

Under the Individuals with Disabilities Education Act (IDEA) and applicable Maryland State law, the Parent is seeking to continue the Student's placement at [REDACTED] School ([REDACTED]), a Public Separate Day School (PSDS), which the Student has attended since 2017. 20 U.S.C.A. § 1415(f)(1)(A) (2017);³ 34 C.F.R. § 300.511(a) (2022);⁴ Md. Code Ann., Educ. § 8-413(d)(1) (Supp. 2023);⁵ Code of Maryland Regulations (COMAR) 13A.05.01.15C(1).

On October 23, 2023, the parties attended mediation, but were unsuccessful and the matter proceeded to the prehearing conference (Conference). On October 23, 2023, I conducted the Conference via the Webex teleconferencing system (Webex). COMAR 28.02.01.20B. The Parent participated by video on behalf of the Student and was self-represented. Pamela Foresman, Esquire, represented the BCPS and participated by video.

The hearing was scheduled for two days. It was convened on Monday, November 20, 2023. It concluded on the second day, Tuesday, November 21, 2023. The Parent was self-represented. Ms. Foresman represented the BCPS. At the commencement of the hearing, the Parent requested a postponement of the hearing (Request). Ms. Foresman, who appeared with multiple witnesses and was ready to proceed, opposed the Request. For reasons that will be set forth herein, I denied the Request and the hearing proceeded.

The forty-five-day timeline for issuing a decision ordinarily begins to run at the end of a thirty-day resolution period triggered by the filing of a due process complaint. 34 C.F.R. § 300.510(b)(2). In this case, the due process complaint was not resolved to the satisfaction of

³ "U.S.C.A." is an abbreviation for the United States Code Annotated. Unless otherwise noted, all citations herein to the U.S.C.A. are to the 2017 bound volume.

⁴ "C.F.R." is an abbreviation for the Code of Federal Regulations. Unless otherwise noted, all citations herein to the C.F.R. are to the 2022 bound volume.

⁵ Unless otherwise noted, all citations herein to the Education Article are to the 2022 Replacement Volume of the Maryland Annotated Code.

the Parent within the 30 days following the receipt of the Parent's due process complaint,⁶ allowing the hearing to proceed. 34 C.F.R. § 300.510(b). Under the regulatory timeline, the decision in this case normally would be due on Monday, November 6, 2023, which is forty-five days after the end of the resolution period. 34 C.F.R. §§ 300.510(b)(1), 300.515(a).

Although the Parent filed the Complaint on August 23, 2023, the Conference and mediation were scheduled for October 23, 2023. At the Conference, I ordered the parties to name their witnesses and experts, provide *curricula vitae* of experts and evaluations, and exchange exhibits five business days before the hearing. Neither party objected that they could not comply with this order. The parties agreed that two days were necessary for the hearing, one day for each side. The Parent stated that the only day of each week she had available was Monday due to work obligations, and the Parent requested that the hearing be conducted on consecutive days, meaning a Monday and a Tuesday, to accommodate her work schedule and reduce her need to take leave from employment. The only Monday and Tuesday after October 23, 2023 that would have accommodated the Parent's scheduling constraints and allowed the hearing to conclude prior to the expiration of the 45-day timeframe fell on October 30, 2023 and October 31, 2023. However, this would not allow sufficient time for required disclosures within five business days of the hearing.⁷ Such disclosures would have been required at the Conference. Due to my hearing and leave schedule, I was unavailable the next two Mondays and Tuesdays, November 6 and 7, 2023, and November 13 and 14, 2023. The next consecutive Monday and Tuesday fell on Monday, November 20, 2023 and Tuesday, November 21, 2023. Those dates were available on my calendar and the parties agreed that the hearing would occur on those dates.

⁶ The resolution period expired on September 22, 2023, which is 30 days after August 23, 2023.

⁷ 34 C.F.R. § 300.512(a)(3).

Accordingly, the hearing was anticipated to end on November 21, 2023, which was fifteen days after the end of the forty-five-day decision period. The parties jointly requested that I extend the timeline to allow the case to be heard on the selected dates and to allow sufficient time for me to consider the evidence, evaluate legal arguments, and issue a decision. *Id.* § 300.515(c). The parties requested that I issue a decision not more than thirty days after the conclusion of the hearing. 34 C.F.R. §§ 300.510(b)(2), (c), 300.515(a); Educ. § 8-413(h); COMAR 13A.05.01.15C(14). I granted that request. I am therefore issuing this decision within thirty days of the last actual day of the hearing, which was November 21, 2023, or by December 21, 2023.

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. Educ. § 8-413(e)(1); Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2023); COMAR 13A.05.01.15C; COMAR 28.02.01.

ISSUE⁸

Whether the challenged action by the BCPS failed to meet the requirements of the law, and specifically,

1. Whether the Student's change of educational placement to the [REDACTED] Program at [REDACTED] [REDACTED] High School, from the [REDACTED] School, is an appropriate placement for the Student for the 2023-2024 school year.⁹

⁸ The statement of the issue was developed in conjunction with the parties during the Conference.

⁹ In the due process complaint, the Parent identified a second issue involving possible modification of the Student's IEP to allow him to attend extra-curricular activities at his home school and participate in the [REDACTED] program at [REDACTED] High School for community activities only. At the Mediation, the Parent withdrew this second issue and agreed that only the single issue identified here was to be determined.

SUMMARY OF THE EVIDENCE

Exhibits

No exhibits were offered by the Parent.

I admitted the following exhibits on behalf of the BCPS:

BCPS Ex. 1 – Speech and Language Assessment, April 21, 2023

BCPS Ex. 2 – IEP Team Summary (“PWN”¹⁰), June 10, 2021

BCPS Ex. 3 – PWN, July 29, 2021

BCPS Ex. 4 – PWN, February 14, 2022

BCPS Ex. 5 – PWN, April 5, 2022

BCPS Ex. 6 – PWN, May 16, 2022

BCPS Ex. 7 – IEP, May 16, 2022

BCPS Ex. 8 – Email from the Parent to [REDACTED], September 21, 2022

BCPS Ex. 9 – Email from the Parent to [REDACTED], February 7, 2022

BCPS Ex. 10 – Certificate Program Student Interest Sheet, February 15, 2023

BCPS Ex. 11 – PWN, April 18, 2023

BCPS Ex. 12 – PWN, May 17, 2023

BCPS Ex. 13 – IEP, May 17, 2023

BCPS Ex. 14a - *Curriculum Vitae* of [REDACTED]

BCPS Ex. 14b – *Curriculum Vitae* of [REDACTED]

BCPS Ex. 14c - *Curriculum Vitae* of [REDACTED]

¹⁰ “PWN” is an abbreviation for Prior Written Notice.

Testimony

The Parent testified and called no other witnesses.

The BCPS presented the testimony of the following witnesses:

- [REDACTED], IEP Facilitator, who was accepted as an expert in Special Education and School Administration;
- [REDACTED], Special Educator, who was accepted as an expert in Special Education.

FINDINGS OF FACT

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

1. The Student is currently seventeen years of age.
2. The Student lives with the Parent.
3. The Student and Parent are residents of Baltimore County, Maryland
4. The Student's primary disability is intellectual.
5. The Student is presently in the twelfth grade.
6. The Student is presently on a certificate program completion track.
7. The primary areas affected by the Student's disability are academic (reading, mathematics), communication, self-management (e.g. executive functioning, organization, attention, social/emotional behaviors, social interaction skills, etc.), physical education (i.e. adapted physical education), and other-physical (provision of written response, employment).
8. The Student is easily distracted and benefits from small group activities and reduced distractions around him.
9. The Student requires high levels of structure, verbal prompting, and multiple breaks to achieve educational benefit.

10. The Student requires one-to-one supervision for most academic and behavioral tasks.
11. The Student needs to be monitored by an adult to keep him on task.
12. The Student also needs support in writing as he has difficulty with encoding.
13. The Student's BCPS home school is [REDACTED] HS, a general education high school in the BCPS system.
14. [REDACTED] HS has a [REDACTED] Program that has the personnel and resources that are necessary to address the Student's academic and behavioral needs and to provide him an appropriate education.
15. Under prior IEP team decisions, between 2017 and the 2022-2023 school year, the Student has been educated at [REDACTED], a PSDS, which serves the needs of developmentally disabled students in the BCPS system.
16. The Student has demonstrated functional and critical life skills at levels below chronological age and grade expectations, as well as delays in learning and cognitive development, and requires extensive modifications to curriculum and multiple intensive supports within his learning environment to enable him to participate and engage meaningfully in instruction.
17. The Student functions at a higher level academically and communicatively at [REDACTED] than all other students at that school, and is capable of communicating in full sentences, articulating his needs and feelings, and advocating for himself.
18. The students at [REDACTED] are generally capable of delayed and limited verbal communication, including through the use of assistive technology.

