

██████████,  
STUDENT, and

██████████,  
PARENT

v.

ANNE ARUNDEL COUNTY  
PUBLIC SCHOOLS

BEFORE ANDREW J. BROUWER,  
AN ADMINISTRATIVE LAW JUDGE  
OF THE MARYLAND OFFICE  
OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-AARU-OT-24-14239

### **DECISION**

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

### **STATEMENT OF THE CASE**

Anne Arundel County Public Schools (AACPS) previously identified ██████████ (Student), as a child with a disability under the Individuals with Disabilities Education Act (IDEA), who needs specially designed instruction through an Individualized Education Program (IEP). On May 17, 2024, ██████████ (Parent) informed the AACPS at an IEP team meeting that she was rejecting the placement proposed by the IEP team and enrolling the Student at ██████████'s ██████████ campus (██████████), a non-public separate day school, at public expense. During an IEP meeting on May 17, 2024, the AACPS denied the Parent's request and subsequently provided the Parent with a prior written notice (PWN) reflecting this decision.

On May 28, 2024, the Parent filed a Due Process Complaint with the Office of Administrative Hearings (OAH) requesting a hearing to show that: (1) the AACPS failed to

provide the Student a free appropriate public education (FAPE); (2) the Parent's unilateral placement of the Student was appropriate; and (3) the Parent is entitled to tuition reimbursement and related costs for the Student's attendance at [REDACTED] under the IDEA for the 2024-2025 school year.<sup>1</sup>

I held a prehearing conference (Conference) in this case on July 29, 2024, and August 5, 2024, by the Webex online videoconferencing platform (Webex). The Parent and her counsel, Micheal J. Eig, Esquire, attended the Conference; the AACPS attended through its counsel, Manisha S. Kavadi, Esquire. At the Conference, the parties and I discussed the timeframe for issuing this decision and other relevant matters.

Under the applicable law, a decision in this case normally would be due by Sunday, August 11, 2024,<sup>2</sup> which was forty-five days after the thirty-day resolution period ended on June 27, 2024.<sup>3</sup> However, the parties anticipated that this hearing would require at least six days, and could only identify mutually available hearing dates outside that timeframe (with the earliest date that could accommodate the five day federal disclosure rule being August 13, 2024)<sup>4</sup> as follows:

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<sup>1</sup> 20 U.S.C.A. § 1415(f)(1)(A) (2017). "U.S.C.A." is an abbreviation for the United States Code Annotated. All citations herein to the U.S.C.A. are to the 2017 bound volume.

<sup>2</sup> Sunday, August 11, 2024, is forty-five days after the resolution period ended; however, the decision would have needed to be issued on Friday, August 9, 2024, because it was the last business day preceding the deadline.

<sup>3</sup> 34 Code of Federal Regulations (C.F.R.) § 300.515(a) (2022); Md. Code Ann., Educ. § 8-413(h) (2022 & Supp. 2024); Code of Maryland Regulations (COMAR) 13A.05.01.15C(14). Unless noted, references to the C.F.R. are to the 2022 volume and references to the Education Article of the Maryland Annotated Code are to the 2022 volume.

<sup>4</sup> The federal five-day disclosure rule permits parties to prohibit the introduction of any evidence, evaluations, and recommendations at the hearing that has not been disclosed to that party at least five business days before the hearing. 34 C.F.R. § 300.512(a)(3), (b). The Conference concluded on Monday, August 5, 2024. Had the parties completed their disclosures the following day, Tuesday, August 6, 2024, the fifth business day thereafter would have been August 13, 2024, making it the first theoretically possible hearing date in this case.

