP, in part, as “a statement of measurable annual goals, including academic and functional goals, designed to . . . meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum . . . and . . . meet each of the other educational needs that result from the child’s disability.” 20 U.S.C.A. § 1414(d)(1)(A)(i)(II); *see also* 34 C.F.R. § 300.320(a)(2)(i) (“IEP . . . must include . . . [a] statement of measurable annual goals, including academic and functional goals.”). Among other things, the IEP depicts a student’s current educational performance, explains how the student’s disability affects the student’s involvement and progress in the general curriculum, sets forth annual goals and short-term objectives for improvements in that performance, describes the specifically-designed instruction and services that will assist the student in meeting those objectives, describes program modifications and supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals, and indicates the extent to which the child will be able to participate in regular educational programs. *Id.* § 1414(d)(1)(A)(i)(I)-(V); COMAR 13A.05.01.09A.

IEP teams must consider the student’s evolving needs when developing their educational programs. The student’s IEP must include “[a] statement of the child’s present levels of academic achievement and functional performance, including . . . [h]ow the child’s disability affects the child’s involvement and progress in the general education curriculum (*i.e.*, the same

curriculum as for children without nondisabled children)” 34 C.F.R. § 300.320(a)(1)(i) (2018). If a student’s behavior impedes his or her learning or that of others, the IEP team must consider, if appropriate, the use of positive behavioral interventions, strategies and supports to address that behavior. *Id.* § 300.324(a)(2)(i). 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) (2017).

At the beginning of each school year, each local educational agency is required to have in effect an IEP for each child with a disability in the agency’s jurisdiction. *Id.* § 1414(d)(2)(A). At least annually, the IEP team is required to review a child’s IEP to determine whether the goals are being met. *Id.* § 1414(d)(4)(A)(i) 34 C.F.R. § 300.324(b)(1).

The development of an IEP is a prospective process. *See Andrew F.*, 137 S. Ct. at 999. The test of the appropriateness of the IEP is *ex ante* and not *post hoc*. *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. While outcomes may shed some light on appropriateness, the proper question is whether the IEP was objectively reasonable at the time it was drafted.” (Citation omitted)). Thus, a judge in a due process hearing must look to what the IEP team knew when it developed the IEP, and whether that IEP, as designed, was reasonably calculated to enable the child to receive educational benefit. An IEP is essentially a “snapshot” in time and “cannot be judged exclusively in hindsight.” *See K.E. v. Indep. Sch. Dist. No. 15*, 647 F.3d. 795, 818 (8th Cir. 2011); *Roland M. v.*

Concord Sch. Comm., 910 F.2d 983, 992 (1st Cir. 1990). However, evidence of actual progress during the period of an IEP may also be a factor in determining whether a challenged IEP was reasonably calculated to confer educational benefit. *M.S. ex rel. Simchick v. Fairfax Cty. Sch. Bd.*, 553 F.3d 315, 327 (4th Cir. 2009); *see also M.M. v. Sch. Dist. of Greenville Cty.*, 303 F.3d 523, 532 (4th Cir. 2002). The Supreme Court in *Rowley* similarly observed that a student's achievement of passing marks and advancement from grade to grade is an important factor in determining if a student received educational benefit. *Rowley*, 458 U.S. at 207 n.28.

To the maximum extent appropriate, school districts must educate children with disabilities with their non-disabled peers. *Id.* § 1412(a)(5); *see also* COMAR 13A.05.01.10. This requirement is referred to as “least restrictive environment.” 20 U.S.C.A. § 1412(a)(5) (2017). The IDEA mandates that “removal of children with disabilities from the regular educational environment [shall occur] only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” *Id.* § 1412(a)(5)(A). A local education agency (like the MCPS) “must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.” 34 C.F.R. § 300.115(a) (2018). The continuum shall include alternative placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. *Id.* § 300.115(b)(1). The continuum must also allow for “supplementary services . . . to be provided in conjunction with regular class placement.” *Id.* § 300.115(b)(2).