19. The Student interacts and communicates primarily with adult teachers and staff at [REDACTED] and prefers communication with adults over communication with educational peers.
20. The Student has no opportunity to interact with peers at [REDACTED] who model social cues, behaviors, and skills at a higher level of function than his own.
21. The Student requires the opportunity to interact with peers who model social cues, behaviors, and skills at a higher level of function than his own to make progress toward achieving goals relating to communication and social interaction.
22. The [REDACTED] Program at [REDACTED] HS provides opportunities for the Student to interact with peers whose skills and abilities exceed those of the students at [REDACTED], while still enabling the Student to make progress on his academic and physical goals and objectives.
23. The Student had IEPs created in 2022 (created on May 16, 2022 and amended on April 18, 2023), and in 2023 (created on May 17, 2023).¹¹
24. The IEP team established goals for academics (communication, reading, reading comprehension, expressive language, mathematics, and adapted physical education).
25. The IEP team established goals for behavior (self-management).
26. The Student has consistently made progress toward reaching his goals, but was not making satisfactory progress on his communication goal, requiring the IEP team to consider a change of placement to a less restrictive environment that could enable the Student to make progress on achieving his communication goal.
27. The Student requires extended school year (ESY) services.

¹¹ The Student also had an IEP created in 2021, which was not provided. The IEP created prior to the May 16, 2022 IEP was amended on February 14, 2022 (BCPS Ex. 4). On April 5, 2022, a draft IEP was discussed and proposed revisions were made (BCPS Ex. 5). The revisions were later incorporated into the May 16, 2022 IEP.

28. Due to the Student's documented communication, academic, and behavioral needs, the Student requires a highly structured classroom taught by a special educator, who would provide the Student with consistent, direct, specialized instruction in a highly structured setting with a low student to teacher ratio, one to one support, frequent breaks for movement, and emotional support to facilitate his transition to a new academic environment.

29. In the most recent IEP, the IEP team determined that the most appropriate placement for the Student would be the [REDACTED] Program at [REDACTED] HS, a general education school in the BCPS system.

30. The Parent does not agree with the Student's placement in the [REDACTED] Program, which is located in a general education school, and does not agree that it is a less restrictive environment for the Student in comparison to his current placement at [REDACTED].

DISCUSSION

The Parent's Request for Postponement at the Hearing

After the hearing was convened on November 20, 2023, and after I had explained the burden of proof and the sequence that would be followed by the parties in presenting opening statements, evidence, direct and cross-examination, and closing arguments, I asked if the Parent had any questions about the process that would be followed. At that time, the Parent requested a postponement. COMAR 28.02.01.16. She stated in support of the Request that she was told to ask for a postponement and that she was obviously not a lawyer. The Parent stated that she did not have an opening statement and did not have anything ready to present. She did not say by whom she was instructed to ask for a postponement.

I invited the response of the BCPS to the Request, and Ms. Foresman objected to a postponement. She argued that the Parent controlled the filing of the due process complaint, which occurred in August, and that she had adequate time to obtain counsel before and since

August but had not done so. Ms. Foresman stated that the Parent could have requested a postponement prior to the hearing but did not. Ms. Foresman noted that she was present with two representatives of the BCPS and two witnesses, all of whom were with her rather than at [REDACTED] providing services, and all were ready to proceed. Ms. Foresman also argued that the Student's status for the 2023-2024 school year was awaiting the outcome of the hearing, and she objected to the hearing being delayed any further as that would constitute a denial of a free appropriate public education (FAPE) for the Student because he was prevented from being educated in the least restrictive environment (LRE).

I allowed the Parent to respond to the arguments made by Ms. Foresman. The Parent stated that public resources for legal representation, like resources for families who require other services, are limited and there is a long waiting list for assistance. She stated that an attorney, who had represented her previously, specialized in contract law and criminal law and was not a special education lawyer. She stated that she had not thought the case would proceed beyond the Mediation on October 23, 2023, and she would continue to reach out to someone for representation.

In ruling on the Request, I considered that the Parent did not state at the Conference that she lacked legal representation and needed time to obtain it. She did not request a postponement at the Conference to retain counsel. Indeed, at the Conference the Parent remarked about bringing in her attorney for the hearing, implying that she already had an attorney ready to represent her at the hearing if that became necessary. The Parent participated in selecting the dates for the hearing and agreed to them. She did not object to the deadline to produce her witness list and exhibits to the BCPS or say she was not capable of doing so. Following the Conference, the Parent made no request for a postponement. She did not comply with the

deadline to exchange her exhibits and witness list with the BCPS.¹² She did not comply with the order to provide copies of her exhibits to me as ordered.¹³

In explaining her lack of counsel at the hearing, the Parent said that whomever she consulted for representation was backed up, and she did not know when she could obtain representation. The Parent did not say whom she asked for representation. She did not confirm that she had applied with anyone for representation by the time of the hearing or was on an actual waiting list. She did not specify when she inquired about possible representation. The Parent did not say how long the hearing would be delayed while she waited for possible representation, assuming the agency to which she applied for representation could assist in a special education case in any event. I also took into consideration that four employees of the BCPS had done what was necessary to prepare and appear at the hearing and were ready to proceed. I did not consider the argument made by the BCPS that a postponement would amount to a denial of FAPE since the appropriateness of the proposed change of placement was the issue to be determined at the hearing and could not be assumed to be correct merely through argument.

Pursuant to COMAR 28.02.01.16A, a request for postponement was required to be made not fewer than five days before the scheduled hearing, unless it was an emergency request. The Parent waited until the hearing to make her Request but did not present grounds to conclude that an emergency was the basis of the Request. COMAR 28.02.01.16E(1). Regardless of when a request is made, COMAR 28.02.01.16C requires that a request for postponement shall be granted only if good cause for the postponement is established. The term “good cause” is not defined in the applicable regulations, but it is generally defined to mean “[a] legally sufficient reason.”¹⁴ The good cause standard is a flexible one, designed to deal with unanticipated circumstances.¹⁵

¹² The deadline was November 13, 2023.

¹³ The deadline to provide copies to me was November 14, 2023.

¹⁴ *Black's Law Dictionary* 266 (11th ed. 2019).

¹⁵ *W.D. Curran & Assocs., Inc. v. Cheng-Shum Enters., Inc.*, 107 Md. App. 373, 389 (1995).

The primary consideration in evaluating a claim of good cause is whether the party who is seeking the benefit of the good cause exception acted with reasonable diligence under the circumstances.¹⁶

I could not find evidence of diligence in the Parent's actions concerning the efforts she described to retain counsel before requesting a postponement. She offered no documentary evidence of efforts to retain counsel, such as a letter from an attorney or a legal aid agency confirming that she was an applicant for representation. The Parent could have informed the BCPS or myself at the Conference that she needed additional time to obtain counsel, but did not disclose this fact. She could have filed a request to postpone the matter between the Conference and the hearing but did not. The Parent's failure to timely request a postponement, or bring the grounds for a possible postponement to the attention of the BCPS or the OAH, did not demonstrate diligence. The Parent did not demonstrate diligence when she failed to abide by the Order to exchange her exhibits and witness list with the BCPS by November 13, 2023, and when she failed to provide paper copies of her exhibits to me by November 14, 2023.

At any point before the hearing commenced, the Parent could have acknowledged that she did not have counsel and that she needed a postponement. She did not do so. She elected to wait until the hearing to make the need known, thereby potentially delaying the hearing indefinitely. I do not find the Parent's actions were purposeful, though a delay in hearing this case would bring the parties closer to the conclusion of the 2023-2024 school year, which is the only school year at issue, but even if her actions were not purposeful, I find her conduct was not diligent. The Parent failed to establish good cause for a postponement, and I denied the Request. COMAR 28.02.01.16C. Accordingly, the hearing proceeded.

¹⁶ *Id.*; see also *Stanford v. District Title Ins. Co.*, 260 Md. 550, 555 (1971).

Burden of Proof

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 Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002). The burden of proof rests on the party seeking relief. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005). The Parent is seeking relief and therefore bears the burden of proof to show that the challenged actions by the BCPS did not meet the requirements of the law.

Position of the parties

The Parent contends that the IEP that places the Student in the [REDACTED] Program at [REDACTED] HS is not appropriate because it fails to take into account the harm the Student will experience in the loss of his placement at [REDACTED], where he is doing well and is happy. The Parent contends that the Student’s needs can be met at [REDACTED], and that his attendance at school will conclude at the end of the 2023-2024 school year, when she will withdraw him from school.

The Parent also contends that the Student will be subjected to recurrent violence at [REDACTED] HS, which the Parent believes is a feature of that school, and that the Student’s status as a neuro-diverse individual and a minority makes him more vulnerable to being targeted or affected by rampant violence at [REDACTED] HS.

The BCPS contends that the IEP placement decision is appropriate. The BCPS contends that placement of the Student at the [REDACTED] Program at [REDACTED] HS provides for the least restrictive environment (LRE) for the Student, and that the program provides for implementation of the Student’s IEP, including with accommodations and supports tailored to the Student’s and the Parent’s needs and concerns. More specifically, the BCPS contends that the Student is unable to make progress on goals related to socialization, communication, and preparation for

post-secondary employment because he has no peers at [REDACTED] with whom he can interact and learn skills he does not already possess. The BCPS contends that its witnesses and exhibits support the appropriateness of this placement.

Legal requirements – FAPE (Free Appropriate Public Education)

The identification, assessment 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; 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)(A).