<b>Date</b>	<b>ALJ<sup>5</sup></b>	<b>Student</b>	<b>School</b>
8/13/2024	Unavailable	Available	Ms. Kavadi unavailable; meeting
8/14/2024	Unavailable	Available	Ms. Kavadi unavailable; meetings
8/15/2024	Unavailable	Available	Ms. Kavadi unavailable; hearing
8/16/2024	Unavailable	Mr. Eig unavailable; meetings	Ms. Kavadi unavailable; meetings
8/19/2024	Available	Available	Ms. Kavadi unavailable; hearing
8/20/2024	Available	Available	Ms. Kavadi unavailable; hearing
8/21/2024	Available	Available	Ms. Kavadi unavailable; hearing
8/22/2024	Available	Available	Ms. Kavadi unavailable; hearing
8/23/2024	Available	Available	Ms. Kavadi unavailable; hearing
<b>8/26/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available</b>
8/27/2024	Unavailable	Available	Ms. Kavadi unavailable; hearing
<b>8/28/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available</b>
<b>8/29/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available</b>
8/30/2024	Unavailable	Available	Available
9/2/2024	HOLIDAY	HOLIDAY	HOLIDAY
9/3/2024	Available	Available	Ms. Kavadi unavailable; hearing
<b>9/4/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available (witness unavailable)</b>
9/5/2024	Available	Mr. Eig unavailable; hearing	Available
9/6/2024	Available	Mr. Eig unavailable; hearing	Ms. Kavadi unavailable; hearing
9/9/2024	Available	Mr. Eig unavailable; hearing	Available
<b>9/10/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available (witness unavailable)</b>
9/11/2024	Available	Available	Ms. Kavadi unavailable; hearing
9/12/2024	Available	Available	Ms. Kavadi unavailable; hearing
9/13/2024	Available	Available	Ms. Kavadi unavailable; hearing
9/16/2024	Available	Mr. Eig unavailable; hearing	Ms. Kavadi unavailable; hearing
9/17/2024	Available	Mr. Eig unavailable; hearing	Ms. Kavadi unavailable; hearing
9/18/2024	Available	Mr. Eig unavailable; hearing	Ms. Kavadi unavailable; hearing
9/19/2024	Available	Mr. Eig unavailable; hearing	Ms. Kavadi unavailable; hearing
9/20/2024	Available	Mr. Eig unavailable; hearing	Ms. Kavadi unavailable; meetings
9/23/2024	Available	Parent unavailable; wedding	Ms. Kavadi unavailable; hearing
9/24/2024	Available	Parent unavailable; wedding	Ms. Kavadi unavailable; hearing
9/25/2024	Unavailable	Parent unavailable; wedding	Ms. Kavadi unavailable; hearing
9/26/2024	Unavailable	Parent unavailable; wedding	Ms. Kavadi unavailable; hearing
9/27/2024	Unavailable	Parent unavailable; wedding	Ms. Kavadi unavailable; hearing
9/30/2024	Available	Parent unavailable; wedding	Ms. Kavadi unavailable; hearing
10/1/2024	Unavailable	Parent unavailable; wedding	Ms. Kavadi unavailable; hearing
10/2/2024	Available	Mr. Eig unavailable; hearing	Ms. Kavadi unavailable; hearing
<b>10/3/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available</b>
10/4/2024	Available	Available	Ms. Kavadi unavailable; hearing
10/7/2024	Available	Available	Ms. Kavadi unavailable; hearing
10/8/2024	Available	Mr. Eig unavailable; vacation	Ms. Kavadi unavailable; hearing

<sup>5</sup> The Administrative Law Judge (ALJ) dates of unavailability were due to previously scheduled specially assigned dockets or previously scheduled approved leave.

10/9/2024	Available	Mr. Eig unavailable; vacation	Available
10/10/2024	Available	Mr. Eig unavailable; vacation	Available AM Only
10/11/2024	Unavailable	Mr. Eig unavailable; vacation	Ms. Kavadi unavailable; hearing
10/14/2024	HOLIDAY	HOLIDAY	HOLIDAY
10/15/2024	Available	Mr. Eig unavailable; vacation	Ms. Kavadi unavailable; hearing
10/16/2024	Available	Mr. Eig unavailable; vacation	Available
10/17/2024	Available	Mr. Eig unavailable; vacation	Ms. Kavadi unavailable; hearing
10/18/2024	Available	Mr. Eig unavailable; vacation	Ms. Kavadi unavailable; hearing
10/21/2024	Available	Mr. Eig unavailable; vacation	Ms. Kavadi unavailable; hearing
10/22/2024	Available	Available	Ms. Kavadi unavailable; hearing
10/23/2024	Available	Available	Ms. Kavadi unavailable; hearing
10/24/2024	Available	Available	Ms. Kavadi unavailable; hearing
10/25/2024	Available	Available	Ms. Kavadi unavailable; hearing
10/28/2024	Available	Available	Ms. Kavadi unavailable; hearing
10/29/2024	Unavailable	Available	Ms. Kavadi unavailable; hearing
10/30/2024	Unavailable	Available	Ms. Kavadi unavailable; hearing
10/31/2024	Unavailable	Available	Ms. Kavadi unavailable; vacation
11/1/2024	Unavailable	Available	Ms. Kavadi unavailable; vacation
11/4/2024	Unavailable	Available	Ms. Kavadi unavailable; vacation
11/5/2024	HOLIDAY	HOLIDAY	HOLIDAY
11/6/2024	Available	Available	Ms. Kavadi unavailable; vacation
11/7/2024	Available	Available	Ms. Kavadi unavailable; meetings
11/8/2024	Available	Available	Ms. Kavadi unavailable; meetings
11/11/2024	HOLIDAY	HOLIDAY	HOLIDAY
<b>11/12/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available</b>
<b>11/13/2024</b>	<b>Available</b>	<b>Available</b>	<b>Available</b>

Accordingly, the timeframe for conducting the hearing and issuing a decision in this matter would have ordinarily expired on August 11, 2024,<sup>6</sup> which was before the hearing could have commenced based upon the interplay between the date that the Conference concluded and the five-day federal disclosure rule. As such, the AACPS requested that I extend the timeline to allow the case to be heard on the mutually available dates and to allow sufficient time for me to consider the evidence, evaluate the legal arguments, and draft a decision.<sup>7</sup> The Parent objected; however, I may grant specific extensions of time at the request of either party.<sup>8</sup> Accordingly,

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<sup>6</sup> 34 C.F.R. § 300.515(a).

<sup>7</sup> 34 C.F.R. § 300.515(c).