If a student does not receive the special education and related services required under his/her IEP, the IDEA furnishes a broad grant of authority to fashion an appropriate remedy for a failure to provide a FAPE that is flexible and uniquely tailored to the facts of the case. This remains true even if the student is an adult or otherwise no longer attends public school, or when

the parents do not object to the hours of service at the time of the IEP's proposal or implementation. *See Sch. Comm. of Burlington*, 471 U.S. 359, 369 (1985) (The IDEA grants “broad discretion” to the Court to fashion appropriate grants of relief.); *G. ex rel. R.G. v. Fort Bragg Dependent Sch.*, 343 F.3d 295, 309 (4th Cir. 2003) (holding that a grant of compensatory education is proper in the Fourth Circuit; reviewing with approval opinions from sister circuits granting compensatory education to students who are adults or are no longer in public schools; and distinguishing its precedent in “*Combs [v. Sch. Bd. of Rockingham Cty.]*, 15 F.3d 357, 363 (4th Cir. 1994), which] referred only to liability of the school district where its actions were in compliance with the IDEA, and is inapplicable here”); *Lopez–Young v. District of Columbia*, 211 F. Supp. 3d 42, 57 (D.D.C. 2016) (“[An administrative adjudicator] has broad discretion to fashion a remedy where he finds that a school district has denied a child a FAPE. Sitting in equity, [an administrative adjudicator’s] authority is flexible and case-specific.” (Citations omitted)).

In an administrative hearing challenging whether a local education agency has provided FAPE, the burden of proof is on the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49 (2005). For the reasons that follow, I find the Student has met his burden of proof.

In reaching a decision that the Student was denied FAPE, I “afford great deference to the judgment of education professionals.” *O.S. v. Fairfax Cty. Sch. Bd.*, 804 F.3d 354, 360 (4th Cir. 2015) (quoting *E.L. ex rel. Lorsson v. Chapel Hill-Carrboro Bd. of Educ.*, 773 F.3d 509, 517 (4th Cir. 2014)). Indeed, judges should not substitute their 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, I “should be reluctant . . . to second-guess the judgment of education professionals.” *Tice ex rel. Tice v. Botetourt Cty. Sch. Bd.*, 908 F.2d 1200, 1207 (4th Cir. 1990). Rather, I 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 ex rel. Hartmann v. Loudoun Cty. Bd. of Educ.*, 118 F.3d 996, 1001 (4th Cir. 1997). That said, I 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. Also, I must be careful to avoid imposing my view of preferable educational methods upon a school district. *Rowley*, 458 U.S. at 207; *see also A.B. v. Lawson*, 354 F.3d 315, 325 (4th Cir. 2004).

The deference I owe to educators is reflected in the MCPS’ letter opposing Senate Bill 710, in pertinent part as follows:

Senate Bill 710 requires [the MCPS] to obtain parent/guardian permission any time in which MCPS determines it is appropriate for a student to be enrolled in an alternative education program that does not issue or provide credits towards a Maryland high school diploma. This proposed legislation does not account for students with significant cognitive disabilities who may not be able to meet the graduation requires, as reflected in COMAR 13A.03.02.09(E)(4). Furthermore, the proposed legislation does not address whether or not the student automatically qualifies for a Certificate of Completion in the event that the parent/guardian refuses to provide consent to an alternative education program and the student does not meet the high school graduation requirements.

As of January 4, 2017, MCPS has 1,657 students identified as working toward a Certificate of Completion. Without the benefit of having trained school staff members who have the skill, knowledge, and expertise in special education participate in the decision that these programs are appropriate for MCPS student’s unique strengths and needs, their ability to obtain skills to be life-long learners and to live independently may be negatively impacted.

Ltr. from MCPS to Patricia Swanson, Legislative Aid to the Md. General Assembly (March 8, 2017).

The MCPS abdicated its entitlement to deference when it decided not to challenge the Parents on their decision to have the Student pursue a diploma. The MCPS did not want to force

the decision on the Parents which, on the one hand, is understandable given that the MCPS and the Parents must work together through the conclusion of the Student's high school experience. On the other hand, the MCPS did not do the Student any favors, as evidenced by their current dispute and the passage of time when he would be pursuing a certificate if the MCPS prevailed at due process. Indeed, the MCPS reiterated how time is of the essence for the Student who is now eighteen years old. *Andrew F.* speaks to an IEP that addresses *a student's circumstances*, not their parents' circumstances. The MCPS owed the Student the skill, knowledge and expertise about which it spoke in the letter. The MCPS should have exercised its right to a hearing to challenge the Parents' diploma decision for the benefit of the Student and not capitulated for the benefit of the Parents because it wanted to keep the peace, however well intended that decision. I do not question the sincerity and expertise of MCPS staff. They want what is best for the Student. They should have pursued their best judgment. The Student acknowledges the MCPS' expertise, the care its staff shows, and high quality of programming at the [REDACTED]