The requirement to provide a FAPE is satisfied by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction. *Bd. Of Educ. v. Rowley*, 458 U.S. 176 (1982). In *Rowley*, the Supreme Court defined FAPE as follows:

Implicit in the congressional purpose of providing access to a “free appropriate public education” is the requirement that the education to which access is provided be sufficient to confer some educational benefit upon the handicapped child. . . . We therefore conclude that the ‘basic floor of opportunity’ provided by the Act consists of access to specialized instruction and related services which are individually designed to give educational benefit to the handicapped child.

Rowley, 458 U.S. at 200-201 (footnote omitted). In *Rowley*, the Supreme Court set out a two-part inquiry to determine if a local education agency satisfied its obligation to provide a FAPE to a student with disabilities.

First, a determination must be made as to whether has there been compliance with the procedures set forth in the IDEA, and second, whether the IEP, as developed through the required procedures, is reasonably calculated to enable the child to receive some educational benefit. *Id.* at 206-207. *See also A.B. ex rel. D.B. v. Lawson*, 354 F.3d 315, 319 (4th Cir. 2004).

An IEP is a written statement for each child with a disability that is developed, reviewed, and revised in accordance with the applicable law, detailed below. 20 U.S.C.A. § 1414(d)(1)(A).¹⁷

Providing a student with access to specialized instruction and related services does not mean that a student is entitled to “the 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.*, 700 F.2d 134, 139 (4th Cir. 1983), citing *Rowley*, 458 U.S. at 176. Instead, a FAPE entitles a student to an IEP that is reasonably calculated to enable that student to receive some educational benefit. The United States Court of Appeals for the Fourth Circuit declined to interpret the IDEA to require “meaningful” benefit, rather than “some” benefit, reiterating that “a school provides a FAPE so long as a child receives some educational benefit, meaning a benefit that is more than minimal or trivial, from special instruction and services.” *O.S. v. Fairfax Cnty. Sch. Bd.*, 804 F.3d 354, 360 (4th Cir. 2015).

As discussed in *Rowley*, educational benefits that can be obtained by one student may differ dramatically from those obtained by another student, depending on the needs that are present in each student. *Rowley*, 458 U.S. at 202.

In *Andrew F. v. Douglas County School District.*, 580 U.S. 386 (2017), the Court upheld the standard it established in *Rowley*, specifically that “a child has received a FAPE, if the child’s IEP sets out an educational program that is ‘reasonably calculated to enable the child to receive educational benefits.’” 580 U.S. at 394 (quoting *Rowley*, 458 U.S. at 207).

The Court explained, “For children receiving instruction in the regular classroom, this would generally require an IEP ‘reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.’” *Id.* at 394 (quoting *Rowley*, 458 U.S. at 204). The Court noted that the student in *Rowley* was making excellent progress in the regular education

¹⁷ The Parent did not allege any procedural violations.

classroom with the wireless transmitter and hearing aid provided by the school, but it declined to order a sign-language interpreter. *Id.* at 392. The Court found the IDEA “guarantees a substantively adequate program of education to all eligible children.” *Id.* at 394.

The Court in *Andrew F.* explicitly rejected the Tenth Circuit’s diluted interpretation of *Rowley* that had found “a child’s IEP is adequate as long as it is calculated to confer an ‘educational benefit [that is] merely . . . more than de minimis.’” *Andrew F.*, 580 U.S. at 397 (quoting the 10th Circuit in *Andrew F.*, 798 F.3d 1329, 1338). The Court held, “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.*” *Andrew F.*, 580 U.S. at 399 (Emphasis added). The Court declined to define what appropriate progress would be in a given case, noting that courts should not “‘substitute their own notions of sound educational policy for those of the school authorities which they review.’” *Id.* at 404 (quoting *Rowley*, 458 U.S. at 206). Moreover, under *Rowley*, appropriate progress will look different depending on the Student’s capabilities. *Andrew F.*, 580 U.S. at 400.

Legal requirements – LRE (Least Restrictive Environment)

In addition to the IDEA’s requirement that a child with a disability receive some educational benefit, the child must be placed in the “least restrictive environment” to the maximum extent appropriate, 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).

Indeed, instructing children with disabilities with non-disabled peers is generally preferred if the student with disabilities can achieve educational benefit in the general education program. *DeVries v. Fairfax Cnty. Sch. Bd.*, 882 F.2d 876 (4th Cir. 1989). Placing children with disabilities into regular school programs may not be appropriate for every disabled child and removal of a child from a regular educational environment may be necessary when the nature or severity of a

child's disability is such that education in a regular classroom cannot be achieved. Nonetheless, the issue is not whether another placement is better for the student but whether the school district has offered a FAPE.

Review of the Documentary Evidence

The Student is a seventeen-year-old student diagnosed with intellectual disability. BCPS Ex. 7, p. 1. The areas affected by his disability are:

- Academic – reading, mathematics, communication, and physical education; and
- Behavioral – self-management, including executive functioning, organization, attention, etc.; and
- Physical – the ability to provide a written response.

BCPS Ex. 7, pp. 9-12. The Student has been enrolled at [REDACTED] where he has made progress toward achieving goals in the areas affected by his disability. He was previously enrolled at [REDACTED] Middle School, where he exhibited behavioral issues, including anxiety, agitation, and aggression. He has not exhibited these behavioral issues at [REDACTED].

Speech and Language Assessment, April 12 and 16, 2021

In April 2021, while the Student was in grade 9, he was assessed for speech and language by [REDACTED], a Speech-Language Pathologist for BCPS. BCPS Ex. 1. At that time, the Student's skills of expressive language, receptive language, and pragmatic language were determined to be significantly below normal limits when compared to same aged peers. Among the conclusions reached in the Diagnostic Statement was that the Student's language skills deficit will negatively affect his ability to participate effectively in conversations and collaborations with peers, including his ability to express his ideas clearly. *Id.*, p. 7.

IEP Team Meeting, June 10, 2021

On June 10, 2021, the Student's IEP team at ██████████ met to review and/or revise the IEP. BCPS Ex. 2. The Parent participated in the meeting. ██████████, who testified in this matter, also participated. At that time, the IEP team considered data shared by staff at ██████████ ██████████ which indicated that the Student's social skills were far greater than any other student at ██████████, but that his needs, addressed in his social and communication goals, could not adequately be achieved in a PSDS. The IEP team recommended a change of placement for the Student. The Parent opposed the recommended change of placement. *Id.*, p. 2.

Ms. ██████████ was a participant in the meeting. She indicated that the Student's communication goals related to peer interaction, including back and forth communication. However, she stated that his skills require a higher level of reciprocal interaction with peers than is available in his current placement. Ms. ██████████ stated her position that the Student's ability to advocate for himself and express his wants and needs effectively is indicative of his need for a LRE. She stated that the Student requires frequent and fast-paced engagement and interaction in the classroom, which was being provided at ██████████ only by teachers. Ms. ██████████ stated that the Student has strong foundational adaptive skills and required the opportunity to work on prevocational tasks and adaptive daily living skills that could not be provided at ██████████. The IEP team recommended a change of placement to the ██████████ Program at ██████████ HS.

The Parent expressed her disagreement with the recommendation, stating her belief that the Student would not be successful in a large school environment. She mentioned the Student's prior negative experience at a middle school before his enrollment at ██████████, and her concern that such an experience may recur. She said that the Student experiences anxiety in large environments. The Parent also identified her concern about safety at ██████████ HS, and that staff

there would not be able to keep the Student safe. She stated that the Student advocated that he does not want to leave [REDACTED].

The IEP team had developed a proposed transition plan for the Student, but the Parent objected to discussing a change of placement to [REDACTED] HS any further, and the plan was not presented. The Parent was advised of her right to file for mediation to resolve the disagreement, and that the Student would remain at [REDACTED] until a resolution was reached. *Id.*

The IEP team met again on July 29, 2021 to address a change to the Student's IEP involving occupational therapy. BCPS Ex. 3. The Parent participated in the meeting. Occupational therapy services were added to the IEP to assist the Student in developing handwriting and keyboarding skills. No change of placement was addressed at that meeting.

IEP Team Meeting, February 14, 2022

On February 14, 2022, the IEP team met to discuss transition activities. BCPS Ex. 4, p. 2. The Parent participated in the meeting. Mr. [REDACTED] participated in the meeting, along with other staff at [REDACTED]. The meeting was also attended by two educators from [REDACTED] HS: [REDACTED], General Educator, and [REDACTED], Special Ed-Self Contained. *Id.*, p. 1. The purpose of the meeting was to discuss a possible transition plan for the Student to a LRE. The team summary noted that the Student would remain at [REDACTED] through the 2021-2022 school year as the result of an outside-of-team agreement, which also specified that the team would meet to discuss a potential transition plan for the Student. *Id.*, p. 2.

Ms. [REDACTED], a [REDACTED] teacher at [REDACTED] HS, described the program to the participants, and explained that students in the [REDACTED] Program interact with students in the general education population during lunch, during some transitions in the hallway, in physical education classes, and in special area classes. She stated that [REDACTED] students usually sit at their own tables in the

cafeteria but had opportunities to sit elsewhere. Ms. [REDACTED] explained that when [REDACTED] students are in the cafeteria, there are usually approximately 200 to 250 other students present.