<sup>8</sup> *Id.*; see also Md. Code. Ann., Educ. § 8-413(h).

based on the noted scheduling conflicts and inability to schedule the matter before August 11, 2024, I found good cause to extend the regulatory timeframe as requested by the AACPS.<sup>9</sup> The AACPS also requested that I utilize thirty days to issue a decision after the close of the record. The Parent took no position on this request. Based upon the AACPS's request and Parent's lack of opposition, I indicated that I would issue a decision within thirty days after the conclusion of the hearing.<sup>10</sup>

On August 23, 2024, the OAH granted an emergency postponement canceling the hearing dates on August 26, 2024, August 28, 2024, and August 29, 2024, due to me having an unexpected family emergency.<sup>11</sup> The OAH then scheduled the matter to commence on September 4, 2024. In the interim, the parties coordinated their updated schedules and submitted new dates to me, which resulted in the following seven-day hearing schedule: September 4, 10, 11, 12, 18, 19, and October 1, 2024. I held the hearing on those dates.

Mr. Eig represented the Parent. Ms. Kavadi represented the AACPS. As set out herein, the Parent did not prove by a preponderance of the evidence that the AACPS failed to provide the Student with a FAPE. The AACPS is not required to fund and reimburse the tuition and related costs associated with the Student's attendance at [REDACTED] for the 2024-2025 school year at public expense.

Procedure is governed by the Administrative Procedure Act's contested case provisions; the Education Article; the Maryland State Department of Education (MSDE) procedural regulations; and the OAH's Rules of Procedure.<sup>12</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> COMAR 28.02.01.11B(7), (12); COMAR 28.02.01.16E(1).

<sup>12</sup> Educ. § 8-413(e)(1) (Supp. 2024); Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 13A.05.01.15C; COMAR 28.02.01.

## **ISSUES**

1. Did the AACPS fail to provide the Student with a FAPE for the 2024-2025 school year by failing to provide an appropriate IEP and placement that was reasonably calculated to address the Student's unique disability-related needs?
2. If so, what remedy is appropriate?

## **SUMMARY OF THE EVIDENCE**

I have attached a complete Exhibit List as an Appendix.

### **Testimony**

The Parent testified and presented the following witnesses:

- [REDACTED], Executive Director of [REDACTED], who was accepted as an expert in special education.
- [REDACTED], Therapist / Supervisor, [REDACTED], who was accepted as an expert in social work.
- [REDACTED], Educational Consultant, [REDACTED], who was accepted as an expert in special education with a concentration in the education of children with intellectual disabilities.

The AACPS presented the following witnesses:

- [REDACTED], Coordinator Interagency and Nonpublic Placement Office / Special Education, AACPS, who was accepted as an expert in special education with a concentration in intellectual disabilities and programming for students who are on [REDACTED] ([REDACTED]) standards.
- [REDACTED], Assistant Principal, AACPS, who was accepted as an expert in special education.

- [REDACTED], School Psychologist, AACPS, who was accepted as an expert in school psychology.
- [REDACTED], Academic Specialist / Special Education – Interagency and Nonpublic Office, AACPS, who was accepted as an expert in special education.

### **STIPULATIONS**

The parties stipulated that the Student and Parent<sup>13</sup> do not challenge the appropriateness of the following on the IEP:

- The present levels of [academic achievement and functional] performance (present levels of performance)<sup>14</sup>
- The curriculum and state testing standards on the IEP aligned with [REDACTED]s, standards, and assessment
- The finding that the student qualifies for [REDACTED]s standards pursuant to Appendix A<sup>15</sup>
- The Instructional Accommodations and Modifications
- The Supplemental Aids Services other than Adult Support
- The Goals and Objectives
- The Related Services

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<sup>13</sup> On September 19, 2024, Ms. Kavadi emailed the parties' agreed upon stipulation to my administrative assistant, with Mr. Eig copied. The written stipulation identified the Student and Parent as "Petitioners/Parents," which I have changed to "Student" and "Parent" for consistency with this decision.

<sup>14</sup> The parties stipulated language was "[t]he present levels of performance," which I have reworded for clarity.

<sup>15</sup> The "Alternate Appendix A: Participation Criteria and Checklist," is a document that must be completed annually by IEP teams to determine whether a student with a significant cognitive disability can participate in the [REDACTED] assessments and/or [REDACTED] instructional standards, which is [REDACTED] track. [REDACTED] assessments and/or [REDACTED] instructional standards are part of a [REDACTED] program, and commonly referred to as "[REDACTED]."

## **FINDINGS OF FACT**<sup>16</sup>

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

### **GENERAL BACKGROUND**

1. The Student is fourteen years old and has been diagnosed with a moderate [REDACTED] ( [REDACTED] ) and a [REDACTED] .
2. The Student receives special education services for having [REDACTED] ( [REDACTED] ), including [REDACTED] and other health impairment (OHI).
3. The Student began school in pre-kindergarten at [REDACTED] in the [REDACTED] Public School System ( [REDACTED] PS).
4. In November 2013, the Student was identified as being eligible for special education services and began receiving services for a [REDACTED] .<sup>17, 18</sup>
5. In or about May 2016, the Student's diagnosis was changed to [REDACTED] [REDACTED] and his IEP services were accordingly changed.<sup>19</sup>
6. In the fall of 2016, the Student began attending [REDACTED] [REDACTED] and remained there until the Parent placed the Student at the [REDACTED] in January 2017.<sup>20</sup>

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<sup>16</sup> My findings, analysis, and legal conclusions are based upon consideration of all the parties' arguments and the credible evidence of record. All testimonial and documentary evidence was considered and given the weight it was due, regardless of whether it has been recited, cited, referenced, or expressly set forth in the Decision. *See, e.g., Walker v. Sec'y of Health & Human Servs.*, 884 F.2d 241, 245 (6th Cir. 1989) (an ALJ need not address every piece of evidence in the record); *Mid-Atl. Power Supply Ass'n v. Md. Pub. Serv. Comm'n*, 143 Md. App. 419, 442 (2002) (emphasizing that "[t]he Commission was free to accept or reject any witness's testimony" and "the mere failure of the Commission to mention a witness's testimony" does not mean that the Commission "did not consider that witness's testimony").