Here, we have the benefit of hindsight to help determine whether the IEP meets the mandates of *Andrew F.* The Student did not master the academic goals on his IEPs during his time at the [REDACTED] [REDACTED]. The IEPs were not appropriate to *the Student's circumstances* where the MCPS believes he cannot possibly earn a diploma and he has not made any meaningful progress in that direction. Again, this is the dilemma the MCPS finds itself in by not having challenged the Parents' certificate decision.

The MCPS notes, and the Student agrees, that the Student did make some progress under those goals. In the MCPS' April 17, 2019 Prior Written Notice, the MCPS concluded that while it had recommended a certificate program, since the Parents rejected that, the Student could make "meaningful progress" in the [REDACTED]. MCPS' witnesses did not say the Student could make meaningful progress in the [REDACTED]. It is disingenuous for the MCPS to say the Student can make

meaningful progress when he has not met the goals on his [REDACTED] IEPs and MCPS does not believe the Student can earn a diploma. The mere fact the Student has not met his goals is highly indicative that he has made only minimal progress. “The IDEA demands more” than “an educational program providing merely more than *de minimis* progress from year to year.” *Andrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, 999, 1001 (2017) (internal quotation marks omitted). The dilemma, of course, is that the MCPS asserts that the Student has made only minimal progress because he is not capable of earning a diploma. I also understand that the MCPS feels the Parents put them in a box by insisting that the Student pursue a diploma. The MCPS did not elect to pursue a way out of the box, even though it believed the Student was suffering harm from pursuing a diploma.

I accepted evidence at the hearing about the Student’s cognitive ability to earn a diploma. While I appreciate what each expert witness contributed to the topic, I do not find it necessary to resolve their disagreement or comment on the persuasiveness of one expert over another. The Student proved the IEP for the 2019/2020 school year is not designed for his circumstances and, thus, denies him FAPE, at least unless and until the MCPS successfully challenges the Parents’ diploma decision.

As a remedy for the denial of FAPE, the Student requests a referral to [REDACTED] and [REDACTED] and, if he is accepted in a diploma program, funding for the program. Mr. [REDACTED] testified that both schools enjoy an excellent reputation and it is doubtful either school would accept the Student given his limitations. Mr. [REDACTED] added that the MCPS would not make an inappropriate referral. The Father testified [REDACTED] remains interested in the Student. The degree of interest is not expressed in the hearing record. I find, however, the Student is entitled to the referrals and funding if a nonpublic school accepts him for a diploma program.

The MCPS argues that I must find the proposed nonpublic placements appropriate before I grant funding. Indeed, parents may be entitled to *retroactive reimbursement* from the state for tuition and expenses for a child *unilaterally placed in a nonpublic school* if it is later determined that the school system failed to comply with its statutory duties and that the unilateral nonpublic placement provided an appropriate education. *Sch. Comm. of Burlington v. Dep't of Educ.*, 471 U.S. 359, 370 (1985). This is not a unilateral placement. As of the hearing, the Student was enrolled at and expected to attend a public school for the 2019/2020 school year; a nonpublic school has not accepted him for enrollment.

The parties should not construe anything in this decision as requiring the MCPS to fund the Student's nonpublic placement in a certificate program.

Finally, the Student has requested a nonpublic placement. I am not deciding what will happen if a nonpublic placement will not enroll the Student in a diploma program.

CONCLUSIONS OF LAW

I conclude as a matter of law that MCPS denied the Student a free and appropriate public education for the 2019/2020 school year. 20 U.S.C.A. § 1400(d)(1)(A); *Hendrick Hudson Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176 (1982); *Andrew F. v. Douglas City Sch. Dist.*, 137 S. Ct. 988 (2017); 20 U.S.C.A. § 1414(d)(1)(A)(i)(II); 34 C.F.R. § 300.320(a)(2)(i).

ORDER

I **ORDER** that the Montgomery County Public Schools shall refer the Student to the [REDACTED] and [REDACTED] for placement in their diploma program and, if the Student is accepted, the Montgomery County Public Schools shall fund his placement at one of those schools, at the Parents' option.