The Parent informed the participants that she had visited and observed the [REDACTED] Program at [REDACTED] HS, and her position had not changed concerning a LRE for the Student. *Id.* She expressed concern that prior behaviors exhibited by the Student, including elopement and aggression, may resurface due to the less structured nature of [REDACTED] HS compared to [REDACTED]. The Parent also expressed that safety was her primary goal for the Student and she did not feel that he would be safe in an environment with so many other adolescent students. The Parent stated that the Student would require one to one support to maintain his safety and attention to school-based tasks, and that she felt the Student could be safe in an environment with more structure and fewer students than in the [REDACTED] Program at [REDACTED] HS.

Mr. [REDACTED] asked Ms. [REDACTED] if the Student's opportunities for inclusion, seeming to refer to seating options in the cafeteria, could initially be limited in an individualized fashion, which Ms. [REDACTED] said she would research. There followed a review of the Student's progress in achieving his goals related to social skill development and expressive and receptive communication.

Mr. [REDACTED] proposed several activities for the team to consider regarding a transition plan to help the team make its best decision regarding the Student's school programming. It was suggested that the Student visit the [REDACTED] Program at [REDACTED] HS during school hours. The Parent agreed to this and said she would accompany him during a half-day visit. It was also agreed that a representative from [REDACTED] would attend the visit. Ms. [REDACTED] also agreed on behalf of [REDACTED] HS, and a date and time for the visit was selected. It was also proposed and agreed upon by staff from [REDACTED] HS and [REDACTED] that [REDACTED] HS staff would observe the Student in his current learning environment at [REDACTED]. The team agreed that the inclusion of "social stories"

would help the Student handle potential anxiety about possibly changing schools. These activities and supports were added to the Student's IEP so that they became part of his school program. The [REDACTED] social worker was also contacted during the meeting, and he agreed that the Student's transition plan may benefit from consultative social work services to assist the Student. Such services were also added to the Student's IEP.

IEP Team Meeting, April 5, 2022

On April 5, 2022, the IEP team met to conduct an annual review and discussion of the need for extended school year (ESY) service, and to develop a transition plan for the proposed change of placement of the Student in a LRE. BCPS Ex. 5. The Parent participated in the meeting. Mr. [REDACTED] also participated, along with other staff at [REDACTED], and with Ms. [REDACTED] of [REDACTED] HS. The IEP team reviewed the Student's progress toward meeting his IEP goals and objectives and concluded that the Student had met his communication goals. New communication goals were established, and the team agreed on continued occupational therapy to improve the Student's ability to provide written responses. The IEP team agreed that the Student would receive ESY service.

The IEP team reviewed the Student's visit to [REDACTED] HS and the supports that would be appropriate for a transition there. The Parent said that the Student had enjoyed his visit to [REDACTED] HS, but that the size of the school and number of students were intimidating for the Student. The Parent stated that she wanted the Student to have the social experiences available at [REDACTED] HS but that he required the structure available at [REDACTED]. The Parent expressed her concern that if the Student did not have one to one attention at [REDACTED] HS, his behaviors and anxiety would escalate. Mr. [REDACTED], special educator at [REDACTED], agreed that the Student would require one to one support throughout his school day at [REDACTED] HS. Ms. [REDACTED], on behalf of [REDACTED] HS, expressed that one to one support could be provided during hallway transitions and in the

cafeteria, and would otherwise be provided by the teacher and paraeducator in the classroom.

Dr. [REDACTED], the [REDACTED] school psychologist, agreed upon the importance of a system of behavior supports designed to facilitate his transition to [REDACTED] HS, including direct instruction, enhanced adult support to teach routines, enhanced adult support during transitions, and embedded IEP supports such as frequent adult check-ins during instruction, frequent eye contact from adults, and proximity control. She stated that transition supports could be faded as appropriate when no longer needed.

Ms. [REDACTED], Assistant Principal, reiterated that the Student required the academic challenge and peer interaction that cannot be provided at [REDACTED].

The team agreed to meet again to further discuss the Student's LRE and the level of adult support he would need in that environment.

IEP Team Meeting, May 16, 2022

On May 16, 2022, the IEP team met to review and revise the Student's IEP. BCPS Ex. 6. The Parent participated in the meeting and stated that her previous concerns and objections to a transition to [REDACTED] HS remained unchanged. She expressed concerns about violence, and that fights do not occur in special day schools as they do in comprehensive high schools. The Parent stated that she is aware of the limited academic, communicative, social, and work-based experiences that the Student would have access to if he remained at [REDACTED], but she believed that [REDACTED] remained the Student's LRE.

Mr. [REDACTED] asked team members to comment upon the experiences the Student would not have if he remained at [REDACTED]. These included peer interactions; peer modeling of students working on similar skills, including keyboarding skills; and work experiences that would be at a higher level than could be provided at [REDACTED].

Mr. [REDACTED] noted that data supporting transition to a LRE and parent input were at odds concerning LRE and school placement. After taking the Parent's input into consideration, the team decision was that the Student would remain at [REDACTED], despite disagreement by [REDACTED] staff. It was stated that placement and LRE are ongoing conversations and must be discussed at least annually. The transition plan in the Student's IEP was removed from the Student's Supplementary Aids/Services section of the IEP, and social work intended to ease the transition to a new school was discontinued.

An IEP was implemented on May 16, 2022, with appropriate goals and objectives for reading, mathematics, communication, physical education, physical – other: provision of written response, and behavioral – self-management, including executive functioning, organization, attention, etc. BCPS Ex. 7. The Parent stated no objection to the May 16, 2022 IEP. The IEP expressly noted that the Student requires structured opportunities to interact, socialize, communicate and play with peers to develop social language skills, problem solving skills, and participate in meaningful conversational exchanges. It further noted that the Student will not have access to appropriate peers in his current learning environment at [REDACTED], and that the Parent understood and agreed that these were unable to be implemented at [REDACTED]. *Id.*, p. 21. The May 16, 2022 IEP also addressed LRE, and in selecting [REDACTED] as his LRE the IEP recorded that the team disagreed with the Parent's concerns about the Student in a large school setting, noting that the Student will benefit from and needs the social experiences available to him in a LRE, and that they did not believe that worsening of his behaviors as predicted by the Parent would occur. *Id.*, p. 45.

Prior Written Notice, IEP Team Meeting, April 18, 2023

The IEP team met on April 18, 2023 to conduct an annual review of the Student's IEP, to discuss the need for ESY services, and to develop a transition plan for the Student. BCPS Ex.

11. The Parent participated in the meeting. The BCPS proposed new IEP goals, and a number of related services, to which the Parent agreed. The BCPS stated that the Student qualified for ESY services, but the Parent indicated that the Student will not attend. Concerning LRE, the BCPS proposed that data showed that the Student required a LRE, and that the IEP team would meet again before the end of the school year to address this, to include a general educator from ■■■ HS. The Parent disagreed with this proposal, reiterating concerns about safety, including who can enter and leave ■■■ HS. The Parent told other members of the team that she has observed general disrespect from students at ■■■ HS and a lack of authority at ■■■ HS. The Parent requested that ■■■ HS staff not be included in any upcoming ■■■■■ IEP meetings. Mr. ■■■■■, on behalf of the BCPS, stated that this request could not be honored because such team members were needed to fully discuss the appropriate placement and LRE for the Student. The BCPS also proposed that the Student required higher functioning communication partners than were available to him at ■■■■■, to which the Parent disagreed. The Parent was provided with a brochure setting forth procedural safeguards, including the right to request mediation or to file a due process complaint if she disagreed with the proposed and/or refused decisions of the BCPS.

Prior Written Notice, IEP Team Meeting, May 17, 2023

The IEP team met on May 17, 2023 to review and/or revise the Student's IEP and to discuss his LRE. BCPS Ex. 12. The Parent participated in the meeting. ■■■■■, a general educator, attended on behalf of ■■■ HS. The BCPS proposed changing the Student's LRE to a functional program within a school that also serves the general education population. The BCPS proposed changing the Student's LRE to a functional program because he requires the opportunity to interact with non-disabled peers with higher communication skills than those of his peers at ■■■■■. The BCPS noted that the Student demonstrated meaningful,

reciprocal communication with non-disabled peers who visited [REDACTED] and that he cannot receive this engagement with peers at [REDACTED]. The BCPS noted that the Student thrives on social interaction, which is extremely limited at [REDACTED] based on the communication skills of his peers there.

The BCPS proposed updating the Student's Supplementary Aids and Services to meet his needs in a LRE, based on the different nature of the environment in a general education school. Behavioral supports proposed by the BCPS included frequent changes in activity and movement to enable the Student to remain focused and attentive during instruction; and the use of social emotional learning techniques and strategies, such as modeling and practicing self-regulation. The Parent agreed with these supports. The BCPS proposed structured opportunities to interact, socialize, communicate, and play with peers. The Parent disagreed with this proposal, contending that the Student could get these experiences outside of the school setting.

The BCPS proposed the physical/environmental support of preferential seating for the Student, with which the Parent agreed. The BCPS also proposed the environmental support of the Student eating in a small setting or classroom with one to one adult support. However, the Parent disagreed, stating that she was not in agreement with the proposed change of LRE to which this support would pertain. Similarly, the BCPS proposed providing the Student with one to one adult support in his new learning environment throughout his entire school day, but the Parent disagreed as she opposed the proposed change of LRE. The BCPS proposed weekly special education services outside the general education environment to address his goals and objectives, and special education services within the general education environment to address the Student's goals and objectives, including needed opportunities for interaction with non-disabled peers. The Parent disagreed with all recommendations pertaining to placement outside of [REDACTED].