<sup>17</sup> The AACPS pre-marked its exhibits as "AACPS EXHIBIT" followed by the exhibit number and then the exhibit page number, so "AACPS EXHIBIT exhibit number.exhibit page number." For brevity, I have changed "EXHIBIT" to "Ex." and otherwise adopted the AACPS's identification for its exhibits, which differs from the Parent's exhibit markings stylistically.

<sup>18</sup> AACPS Ex. 17.2.

<sup>19</sup> AACPS Ex. 17.2.

<sup>20</sup> AACPS Ex. 17.2.



7. In October 2017, the Student underwent a [REDACTED] evaluation, and based upon that evaluation the [REDACTED] PS placed the Student at [REDACTED], which is a nonpublic day school.

8. On a date not reflected in the record, the Student later transferred from [REDACTED] to the [REDACTED], a different nonpublic day school in [REDACTED] [REDACTED], as a [REDACTED] PS student. The Student remained in that placement until he moved to Anne Arundel County.

**FIFTH GRADE, 2020-2021 SCHOOL YEAR: MOVE TO ANNE ARUNDEL COUNTY**

9. In August 2020, the Student and his family moved to Anne Arundel County, Maryland, and he became an AACPS student for his fifth-grade year.

10. When he became an AACPS student, the Student had an existing IEP from the [REDACTED] PS that “called for a full day of special education services as a diploma-bound student.”<sup>21, 22</sup>

11. The AACPS determined that comparable services for the 2020-2021 school year would be a full day of special education services for the Student, as a Maryland High School Diploma bound (diploma-bound) student.

12. The AACPS also determined that as a diploma-bound student, its public-school based full day special education services programs would not be appropriate for the Student based upon his profile.

13. The AACPS made this determination because its public-school based full day special education programs were geared more toward behavioral supports, which the AACPS believed would not enable the Student to handle a diploma track curriculum in the public-school setting.

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<sup>21</sup> [REDACTED] testimony. Transcript (Tr.) p. 458.

<sup>22</sup> The record does not indicate the setting; however, I infer that the IEP called for a separate nonpublic day school because that was the setting that the Student was in at the [REDACTED] immediately preceding his move to Anne Arundel County.

14. The AACPS agreed to fund the Student's placement at [REDACTED], which is a private separate day school, and placed him there for the 2020-2021 school year.

15. The Parent agreed with this placement.

**SIXTH GRADE, 2021-2022 SCHOOL YEAR**

16. The AACPS continued to fund the Student's placement at [REDACTED] for the 2021-2022 school year, with the Student remaining diploma-bound.

17. The Parent agreed with this placement.

**AUGUST 2022 [REDACTED] EVALUATION**

18. On August 17, 2022, [REDACTED], [REDACTED], from the Division of Neuropsychology at [REDACTED], performed a [REDACTED] evaluation of the Student.

19. On August 31, 2022, [REDACTED] issued a Report of [REDACTED] Evaluation (August 31, 2022 [REDACTED] Report).<sup>23</sup>

20. In the August 31, 2022 [REDACTED] Report, [REDACTED] reaffirmed the Student's diagnosis of a moderate [REDACTED] and due to his generalized [REDACTED] weakness, ruled out a separate diagnosis of [REDACTED] ([REDACTED]).

21. [REDACTED]'s August 31, 2022 [REDACTED] Evaluation summary and impressions included, in pertinent part:

[The Student] . . . is socially motivated. . . displayed good functional communication skills to express his needs and wants, as well as social reciprocity when simple language is used [and] . . . his performance improved with simple and repeated instruction, redirection, the use of visual support, and repeated exposure to materials (e.g., familiarity, routines) [and] . . . [w]ithin adaptive functioning, he demonstrated better-developed social skills compared to his conceptual and practical skills.

. . .

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<sup>23</sup> P. Ex. 2. The Parent pre-marked her exhibits as "P-" followed by the exhibit number and then the exhibit page number, so P-exhibit number-exhibit page number. For consistency, I have adopted the Parent's identification numbering but have altered the initial format to "P. Ex." for clarity.

[A]daptively he uses language to communicate and can manage basic functional tasks, but *he requires extended teaching and support for other more complex activities of daily living*. While [the Student] presents with weaknesses in attention and aspects of executive skills (e.g., working memory, initiation, rigidity), these symptoms are likely related to his generalized [REDACTED] and do not support a separate diagnosis (e.g., ADHD) at this time. Additionally, his [REDACTED] behaviors (e.g., repeated questions about what to expect) appear to primarily occur when feeling [REDACTED] / [REDACTED] in the context of unknown or information overload, which does not support a specific [REDACTED] disorder at present time.