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

September 27, 2019
Date Decision Issued

Signature Appears on Original
Laurie Bennett
Administrative Law Judge

LB/kdp
181727

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) (2018). 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.

Copies Mailed To:

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

██████████,

STUDENT

v.

MONTGOMERY COUNTY

PUBLIC SCHOOLS

* BEFORE LAURIE BENNETT,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH No.: MSDE-MONT-OT-19-13236

* * * * *

FILE EXHIBIT LIST

I admitted the following exhibits the Parents offered:

I admitted the following exhibits the Parents offered:

- P-1. Request for Due Process, 4/26/2019
- P-2. Observation Report by ██████████, 6/14/2016
- P-3. Comprehensive Psychological Assessment Report by Dr. ██████████, 8/9/2016
- P-4. NOT OFFERED
- P-5. Observation Report by ██████████, 11/16/2016
- P-6. Reactions to Draft MCPS IEP by ██████████, 3/11/2017
- P-7. MCPS Prior Written Notice, 8/10/2017
- P-8. NOT OFFERED
- P-9. Observation Report by ██████████, 11/8/2017
- P-10. MCPS IEP Progress Report on Annual Goals, 11/9/2017
- P-11. MCPS Secondary Teacher Report for Quarterly Progress, 1/18/2018
- P-12. MCPS Secondary Teacher Report for Quarterly Progress, 3/23/2018
- P-13. MCPS Secondary Teacher Report for Quarterly Progress, 5/25/2018
- P-14. Qualitative Reading Inventory Results Summary, October 2017 to June 2018
- P-15. MCPS Educational Assessment Report, 6/18/2018
- P-16. MCPS Speech-Language Re-Assessment, 6/18/2018
- P-17. MCPS Psychological Re-evaluation Report, 7/9/2018
- P-18. MCPS Amended IEP, 7/9/2018
- P-19. NOT OFFERED
- P-20. NOT OFFERED
- P-21. Letters between Michael J. Eig, Esq., Teresa Lucas, and ██████████ Esq., regarding requests for mediation and due process, 10/25/2018 to 10/29/2018
- P-22. NOT OFFERED
- P-23. MCPS IEP Progress Reports, 1/25/2018 to 11/7/2018
- P-24. Letter to Dr. ██████████ from ██████████ Esq., 12/3/2018
- P-25. Psychological Assessment Report by Dr. ██████████, 12/14/2018
- P-26. MCPS IEP Meeting Notes and Team Consideration of External Report, 1/8/2019
- P-27. MCPS IEP, 1/8/2019
- P-28. Letter to Teresa Lucas, OAH, enclosing Request for Due Process, 1/16/2019

- P-29. Email to ██████████ Esq., regarding IEP feedback, 1/23/2019
- P-30. MCPS Secondary Teacher Reports, January 2019
- P-31. MCPS Prior Written Notice, 1/28/2019
- P-32. NOT OFFERED
- P-33. Letter to Teresa Lucas, OAH, withdrawing the Request for Due Process, 2/26/2019
- P-34. NOT OFFERED
- P-35. MCPS IEP Progress Report on Goals, 4/3/2019
- P-36. MCPS Interim Progress Report, 4/4/2019
- P-37. MCPS Amended IEP, 4/11/2019
- P-38. MCPS Prior Written Notice, 4/17/2019
- P-39. Letter from ██████████ regarding Student, Summer 2019
- P-40. Resume of ██████████
- P-41. Resume of Dr. ██████████
- P-42. Letters of recommendation and support for Student, June to August 2019
- P-43. MCPS IEP Progress Report on Goals, 1/25/2019 to 8/2/2019 and
- P-44. MCPS Report Card from 2016/2017 School Year

I admitted the following documents for the MCPS:

- MCPS-1. Alternate Assessments Eligibility Decision Form, August 2016
- MCPS-2. IEP, 4/27/2017 with 6/8/2017 Amendment pages
- MCPS-3. Withdrawal from ██████████ High School, 8/8/2017; New Student Information for ██████████ High School Enrollment, 8/17/2017
- MCPS-4. Alternative Education Consent Form, 9/30/2017
- MCPS-5. Alternative Education Consent Form, 10/20/2017
- MCPS-6. Five Day Advance Documents for 11/20/2017 IEP meeting—Secondary Transition High School Interview, 11/1/2017; Report Card, 11/10/2017
- MCPS-7. IEP Team Meeting Report and Documents/Prior Written Notice, for 11/20/2017 IEP meeting
- MCPS-8. IEP Amendment Changes, 11/20/2017
- MCPS-9. IEP Team Meeting Report and Documents/Prior Written Notice, for 4/11/2018 IEP meeting; Notice and Consent for Assessment, 4/11/2018
- MCPS-10. Team Meeting Report and Documents/Prior Written Notice, 7/9/2018; Alternative Education Consent Form, 7/9/2018
- MCPS-11. Amended IEP, 7/9/2018 with Meeting Notes and Decisions (MC 11.33-11.34)
- MCPS-12. MCPS Request for Mediation, 10/25/2018
- MCPS-13. IEP Team Meeting Report and Documents/Prior Written Notice, for 1/8/2019 IEP meeting
- MCPS-14. Psychological Assessment Report, Dr. ██████████ 12/14/2018
- MCPS-15. Team Consideration of External Psychological Report, 1/8/2019
- MCPS-16. Alternate Assessments Eligibility Decision Form, January 2019
- MCPS-17. NOT OFFERED
- MCPS-18. Central IEP (CEIP) Referral Form, 2/22/2019
- MCPS-19. Emails between MCPS and Parents' Counsel re: CIEP scheduling, 3/12/2019-4/3/2019

- MCPS-20. NOT OFFERED
- MCPS-21. MCPS Educational Assessment Report, 6/18/2018
- MCPS-22. MCPS Psychological Assessment Report, 7/9/2018
- MCPS-23. MCPS Speech-Language Assessment Report, 6/18/2018
- MCPS-24. MCPS Educational Assessment Report, 11/11/2015
- MCPS-25. MCPS Psychological Assessment Report, 10/24/2015
- MCPS-26. MCPS Psychological Assessment Report, 11/17/2015
- MCPS-27. Autism Resources Services Diploma 4-year and 5-year plan
- MCPS-28. MCPS Graduation Requirements for Diploma
- MCPS-29. PARCC Algebra I Test Booklet Practice Test
- MCPS-30. PARCC English Language Arts/ Literacy Test Booklet Practice Test
- MCPS-31. ██████ Government Assessment Practice Test
- MCPS-32. ██████ Integrated Science Assessment Practice Test
- MCPS-33. Student Transcript
- MCPS-34. MAP Scores, 2017-2018, 2018-2019; Evidence of Learning Data; Reading Student Status Norms Chart
- MCPS-35. Curriculum 2.0 Algebra I Standards with Student's Algebra I Work Samples
- MCPS-36. Curriculum Science Standards with Student's Science Work Samples
- MCPS-37. Curriculum English 9A Writing and Language Standards with Student's Work Samples
- MCPS-38. Curriculum Grade 9 U. S. History and Common Core Social Studies Standards with Student's Work Samples
- MCPS-39. Qualitative Reading Inventory, 2017-2018 school year
- MCPS-40. Teacher Reports, 2016-2017 School Year, ██████ Program
- MCPS-41. Progress Reports, 2016-2017 School Year, ██████ Program
- MCPS-42. Student's Work Samples, 2016-2017 School Year, ██████ Program
- MCPS-43. Secondary Transition High School Interview, 10/17/2016, ██████ Program
- MCPS-44. Teacher Reports, 1/3/2019, ██████ Program
- MCPS-45. NOT OFFERED
- MCPS-46. Progress Reports, 2018-2019 School Year, ██████ Program
- MCPS-47. MSDE Complaint Letter of Findings, 1/12/2017
- MCPS-48. Transition Authorization of Release of Information to DDA/SMRO, 8/23/2018
- MCPS-49. MCPS-49 Transition Developmental Disabilities Administration Application for Eligibility, 8/23/2018
- MCPS-50. Secondary Transition High School Interview, 11/1/2017, 10/18/2018
- MCPS-51. Student's In-School Work Tasks, ██████ High School
- MCPS-52. Resume – ██████
- MCPS-53. Resume – ██████
- MCPS-54. Resume – ██████
- MCPS-55. NOT OFFERED
- MCPS-56. Resume – ██████
- MCPS-57. Resume – ██████
- MCPS-58. NOT OFFERED
- MCPS-59. NOT OFFERED
- MCPS-60. NOT OFFERED
- MCPS-61. NOT OFFERED