The Parent mentioned having seen videos on social media of violence at [REDACTED] HS, and of having heard stories of violence from parents in the community. Ms. [REDACTED], from [REDACTED] HS, responded to the Parent's information by stating that violent incidents at [REDACTED] HS have been isolated and are not typical within the school. Ms. [REDACTED] also stated that no one in the special education regional classrooms had been affected by any confrontations at [REDACTED] HS this year. Mr. [REDACTED] emailed information to the Parent from the BCPS website concerning frequently asked questions relating to school safety and security.

Ms. [REDACTED] also shared information about the [REDACTED] Program at [REDACTED] HS, describing it as highly structured and individually designed for each student, per their IEP. The Parent stated that her doctor told her about a program at [REDACTED] University, but the Parent provided no specific information about the program. There was discussion during the meeting about other programs, none of which applied to the Student as a possible LRE placement from [REDACTED].

The Parent proposed that the Student should remain at [REDACTED] because she did not want him to be a "neuro-divergent" individual in a school designed for neuro-typical students. The BCPS rejected this proposal because the Student needs to be prepared to live as a neuro-divergent person in a neuro-typical world after he leaves the school system.

The Parent proposed that the Student remain at [REDACTED] because he can get the social interaction he needs outside of the school setting with her, in the community. The BCPS rejected this proposal because the Student needs regular, daily exposure to opportunities to interact with peers using the supports that would be available to him.

The Parent proposed that the Student remain at [REDACTED] due to the Parent's concerns about safety in the LRE. This proposal was rejected because the BCPS has resources and policies in place to promote a safe learning environment for all students.

The Parent proposed that the Student not travel in the hallways during the school day in the LRE. This was rejected because the Student will need to be in the hallways to transition to other learning environments than his classroom and to take monitored, necessary motor breaks.

The Parent proposed that the Student not participate in physical education classes in the gymnasium because there would be general education students present at the same time. This proposal was rejected by the BCPS because the Student requires Adapted Physical Education services in that learning environment to address his physical education goal.

The Parent proposed that she be given access to the learning environment due to her concerns about safety. The BCPS agreed with this proposal, and agreed to amend the IEP to reflect the option that the Parent could shadow the Student for the first few days of school and as needed thereafter.

The IEP team decided that a change to the Student's LRE to the [REDACTED] Program at [REDACTED] HS was appropriate. The Parent expressed her continuing disagreement with and opposition to a change of the Student's LRE. Mr. [REDACTED] agreed to provide the Parent with a list of resources through an Advocacy and Legal Resources document.

IEP, Amended May 17, 2023

After meeting and considering the inability of the Student to meet goals relating to interaction, socialization, communication, and play with peers at [REDACTED], and his inability there to develop social language skills, problem solving skills, and to engage in meaningful conversational exchanges, the IEP team placed the Student in the [REDACTED] Program at [REDACTED] HS. The Student's most recent IEP, amended on May 17 2023, identifies [REDACTED] HS as the Student's LRE and most appropriate placement. BCPS Ex. 13, p. 33.

Review of Witness Testimony

The Parent' Testimony

The Parent testified about the Student's special education history immediately before attending [REDACTED], including that at a placement at [REDACTED] Middle School, the Student was so unhappy and poorly assisted by staff that his behavior was negatively impacted. She stated that he eloped three times from that school and allegedly assaulted a teacher. These are the behaviors that the Parent is concerned will return if the Student's anxiety is heightened by a change of placement to a large school environment, where she contends he will be intimidated and freeze up. After his experiences at [REDACTED] Middle School, the Student was placed at [REDACTED] during the sixth grade, where he has been very successful ever since. She stated that he is happy to see the people at [REDACTED] and wants to do his best there. The Parent testified that [REDACTED] is set up for the Student's needs, unlike a general education high school with two thousand or more students. She testified that the Student does well in a structured and small environment, whereas a general education high school is unstructured and places her son at risk failing academically because he cannot successfully learn in that environment.

The Parent also testified about her safety concerns. She stated that she had plenty of evidence concerning the lack of safety at [REDACTED] HS that a representative would have submitted on her behalf. She also testified that she has spoken with experts, doctors, and medical professionals, and that if she has to appeal, she will. More specifically, the Parent testified to her objection to [REDACTED] HS in particular, in part because she has a daughter who attended there and the Parent is aware from this connection to [REDACTED] HS, and from other parents, of the violence that she contends occurs there. The Parent also testified that she has collected more than twenty videos from Tik Tok, an internet site, purportedly showing fights that have occurred at [REDACTED] HS, which

demonstrate that it is a dangerous place, not only for students but for the adults who work there. The Parent testified to her belief that not only [REDACTED] HS but other high schools in the BCPS that offer [REDACTED] programs, including [REDACTED] High School and [REDACTED] High School, are overcrowded, understaffed, violent, and lack resources.

The Parent testified that she is concerned that [REDACTED] HS is structured for neuro-typical students, and her son who is neuro-diverse cannot function successfully in that environment. She testified that the Student will not attend school beyond the end of the 2023-2024 school year, and expressed further concern should the Student attend a general education school with students who are younger than the Student, or are minors. She explained that the Student is easily influenced and manipulated, and that he is like a child. She testified that he does not speak with strangers and does not go anywhere with them. The Parent testified that the Student is small, cannot protect himself, cannot respond to danger, and must be guided. She was concerned that the Student might find himself in unspecified danger if he socialized with someone who was underage because the Student does not know the right thing to do. The Parent assumed such encounters could happen if the Student interacted with neuro-typical students in the context of physical education classes in the gymnasium at [REDACTED] HS, or during elective classes with the general student population.

The Parent acknowledged that the Student would benefit from better communication skills, including learning social cues, such as when a person does not want to talk to him, or when a telephone call should end, or how not to approach or speak with others. The Parent also testified that she wanted the Student to better understand cause and effect. However, the Parent stated her position that the Student could make progress on these goals in the community, including through a business she helped establish for the Student called [REDACTED]. The Parent testified that the interactions the Student has through this venture enable the Student to

progress toward better communication skills and provide opportunities for social interaction with non-disabled peers. The Parent also stated that the Student prefers to speak with adults, not other children, and always gravitates toward adults who represent safety and security.

The Parent testified that she is aware that the [REDACTED] Program at [REDACTED] HS is a self-contained program, meaning there are limited opportunities for interaction with the general student population. She stated that she is aware of the supports that are included in the Student's IEP to address his needs, including one to one adult support throughout his school day in the [REDACTED] Program at [REDACTED] HS. However, the Parent testified that she does not feel that the supports protect her son from the violence of [REDACTED] HS, and that they do not diminish her concerns about his inability to function successfully in such a large and uncontrolled environment. The Parent commended the IEP team at [REDACTED] and their intentions and acknowledged that they are doing their jobs very well, but that their concerns about a LRE differ significantly from her concerns, and it is her duty to keep the Student safe.

BCPS Motion for Judgment

At the conclusion of the Parent's testimony, the BCPS moved for judgment (motion), arguing that the Parent had the burden of proof, and she had not presented a *prima facie* case. In particular, the BCPS contended that the Parent had not proved by a preponderance of the evidence that the proposed placement was inappropriate, or that the IEP did not confer an educational benefit. The BCPS stated its reliance on COMAR 28.02.01.12E and COMAR 28.02.01.21K. The BCPS also cited 34 C.F.R. § 300.512(a)(3) in support of its motion on the basis that an Administrative Law Judge may prohibit the introduction of any evidence at the hearing that has not been disclosed to the moving party at least five business days before the hearing.¹⁸

¹⁸ The BCPS did not object to the Parent testifying, nor did it move to strike her testimony in reliance on 34 C.F.R. § 300.512(a)(3).

The Parent opposed the motion, arguing that her testimony is evidence, and it supported her position that there is an issue of safety which makes the placement improper.

After allowing argument by the parties, I denied the motion. I ruled that the Parent's testimony was evidence in support of her position, and that it sufficed to present a question of fact for determination as to whether the [REDACTED] Program at [REDACTED] HS was a proper placement, and whether the BCPS properly took the Parent's concerns into consideration. Accordingly, the BCPS proceeded with presentation of its evidence.

The BCPS Witnesses' Testimony

[REDACTED], *Expert in Special Education and School Administration*

Mr. [REDACTED] was well qualified and accepted as an expert in Special Education and School Administration. He is currently the IEP Facilitator at [REDACTED]. He possesses a bachelor's degree in English, a master's degree in Teaching - Special Education, and possesses education certifications in Generic Special Education, age six to adult; English, grades seven through twelve; and Administrator I and II, which qualify him to be an assistant school principal and principal, respectively. There was no objection from the Parent to Mr. [REDACTED] being accepted as an expert in the fields of Special Education and School Administration.