...

While [the Student] will certainly continue to learn and [sic] develop over time, the pace of his skill acquisition will likely be much slower and follow different paths than his same-aged peers. As such, [the Student] will require significant, individualized, and appropriately targeted support to build his academic and everyday adaptive skills. He will likely be most successful in a structured environment where he can learn at his own pace, with significant multi-disciplinary support in place, which will be critical in ensuring his success going forward. He will also benefit greatly from constant, daily exposure to peer interaction within a structured, supervised environment to promote continued emotional and social skills development.<sup>24</sup>

22. [REDACTED]'s August 31, 2022 [REDACTED] Report's recommended in pertinent part:

- The Student's current FCC coding of [REDACTED], including [REDACTED] and OHI, remain.
- The Student's placement continue in a highly specialized setting, which includes small group or one-on-one instruction and modification of lesson/homework/exams to fit his cognitive levels, for the majority of his learning (i.e. non-public placement).
- Explicit instructions in adaptive skills and their generalization to everyday tasks to support his functional independence.
- An educational curriculum that includes functional academic targets as part of his learning goals, including the use of money and purchasing skills (e.g., grocery shopping).
- A transition plan with consideration of services through age twenty-one to ensure the Student develops basic daily living skills necessary to support his functional independence after high school graduation, and that focuses on developing adaptive, vocational, and transition skills.
- The Student is social and readily initiates and engages in conversation. These strengths may be misconstrued by others about the level of his comprehension and language skills. That is, the Student may appear to understand and have more

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<sup>24</sup> P Ex. 02-6 to 02-7. Emphasis in original.

capabilities than he actually does in carrying out complex everyday functions. The Student will require routines and supervision throughout the school day (including school bus pick up/drop off), with increased supervision during less structured times (e.g., recess, field trips, vocational training, etc.).

- Various accommodations to maintain the Student's attention.
- Social stories in video and pictures that may be helpful for the Student, especially when preparing him for a change of routines, transitions, social situations, or teaching new skills.
- Teaching with "script" (simple sayings that help a person remember the skill) recipes and routines, and use of short catchy phrases/images to teach new skills.<sup>25</sup>

**SEVENTH GRADE, 2022-2023 SCHOOL YEAR & [REDACTED] EXPLORATION**

23. On October 20, 2022, the Student's IEP team conducted an annual review and determined that the Student would remain [REDACTED]-bound, participate in District and Statewide Assessments for his grade, and continue to be placed at [REDACTED] for the 2022-2023 school year, at public expense.

24. At the October 20, 2022 annual review meeting, the Parent agreed with the placement decision and expressed her definite interest/desire in having the Student transitioned from a [REDACTED] track to a [REDACTED] track.

25. The IEP team determined that the Student was accessing the general education curriculum with specialized instruction, supports, and accommodations, but that it would reconvene to discuss the Student's change from [REDACTED] track to [REDACTED] track after an adaptive assessment was completed.

26. During the October 20, 2022 annual review, [REDACTED] explained that once the Student changes to a [REDACTED], there will be a different curriculum for him, which is a very structured curriculum designed to teach specific life skills, and this information is tied into class lessons and reviewed until a student becomes proficient and is able to retain it. The Parent

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<sup>25</sup> P Ex. 02-7 to 02-8.

was glad to hear this information because she has observed that the Student needs repeated instruction and would benefit from repetition.<sup>26</sup>

27. After the October 20, 2022 annual review, the AACPS provided the Parent with a PWN (October 20, 2022 PWN), which reflected the Parent's request for a [REDACTED] and [REDACTED] explanation.<sup>27</sup>

#### **2022-2023 [REDACTED] ASSESSMENTS**

28. On December 18, 2022, and with the Parent's consent, AACPS school psychologist [REDACTED] performed an assessment of the Student to determine his present levels of performance in the areas of adaptive functioning.

29. As part of her formal assessment of the Student, [REDACTED] conducted the Adaptive Behavior Assessment System, Third Edition (ABAS-3), which is a comprehensive norm-referenced assessment of adaptive skills needed to effectively and independently care for oneself, respond to others, and meet environmental demands at home, school, work and in the community. The ABAS-3 has three domains: Conceptual, Social and Practical.<sup>28</sup>

30. On February 2, 2023, [REDACTED] issued a [REDACTED] Assessment Report (February 2, 2023 [REDACTED] Assessment Report) detailing her findings. In pertinent part, [REDACTED] wrote in the report's background information section:

Parent Feedback: A parent interview was conducted on 11/17/22 with [the Student]'s mother. She shared that [the Student] is currently medicated with [REDACTED] for [REDACTED] and does not currently participate in any outside therapies. He engages in a number of extra-curricular activities through the [REDACTED] at [REDACTED] and the Special Olympics including tennis, running, soccer, and volleyball. [The Student] enjoys family time at home including watching and discussing movies with his mother. She reports that he has strengths in his social skills and interest[s] in initiating relationships and making friends. [The Student] has made growth in his ability to advocate for himself and express his likes and dislikes. In regard to his areas of need, his mother reports that they are working to build his self-care skills including his organization, eating neatly, typing [sic] shoes,

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<sup>26</sup> AACPS Ex. 2.1 to 2.3.

<sup>27</sup> AACPS Ex. 2.

<sup>28</sup> AACPS Ex. 19.3.

caring for his hair, and applying lotion. Her greatest academic concern is in the area of reading.<sup>29</sup>

31. The February 2, 2023 [REDACTED] Assessment Report's summary of findings indicated in pertinent part that:

- The Student's ratings for adaptive functioning within the school setting indicate that his functioning falls within the extremely low range when compared to same age peers, which was consistent with the estimate of overall cognitive ability from the August 31, 2022 [REDACTED] Report, but somewhat lower than the Parent's ratings of adaptive behavior.
- The Student's ratings within the social domain were in the low range on teacher ratings when compared to his same age peers but were a personal strength for the Student when compared to his overall adaptive functioning, which was consistent with historical areas of strength and consistent with the parent ratings utilized for the August 31, 2022 [REDACTED] Report.<sup>30</sup>

32. On February 23, 2023, and as reflected in a subsequently provided PWN, an IEP team meeting was held and the Parent agreed to allow the AACPS to conduct additional assessments of the Student that would be required to consider the alternative curriculum, [REDACTED] program.<sup>31</sup>

33. On March 16, 2023, and March 21, 2023, [REDACTED], the Student's AACPS Non-Public Teacher Specialist / Case Manager, administered academic assessment tests to the Student.<sup>32</sup>

34. [REDACTED] first met the Student in 2022 as his case manager, and [REDACTED] has met the Student approximately thirty to forty times.<sup>33</sup>

35. On March 21, 2023, [REDACTED] conduct a [REDACTED] consultation on the Student, at the Parent's request, to address the Parent's concerns regarding some of the Student's new impulsive behaviors.

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<sup>29</sup> AACPS Ex. 19.2.

<sup>30</sup> AACPS Ex. 19.4.

<sup>31</sup> AACPS Ex. 3.2.

<sup>32</sup> P Ex. 04-2.

<sup>33</sup> [REDACTED] testimony. Tr. pp. 747-748.

36. In pertinent part, [REDACTED] indicated in her March 21, 2023, Report of

[REDACTED] Consultation as follows:

In the interim since his previous [REDACTED]l evaluation, [the Student] has been medically stable without additional [REDACTED]. He remains on [REDACTED]. He is happy with his older sister who returned home to live with him. With regard to education history, [the Student] is currently in 7th grade at [REDACTED] in [REDACTED], MD. He continues to enjoy his school, is socially thriving, and is actively participating in various extracurricular activities (e.g., basketball, volleyball). That said, [the Student] presents with increasing difficulty with impulsive behaviors that emerged at the end of 2022, which are interfering with his everyday functioning (e.g., safety). When he has a particular thought or want, [the Student] has difficulty disengaging from it and impulsively acts on it regardless of time or situation. For example, when the family recently went to a restaurant, [the Student] went straight to the buffet without telling the family. At school, he was going to other classrooms to socialize with his peers, therapist, or teachers when he is not supposed to, and his teachers could not locate him. [The Student] is now being escorted when transitioning between classrooms at school. In addition, his school bus driver changed the location of the bus stop as a result of him running across the street without looking both ways. [The Parent] also stated that [the Student] has become more resistant and argues with [the Parent]’s everyday requests (e.g., what he can and cannot do and why), trying to assert himself.

[The Student] has a history of attention and combined executive function difficulties since early childhood. His symptoms, in particular self-regulation and impulsivity, appear to have worsened, likely in the context of physical and brain development during puberty. Research suggests that [an] adolescent[’s] brain goes through reorganization which may result in an imbalance in executive skills (e.g., judgment, self-regulation) and emotional/behavioral functioning). Given [the Student]’s complex medical ([REDACTED]) and ([REDACTED]) ([REDACTED]) functioning, it is important that appropriate environmental and behavioral support is in place to help him in a time of multiple changes going forward.<sup>34</sup>

37. To address the Parent’s safety concerns, [REDACTED] recommended the following safety support:

Safety support: Given concerns for impulsive behaviors and lack of awareness of common dangers, [the Student] requires routines, explicit instructions, and supervision throughout the school day (including school bus pick up/drop off, transition between classes), with increased supervision during less structured times (e.g., recess, field trips, vocational training, etc.). Continued access to escorting between classrooms is recommended.<sup>35</sup>

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<sup>34</sup> P Ex. 03-1 to 03-2.

<sup>35</sup> P Ex. 03-2.

38. On March 21, 2023, the Parent contacted the AACPS to request an IEP meeting to discuss adding environmental and behavioral supports for the Student.<sup>36</sup>

39. On March 28, 2023, the IEP team met at the Parent's request to add supports to the Student's IEP designed to address her concerns about the Student's wandering behavior. An addition of clear and consistent expectations with one to two step directions and positive reinforcers was added to the Student's supplementary aids and services. Additionally, transitioning in a timely manner was added as an objective.<sup>37</sup>

40. On March 30, 2023, [REDACTED] issued an Academic Assessment Report (March 30, 2023 Academic Assessment Report).<sup>38</sup>

41. As reflected by the March 30, 2023 Academic Assessment Report, the Student was performing in the very low range when compared to same age peers in reading, writing, and math, with his reading at the kindergarten level and his math ranging between the kindergarten and second grade levels.<sup>39</sup>

42. On May 3, 2023, and May 5, 2023, [REDACTED] conducted an Occupational Therapy Re-Evaluation for School-Based Services on the Student, and issued a written report on May 15, 2023.<sup>40</sup> In pertinent part, [REDACTED] noted in her summary that the Student:

[g]ets along with classmates easily, without much drama; demonstrates respect and courtesy toward teachers and staff; participates in social activities at school; shows caring towards other students; seeks out extra curricular activities, such as sports and clubs; enjoys being with friends and joins in group activities without disrupting them.<sup>41</sup>

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<sup>36</sup> P Ex. 05.