Mr. [REDACTED] was the Administrator/Designee for [REDACTED] in every IEP team meeting but one involving the Student.¹⁹ He serves as the IEP facilitator for [REDACTED] and he schedules all IEP team meetings, at least annually, to review the progress of each student with an IEP, to develop goals and objectives, and to provide support to students. In his role as IEP facilitator, Mr. [REDACTED] makes sure that all participants are heard, the needs of each student are focused upon, and a collaborative plan is discussed and, where possible, agreed upon.

¹⁹ In the IEP team meeting on July 29, 2021, [REDACTED] was the Administrator/Designee on behalf of [REDACTED]

Mr. [REDACTED] testified to his familiarity with the Student since 2017. He explained the composition of [REDACTED] as a PSDS, stating that it serves about one hundred students with the most significant cognitive disabilities, and strives to meet their needs both academically and socially. He explained that most students at [REDACTED] are non-verbal and have significant needs in activities of daily living. Many are wheelchair-bound and many have complex medical needs. When asked to compare the Student to the population of [REDACTED] in general, in terms of functionality and capability, Mr. [REDACTED] testified that the Student is verbal, that he loves to speak with people, and that he enjoys interacting with adults. The Student speaks in full sentences with adults, and is the only student at [REDACTED] who can do this, but does not do so with his peers because their ability to respond is significantly limited or they require long periods to formulate or produce a response. Mr. [REDACTED] explained that communication between the Student and his peers at [REDACTED] is not reciprocal, and that the Student shows frustration at times when his peers do not respond to his communication with them.

Mr. [REDACTED] testified at length about the contents of each IEP team meeting summary and IEP in the BCPS exhibits. He explained the process used to develop or update an IEP, including the development of assessments that are needed to plan for a student's progress, assessment of a student's strengths and weaknesses, and the input of each member of the IEP team, including parents. Mr. [REDACTED] stated that in addition to discussing a student's needs, the team discusses the best place for a student to have his or her needs met.

Mr. [REDACTED] testified that a Speech Language Assessment was conducted on April 21, 2021, which identified the Student's strengths and weaknesses in communication, and his needs. The IEP team took this assessment into consideration when it met on June 10, 2021, including the following diagnostic statement:

[The Student's] language skills will negatively affect his ability to participate in structured academic tasks when compared to same aged peers. It will also negatively

affect his ability to participate effectively in conversations and collaborations with peers, including his ability to express his ideas clearly. His language abilities will also significantly negatively affect his ability to acquire and use general academic specific words for completing academic tasks during comprehension or expression tasks.”

BCPS Ex. 1, p. 7.

Mr. [REDACTED] testified that this assessment was one of several data points considered by the IEP team on June 10, 2021. He also testified that the Student’s needs were conversational in nature and the goal became to improve the Student’s communication and make it more complex. It was at the June 10, 2021 IEP team meeting that the team first proposed a change of placement to a LRE because the Student requires increased peer social interaction, which cannot be provided at [REDACTED], and favored placement at a LRE where he would obtain a higher level of reciprocation with peers than was possible at [REDACTED]. Mr. [REDACTED] explained that [REDACTED] staff considered the Student’s skills so advanced, in comparison to his peers at [REDACTED], that his needs could not be met at a PSDS. Mr. [REDACTED] testified that the Parent opposed placement at a LRE immediately and throughout the IEP process. He also stated that a member of the school IEP team stated at the June 10, 2021 meeting that the team is bound by law to consider the LRE, which could include placement at the Student’s home school.

Mr. [REDACTED] testified about the proposals and actions that the IEP team discussed between February 2022 and May 2022 to increase the Parent’s knowledge of the [REDACTED] Program at [REDACTED] HS, and the team’s consideration of the Parent’s objections and concerns. At each meeting, the team discussed the Student’s goals and objectives, the progress made towards each goal, revision of goals when those had been achieved, and steps toward transition to a LRE. Mr. [REDACTED] testified that the IEP team took into account the Parent’s concerns about what could occur, including heightened anxiety on the part of the Student and even a suggested regression to negative behaviors last seen in 2017. He stated that the team tailored its proposals to addressing the Parent’s concerns and addressed how the proposed placement in the [REDACTED] Program at [REDACTED] HC

was necessary to place the Student in the LRE. Mr. [REDACTED] testified that ultimately, when the Parent still expressed disagreement and discomfort at the May 16, 2022 IEP team meeting concerning placement at [REDACTED] HS, the IEP team “pulled back,” and the Student remained at [REDACTED].

Mr. [REDACTED]g testified that when the IEP team next met on April 18, 2023, the necessity for a LRE remained the same: to provide the Student access to peers with higher function, who would challenge him and be models for him, and to give the Student access to reciprocal communication partners, which access would be crucial to social and communicative development. He testified that the team determined to meet again with representatives from [REDACTED] HS to discuss the Student’s placement at a LRE. Mr. [REDACTED] testified that the IEP team next met on May 17, 2023, and he described the discussions that were reduced to writing in BCPS Ex. 12 and enumerated previously herein. He testified to the proposals made by the IEP team to address and mitigate the Parent’s objections or concerns, the supports that would be provided to ease the Student’s transition and enable his success at the [REDACTED] Program at [REDACTED] HS, and the Parent’s responses to each. Ultimately, the Parent disagreed with placement of the Student at the [REDACTED] Program at [REDACTED] HS, and the IEP team recommended it to enable the Student’s opportunity to interact with non-disabled peers and with peers having higher communication skills than those of his peers at [REDACTED].

Mr. [REDACTED] testified to the opinion that the Student’s progress, academically and socially, would be negatively impacted if he remained at [REDACTED] because he lacked models to guide and inform his own actions and development. The Student would be unable to watch others learn, and to watch peers more than teachers. Mr. [REDACTED] testified that limiting the Student’s access to peers limits his outcomes.

Mr. [REDACTED] also testified to the opinion that the supports and services, and the Student's placement, as set forth in the IEP of May 17, 2023, meet the Student's needs and enable him to make progress in a LRE. He opined that the goals and services provide the Student with the opportunity to interact with communicative peers. He further opined that continued placement of the Student at [REDACTED] is not appropriate for the Student. Mr. [REDACTED] stated that the Student stands out and doesn't fit at [REDACTED] because his abilities are so far above his peers there that he is not challenged. Therefore, he opined, the Student is not observing other peers socially or communicatively. He testified that the change of placement would expand the Student's opportunities and experience, and that it was best practice that students watch each other. He testified that the Student deserves the chance to reciprocate with peers.

[REDACTED], *Expert in Special Education*

[REDACTED] was well qualified and accepted as an expert in Special Education. Ms. [REDACTED] is a Special Education High School Teacher and Team Leader at [REDACTED]. She possesses a bachelor's degree in English, a master's degree in Teaching – Special Education, and an education certification in Generic Special Education, grades K through 8. There was no objection from the Parent to Ms. [REDACTED] being accepted as an expert in the field of Special Education. Ms. [REDACTED] participated in the IEP team meetings on April 18, 2023 and May 17, 2023 as Special Educator. The Student has been in Ms. [REDACTED]'s class since the previous school year, and she provided a detailed description of the Student's academic strengths and weaknesses. She also generally described the other students in her class, including the strengths and weakness of the students with whom the Student interacts.

Ms. [REDACTED] described the Student as a leader. He walks in by himself from the bus, he goes to his own locker, he opens it himself, he unpacks his belongings, puts his folder away, and

chooses his own lunch. She testified that the Student is very social and is capable of a much higher level of function and independence than almost all other students at [REDACTED]. The Student can speak in full sentences, whereas his peers ordinarily can manage only one or two words, and often only with assistive communication devices. The Student can navigate hallways independently and can run errands at the request of a teacher. He is helpful toward other students with their lessons, and supportively prompts them to respond, including through the use of their assistive devices. Ms. [REDACTED] testified that the Student has exhibited frustration when he received no response, or delayed responses, from peers at [REDACTED].

Ms. [REDACTED] testified concerning the progress made toward the Student's goals and objectives by the time of the May 17, 2023 IEP team meeting. She explained that he had made progress on most goals, including reading and math, and had achieved goals involving comprehension, self-management and expressive language. However, she also testified to the opinion that the Student would have made more constructive progress if he had been able to interact with peers at his level of function or higher. Ms. [REDACTED] testified that in the progress toward meeting goals, or in achieving them, the Student interacted almost exclusively with adult teachers. She testified that the relationship between a student and a teacher, and between a student and a peer, is significantly different. She explained that a teacher will generally interact with a student in a controlled, friendly way so that the student does not experience responses like those he may get from peers, which are often less controlled and friendly. She opined that the Student is not learning how to socialize, or read cues of behavior or tone, when only interacting with friendly teachers or adults.

Ms. [REDACTED] testified regarding correspondence with the Parent in the form of a document that the Parent completed and returned to her in approximately April 2023. BCPS Ex. 9, pp. 2-3. The document requested input from the Parent about the Parent's perception of the Student's

strengths, weaknesses, and needs. Among the concerns identified by the Parent were the Student's ability to understand social cues, such as when someone is ready to end a conversation or to start one, safety while crossing streets, and identifying danger, including in people, objects, spaces and activities. Ms. [REDACTED] stated the opinion that [REDACTED] was not the appropriate placement to address these concerns as the Student's ability to make progress is limited by the fact that he interacts almost entirely with friendly adults. She stated that the social behaviors identified by the Parent and the IEP team for improvement are not modeled for the Student by his peers at [REDACTED].

Ms. [REDACTED] testified to her disagreement with the Parent that the Student could obtain meaningful social interaction only with the Parent in the community. She testified to the opinion that he needs different social interactions than he can receive at [REDACTED] or at home because he needs to learn from peers at his level and higher as guides, not only those who are teachers or family.

Ms. [REDACTED] also testified about the supplementary aids and supports proposed by the IEP team to aid the Student's transition to a LRE, and stated that social and emotional supports were provided in the May 17, 2023 IEP that reinforced his positive behaviors and provided assistance directed toward any anxiety predicted by the Parent. She also testified that physical and environmental supports were provided to allow the Student to eat lunch in the classroom with an adult, as well as one to one adult support throughout his school day to minimize anxiety and maximize safety. Ms. [REDACTED] testified to her recollection of Ms. [REDACTED] of [REDACTED] HS informing the team that they were prepared to provide one to one support, that a staff member would be with the Student at all times, and the Student would not be near general education students regularly.

Ms. [REDACTED] testified to observation of and familiarity with the [REDACTED] Program, both from her time as a substitute teacher at [REDACTED] High School, which has a [REDACTED] program, and from direct observation of the [REDACTED] Program at [REDACTED] HS. Ms. [REDACTED] testified that she was an observer of the [REDACTED] Program at [REDACTED] HS for approximately forty-five to sixty minutes during October 2023. She observed [REDACTED] students when going from the classroom to the bathroom. During this activity, she observed the [REDACTED] students accompanied by staff, but they were the only students in the hallway and no other general education students were present. Ms. [REDACTED] testified to observing the [REDACTED] students walk through an elevated hallway that overlooked a gymnasium where general education students were having physical education. At the end of the hallway, the [REDACTED] students entered a side gymnasium where they were segregated from the general education population. Ms. [REDACTED] said the [REDACTED] teacher then took the students outside where they exercised, or congregated to chat, or interacted with staff and peers, but were not with the general education population. She observed teachers working with one or two students at a time. She observed that as a general education physical education class was coming out, the [REDACTED] students were being brought in. They did not interact with general education students during physical education. She then observed the [REDACTED] students transition to the cafeteria for lunch, where they were alone when they entered. This concluded Ms. [REDACTED]'s observation. Ms. [REDACTED] testified that during the activities she observed, the [REDACTED] students had no visible interaction with general education students. Ms. [REDACTED] confirmed that she did not see any unsafe conditions or interactions involving [REDACTED] students with general education students.

Ms. [REDACTED] testified that she saw nothing in the [REDACTED] Program that the Student could not do, and stated her belief that the Student would have enjoyed the activities she observed which involved independence and learning, including choosing what activity to engage in during physical education, choosing who to interact with, and engaging with students more than with

staff. She testified that the Student does not have the opportunity at [REDACTED] to play with peers who are interactive during play.

Ms. [REDACTED] stated the opinion that the Student's limited interaction with peers makes [REDACTED] an inappropriate placement for the Student. She testified that there is a positive difference between peer-centered conversations and those with teachers or family. Ms. [REDACTED] explained that when interactions are peer led, the Student will learn about entering and leaving conversations, and will learn social cues from his peers that cannot be provided by teachers alone. She said that the Student is not getting such interactions or their benefit at [REDACTED].

Concerning the Parent's objection to placement at [REDACTED] HS because of the anxiety it would cause the Student, and how he might negatively react, Ms. [REDACTED] testified that she had observed the Student to have brief moments of anxiety in unfamiliar situations, but that after a brief introduction period, where he could observe what was happening around him, he routinely joined in the activity and did not show heightened anxiety or negative behaviors. Ms. [REDACTED] testified that she had no concerns at all concerning possible elopement of the Student from [REDACTED] HS. She explained the growth and maturity the Student has exhibited at [REDACTED], and that the faculty there have worked with him on how to proactively and constructively address his emotions. She noted that no other students at [REDACTED] have the capability the Student has to self-regulate his emotions. She testified that she has never seen the Student exhibit anger or attempt to elope from the school.

Ms. [REDACTED] opined that the goals and objectives set forth in the May 17, 2023 IEP were appropriate for the Student, and could be achieved within the [REDACTED] Program at [REDACTED] HS given her observation of the program and the aids, supports, and services in the IEP to assist the Student. She opined that the May 17, 2023 IEP enables appropriate progress in a LRE and supports the Student's needs of safety, support and independence. Ms. [REDACTED] testified that placement of the

Student in the [REDACTED] Program at [REDACTED] HS enables the Student's growth in achievement in reading, mathematics, functional life skills, reading a clock, and interactive and reciprocal discussions with peers.

On cross-examination, Ms. [REDACTED] stated that she was unfamiliar with a history of violence at [REDACTED] HS and was aware of stories the Parent had shared but that no independent research had been done. She testified that from what she observed of the [REDACTED] Program there, and what teachers have shared, the [REDACTED] Program at [REDACTED] HS provided a good environment. The Parent asked how long Ms. [REDACTED] anticipated that a successful transition for the Student would take at [REDACTED] HS, and she estimated two to four weeks given the supports the IEP team has provided.

Closing Arguments

The Parent expressed her appreciation for the dedication and effort shown by the BCPS and the staff at [REDACTED] toward the Student. However, she argued that the risks outweigh the benefits of moving the Student to a different space. She stated that the Student feels comfortable and valued at [REDACTED], and she believes that is why he is thriving there, in part. The Parent argued that the Student required repetition in small, predictable spaces. She argued that his success at [REDACTED] did not mean he would thrive in another environment. She argued that the BCPS failed to consider how placing the Student in a new school for only 6 months, after which she will terminate his public education, will impact him negatively rather than benefit him. She argued that he will not feel safe or protected at [REDACTED] HS, an uncontrolled environment with students who are not there for the Student's benefit.

The Parent also argued that she was not satisfied with the BCPS response to her allegations of violence at [REDACTED] HS. She complained that no research had been done by the IEP team about the history of violence she alleged, and how it impacted special education services there. She argued that it made no sense to recommend a placement without direct knowledge of

The Parent also expressed concern that if the Student's placement was changed from [REDACTED] to [REDACTED] HS, the Student would revert to negative behaviors that he exhibited in 2017, before he arrived at [REDACTED]. She described how the Student became violent at that time, despite his kind and friendly disposition, and articulated her fear that this would occur again if his placement was changed. However, the Parent did not present any evidence to support this predicted change of behavior. There was no evidence of examination or evaluation of the Student by a medical or mental health professional that documented current tendencies toward violence, or that he was susceptible to a reversion to aggression if his educational placement was changed. There was no evidence that the Student was of the same state of mind now that he was in 2017, or that it could reasonably be anticipated that he would demonstrate uncontrolled anger now despite the supports, aids and services that had been provided to him since 2017, or that were incorporated into his May 17, 2023 IEP for the transition to a new school. The Parent's speculation of what would occur was not grounded in the Student's current presentation, but only in his remote past, before he made the significant progress his teachers described while at [REDACTED]. It could not be inferred that because the Student exhibited anger and violence six years ago, he may reasonably be expected to do so now. The Parent's objections to the Student's placement on the basis of only one predicted reaction are not supported by any present evidence.

FAPE

In *Endrew F. v. Douglas County School District*, 580 U.S. 386 (2017), the Supreme Court reiterated the standards for judging IEPs, reiterating what it expressed in its 1982 *Rowley* decision:

The "reasonably calculated" qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials. [*Rowley*], 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, 102 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.

580 U.S. at 399 (emphasis added). The instruction offered must be “*specially* designed” to meet a child’s “*unique* needs” through an “[*i*]ndividualized education program.” §§ 1401(29), (14). *Andrew F.*, 580 U.S. at 400 (emphasis in original).

In the present case, the IEP team recognized that the Student was getting significantly diminished educational benefit in his current placement at [REDACTED]. It determined that the goals and objectives in his IEP concerning communication and socialization were not being met, and could not be met at [REDACTED], which lacks a sufficiently interactive peer group to meet the Student’s needs. However, the team determined that through a different placement to a LRE, the Student’s needs could be met in total. To remedy the situation, the IEP team determined that the Student’s home school, [REDACTED] HS, was an appropriate placement, specifically because that school offered the [REDACTED] Program into which the Student could be placed.

The IEP team demonstrated significant diligence in its determination. It entertained the Parent’s objections and took them seriously enough to involve staff from [REDACTED] HS and the [REDACTED] Program to be involved in the possible revision of the Student’s IEP. The IEP team’s involvement of staff from [REDACTED] HS commenced in June of 2021, when a [REDACTED] HS staff member attended an IEP team meeting in which a change of placement of the Student was proposed. The IEP team at [REDACTED] offered staff at [REDACTED] HS the opportunity to come to [REDACTED] to observe the Student and worked with [REDACTED] HS to facilitate a half day visit by the Student and the Parent to [REDACTED] HS. The IEP team considered and included rather extensive supports, including one to one adult support for as long as it took for the Student to successfully transition into the [REDACTED] Program. Ms. [REDACTED] went to [REDACTED] HS and observed the [REDACTED] staff and students on a typical day in

which their contact with the general education students was negligible, though the Parent fears the Student will be exposed to rampant violence.