<sup>37</sup> AACPS Ex. 4.3.

<sup>38</sup> P Ex. 04.

<sup>39</sup> P Ex. 04-9 to 04-11.

<sup>40</sup> AACPS Ex. 22.

<sup>41</sup> AACPS Ex. 22.7.



## **2023-2024 SCHOOL YEAR PROPOSED CHANGES**

43. On May 15, 2023, the IEP team convened its annual meeting for the Student. During that meeting, the AACPS proposed that the Student change from being a [REDACTED]-bound student and enter a [REDACTED] track because the Student met “the criteria to pursue Maryland High School [REDACTED] Completion and the [REDACTED] state assessments based on [REDACTED] academic achievement standards.”<sup>42</sup>

44. The Parent agreed with the AACPS on the appropriateness of a certificate track program; however, the Parent also “stated a year ago when she mentioned the [REDACTED] track she was told that [the Student] could stay at [REDACTED]. She feels like she is being side barred,<sup>43</sup> but it doesn’t change her feelings that [the Student] needs to be on the [REDACTED] track.”<sup>44</sup>

45. With the proposed change to a [REDACTED] track, the AACPS further proposed that a less restricted environment would be appropriate for the Student because the Student’s IEP could be implemented in his home school of [REDACTED] in the [REDACTED] [REDACTED] ( [REDACTED] ).<sup>45</sup>

46. The AACPS explained that the [REDACTED] would be a less restrictive setting than [REDACTED], and that it would provide the Student opportunities to engage with his non-disabled peers throughout the school day, while continuing to access specialized, small group instruction and opportunities for community-based instruction.<sup>46</sup>

47. The AACPS explained to the Parent that even in the general education setting, a teacher or aide would remain with the [REDACTED] students.<sup>47</sup>

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<sup>42</sup> P Ex. 07-4.

<sup>43</sup> I infer that “side barred” meant perhaps “side-tracked” or “broad-sided.” Regardless, I infer that the Parent was expressing that she felt surprised.

<sup>44</sup> P Ex. 07-4.

<sup>45</sup> P Ex. 07-4.

<sup>46</sup> P Ex. 07-4.

<sup>47</sup> P Ex. 07-4.

48. The AACPS further explained to the Parent that when the [REDACTED] students were interacting or working alongside non-disabled peers or community members, they would be considered inside the general education environment, so services hours may look different; however, [REDACTED] students continue to have the supplementary aides and services and accommodations listed on their IEPs, across all settings.<sup>48</sup>

49. The Parent disagreed with the AACPS's proposal because she did not want the Student to move from [REDACTED]. The Parent explained that in her opinion, the Student needed the consistency he had found at [REDACTED] and that a placement change would ruin him. The Parent indicated that she wanted it documented that she disagreed with a placement change. The Parent also indicated that she did not support the Student going into a public school because she believed his disabilities would make him vulnerable to other students.<sup>49</sup>

50. The Parent further asked if the recommendation could wait until next year when the Student would be entering high school, as it would be a natural transition time for the Student and provide him time to process the change.<sup>50</sup>

51. The May 15, 2023 IEP team discussions were documented in the May 15, 2023 PWN, which was sent to the Parent after the meeting.<sup>51</sup>

52. On May 15, 2023, after the IEP meeting, the Parent contacted the AACPS to further discuss her concerns and she spoke with [REDACTED]. During the discussion, the Parent told [REDACTED] that even though the Parent agreed with the [REDACTED] change, she wanted to revoke consent for [REDACTED] so that the Student would need to remain at [REDACTED]. The Parent expressed concerns about the Student's previous experience in [REDACTED] PS and did not want him to be around "OHI type kids." She also did not want to see the [REDACTED] program. [REDACTED]

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<sup>48</sup> P Ex. 07-4.

<sup>49</sup> P Ex. 07-4.

<sup>50</sup> P Ex. 07-5.

<sup>51</sup> P Ex. 07.

explained the [REDACTED] program to the Parent, the [REDACTED] decisions, revocation process, and agreed to follow up with the compliance office regarding next steps.<sup>52</sup>

53. On May 16, 2023, the Parent confirmed in writing that she was refusing to allow the AACPS to instruct the Student using [REDACTED] academic achievement standards that do not provide credit toward a Maryland High School Diploma, and refusing to allow the AACPS to assess the Student with the [REDACTED] education assessments aligned with Maryland's [REDACTED] academic achievement standards.<sup>53</sup>

54. On July 11, 2023, the IEP team convened for a meeting, and the Parent attended with her educational advocate, [REDACTED].