In particular, the IEP team took seriously a program of education, supports, aids, and services that addressed all of the Student's educational and social goals and needs. Based on the ample evidence discussed above, I have no doubt that the IEP team fashioned an IEP that is reasonably calculated to enable the Student to make progress appropriate to his circumstances. Accordingly, I find that the IEP team did choose a placement that was "reasonably calculated to enable the child to receive educational benefits." *Endrew F.* 580 U.S. at 399. The Student's placement in the [REDACTED] Program at [REDACTED] HS is appropriate.

Least Restrictive Environment

Although this point was not challenged in earnest by the Parent, since the Parent's objections were primarily related to objections over safety and speculated behaviors, a discussion on LRE is indicated. In addition to the IDEA's requirement that a child with a disability receive some educational benefit, the child must be placed in the "least restrictive environment" to the maximum extent appropriate, 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).

(2) Each public agency must ensure that—

(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

34 C.F.R. § 300.114 (a)(2). Indeed, instructing children with disabilities with non-disabled peers is generally preferred if the student with disabilities can achieve educational benefit in the general education program. *DeVries v. Fairfax Cnty. Sch. Bd.*, 882 F.2d 876 (4th Cir. 1989).

Placing children with disabilities into regular school programs may not be appropriate for every

disabled child and removal of a child from a regular educational environment may be necessary when the nature or severity of a child's disability is such that education in a regular classroom cannot be achieved.

The Student has been at [REDACTED], which does not have non-disabled peers in proximity. The evidence shows that the Student has consistently exhibited advanced behaviors of organization and a willingness to engage more meaningfully in social settings and in communication. However, the evidence shows that the Student is unable to achieve a meaningful benefit in skills of social interaction and communication from the program at [REDACTED] because it lacks a student population capable of the higher level of communication and interaction that he requires to make progress. The evidence also shows that the Student has exhibited willingness and excitement to interact with non-disabled peers who periodically visit [REDACTED] and interact with the Student. The population at [REDACTED] HS predictably may consist of disabled peers who function at the same or a higher level than the Student, and of non-disabled students in a general education school.

The Student would not make progress or benefit from any program that does not provide opportunities for the Student to interact with, observe, and learn from the behaviors of peers at his level of function or higher. The expert witnesses called by the BCPS opined that the program at [REDACTED] cannot provide that opportunity, which the Student needs to make educational progress toward his communication goals.

Conversely, the Student's IEP when implemented at the [REDACTED] Program at [REDACTED] HS would enable the Student to make educational progress in all of his IEP goals and objectives, including communication. In addition, through elective courses and some other limited opportunities in the general education setting, the Student would periodically interact with general education students, though in a highly controlled setting under the constant

supervision of staff in the [REDACTED] Program. All of these goals, objectives, and needs can be met in the [REDACTED] Program at [REDACTED] HS, which is also the Student's home school.

The [REDACTED] Program at [REDACTED] HS would be the LRE for the Student. Nevertheless, the Parent appears to object to the Student's placement at [REDACTED] HS out of concerns over dangerousness.

Location

Regarding the distinction between educational placement and location or site or the program, the court in *White ex rel. White v. Ascension Par. Sch. Bd.*, 343 F.3d 373, 379 (5th Cir. 2003), wrote:

As noted, the IDEA requires that the parents be part of the team that creates the IEP and determines the educational placement of the child, 20 U.S.C. § 1414(d)(1)(B); and the IEP is to include location, 20 U.S.C. § 1414(d)(1)(A)(vi) (IEP must include the projected date for the beginning of services and their anticipated frequency, location, and duration). Additionally, 20 U.S.C. § 1414(f) requires the local education agency to ensure that the parents are members of any group that makes decisions on educational placement.

These statutory provisions do not, however, explicitly require parental participation in site selection. "Educational placement", as used in the IDEA, means educational program—not the particular institution where that program is implemented. *E.g., Sherri A.D. v. Kirby*, 975 F.2d 193 (5th Cir.1992) ("educational placement" not a place, but a program of services); *Weil v. Board of Elem. & Secondary Educ.*, 931 F.2d 1069 (5th Cir.1991) (transfer of child to another school was not a change in "educational placement"). *Thus, contrary to the Whites' position, that parents must be involved in determining "educational placement" does not necessarily mean they must be involved in site selection. Moreover, that the parents are part of the IEP team and that the IEP must include location is not dispositive. The provision that requires the IEP to specify the location is primarily administrative; it requires the IEP to include such technical details as the projected date for the beginning of services, their anticipated frequency, and their duration. See 20 U.S.C. § 1414(d)(1)(A)(vi).*

White, 343 F.3d at 379 (emphasis added).

The distinction between placement and location was explained by the hearing officer in *District of Columbia Public Schools, District of Columbia State Educational Agency 2011-1217*, 112 LRP 30086 (2012), p. 4:

Although IDEA does not define the term educational placement, the meaning falls somewhere between the physical school attended by a child and the abstract goals of a child's IEP. *See, Laster v. District of Columbia*, [349] F. Supp. 2d 60 (D.D.C. 2005).²⁰ Hence, "'placement' refers to the overall educational program offered, not the mere location of the program." *Roher v. District of Columbia*, 1989 WL 330800, pp, 2-3 (D.D.C. 1989); *Knight v. District of Columbia*, 877 F.2d 1025 (D.C. Cir. 1989).

The Parent's allegation that ■■■ HS presents an unsafe environment for the Student presents an issue involving location. The IEP specifically addressed the appropriateness of the placement, and that no other program would provide the Student with FAPE. Staff from ■■■ HS appeared and participated in IEP team meetings, and on at least one occasion addressed the Parent's concerns regarding the safety of the Student, noting that incidents of fights or violence at ■■■ HS have not impacted students in the ■■■ Program. In addition, Ms. ■■■'s observation at ■■■ HS revealed minimal interaction between the students in the ■■■ Program and the general education students. The Parent presented no objective evidence of violence at ■■■ HS and did not demonstrate a connection between purported violence at ■■■ HS and any activity there that would involve the Student. The Parent did not offer any evidence at all to prove that ■■■ HS is an inappropriate location.

Accordingly, I reject the Parent's assertion that the site or location of the appropriate placement prevents the Student from receiving a FAPE in the LRE.

²⁰ In addressing the placement of a student in a stay put situation, the court made a distinction between "placement" and the physical location of a program:

Although the IDEA does not define the term "then-current educational placement," the meaning of the term "falls somewhere between the physical school attended by a child and the abstract goals of a child's IEP." *Bd. of Educ. of Cmty High Sch. Dist. No. 218*, 103 F.3d at 548; *see also Spilsbury*, 307 F.Supp.2d at 26–27 (explaining that "the IDEA clearly intends 'current educational placement' to encompass the whole range of services that a child needs" and that the term "cannot be read to only indicate which physical school building a child attends.") *Laster v. Dist. of Columbia*, 394 F. Supp. 2d 60, 64–65 (D.D.C. 2005).

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that:

The [REDACTED] Program at [REDACTED] HS, a high school in Baltimore County, is the least restrictive environment for the Student to make educational progress toward his academic, behavioral, and physical goals; and,

The Student's placement in the [REDACTED] Program at [REDACTED] HS, a high school in Baltimore County, is an appropriate placement for the Student for the 2023-2024 school year.

ORDER

I **ORDER** that Parent's complaint is without merit and is hereby **DISMISSED**.

December 15, 2023
Date Decision Issued

Jeffrey T. Brown
Administrative Law Judge

JTB/emh
#208594

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) (Supp. 2023). 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]

████████████████████,
STUDENT

v.

BALTIMORE COUNTY

PUBLIC SCHOOLS

BEFORE JEFFREY T. BROWN,
AN ADMINISTRATIVE LAW JUDGE
OF THE MARYLAND OFFICE
OF ADMINISTRATIVE HEARINGS
OAH No.: MSDE-BCNY-OT-23-21748

FILE EXHIBIT LIST

No exhibits were admitted on behalf of the Parent.

I admitted the following exhibits on behalf of the BCPS:

BCPS Ex. 1 – Speech and Language Assessment, April 21, 2023

BCPS Ex. 2 – IEP Team Summary (“PWN”), June 10, 2021

BCPS Ex. 3 – PWN, July 29, 2021

BCPS Ex. 4 – PWN, February 14, 2022

BCPS Ex. 5 – PWN, April 5, 2022

BCPS Ex. 6 – PWN, May 16, 2022

BCPS Ex. 7 – IEP, May 16, 2022

BCPS Ex. 8 – Email from the Parent to ██████████, September 21, 2022

BCPS Ex. 9 – Email from the Parent to ██████████, February 7, 2022

BCPS Ex. 10 – Certificate Program Student Interest Sheet, February 15, 2023

BCPS Ex. 11 – PWN, April 18, 2023

BCPS Ex. 12 – PWN, May 17, 2023

BCPS Ex. 13 – IEP, May 17, 2023

BCPS Ex. 14a - *Curriculum Vitae* of ██████████

BCPS Ex. 14b – *Curriculum Vitae* of [REDACTED]

BCPS Ex. 14c - *Curriculum Vitae* of [REDACTED]