55. [REDACTED] is a special education consultant who, since December 2022, has been employed by the [REDACTED].<sup>54</sup> The Parent hired [REDACTED] as an educational consultant in early 2023.<sup>55</sup>

56. During the July 11, 2023 IEP team meeting, the AACPS proposed that the Student pursue a Maryland High School [REDACTED] and participate in [REDACTED] State assessments based on alternative academic achievement standards because the Student's cognitive disability requires that he have access to instruction using alternative assessments.<sup>56</sup>

57. In support of that proposal, the AACPS noted:

- That the Student has an IEP that includes specially designed instruction that requires accommodations, evidence-based practices, program modifications, and personnel support, and that there was evidence that the Student cannot access the general education standards despite ongoing interventions.
- That the August 31, 2022 [REDACTED] Report showed that the Student has a [REDACTED] disability, the February 2, 2023 [REDACTED] Assessment Report indicated

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<sup>52</sup> P Ex. 05-2.

<sup>53</sup> P Ex. 06-2.

<sup>54</sup> P Ex. 30.

<sup>55</sup> [REDACTED] testimony. Tr. p. 338.

<sup>56</sup> P Ex. 11-4.

that the Student's adaptive scores were in the very low range, and that the March 30, 2023 Academic Assessment Report demonstrated that the Student's academic levels were also in the very low range.

- That the Student has a cognitive disability that impacts his intellectual functioning and adaptive behavior, and as such the Student requires significantly modified learning content to enable him to access the knowledge and skills necessary to progress.
- That the Student requires extensive, direct, repeated and individualized instruction and substantial support to achieve measurable gains in the grade and age-appropriate curriculum.<sup>57</sup>

58. The Parent agreed with the ACCPS's proposal; however, she refused to provide consent for the Student to participate in the [REDACTED] assessment aligned to the Maryland alternate curriculum and for the Student to receive instruction using [REDACTED] standards that would not provide credits towards a Maryland High School Diploma. The Parent disagreed because the Student had made friends at [REDACTED] and ran a 5K, and because the Parent believed that the Student had healed during his time at [REDACTED].<sup>58</sup>

59. At the July 11, 2023 IEP team meeting, the AACPS also proposed to reduce the Student's special education hours to nineteen hours per week, to increase his general education classroom hours to ten hours per week, and to move him the [REDACTED], and explained:

- The change in hours would coincide with the Student moving to the [REDACTED], which as a lesser restrictive environment would have the Student inside a general education setting less than forty percent of the time.
- That based on the amount of services required to implement the Student's supplementary aids and services, and his goals and objectives, the Student required services inside an [REDACTED] for all core content classes, which would include academic instruction for language arts, math, science, and social studies in small groups outside of the general education setting; however, the Student also required adult supported access to general education peers during his electives and at lunch, which is why the

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<sup>57</sup> P Ex. 11-4.

<sup>58</sup> P Ex. 11-4 to 11-5.

Student required enrollment in an [REDACTED] program instead of private separate day program.<sup>59</sup>

60. The Parent disagreed with the AACPS's proposals because she believed that the Student required a full day of special education services in a small group setting, and shared that when the Student was in a lesser restrictive environment in the [REDACTED] PS, he was not successful. The Parent indicated that she did not believe that the AACPS was looking at all the Student's diagnoses and a full picture of him because it was trying to "check a box" for [REDACTED] assessments.<sup>60</sup>

61. The July 11, 2023 IEP team discussions were documented in the July 11, 2023 PWN, which was sent to the Parent after the meeting.<sup>61</sup>

#### **2023-2024 DUE PROCESS COMPLAINTS & SETTLEMENT AGREEMENT**

62. On August 1, 2023, the Parent filed a due process complaint seeking the Student's continued placement at [REDACTED] for the 2023–2024 school year.<sup>62</sup>

63. On a date not reflected in the record, the AACPS filed a due process complaint concerning the provision of [REDACTED] achievement standards and [REDACTED] assessments.<sup>63</sup>

64. On October 12, 2023, the Parent, both individually and on behalf of the Student, and the AACPS entered into a Release and Settlement of Claims (Settlement Agreement) resolving those due process complaints.<sup>64</sup>

65. Pursuant to their Settlement Agreement, in pertinent part, the Parent and the AACPS voluntarily agreed that:

- The AACPS would place the Student at [REDACTED] for the 2023-2024 school year.

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<sup>59</sup> P Ex. 11-5.

<sup>60</sup> P Ex. 11-5 to 11-6.

<sup>61</sup> P Ex. 11.

<sup>62</sup> P Ex. 01-5; AACPS Ex. 9.1.

<sup>63</sup> AACPS Ex. 9.1.

<sup>64</sup> AACPS Ex. 9.

- The Parent would provide written consent to allow the AACPS to instruct the Student using [REDACTED] academic achievement standards that do not provide credit towards a Maryland High School Diploma and to assess the student with the [REDACTED] education assessments aligned with the State's alternate academic achievement standards.
- The Student's current educational placement or "stay put" placement for the 2024-2025 school year was [REDACTED]'s ([REDACTED]l) [REDACTED].
- During the 2023-2024 school year, the parties would work collaboratively on a plan that would transition the Student to [REDACTED]'s [REDACTED] for the 2024-2025 school year, and that the transition plan would include supports such as a shadow day and a tour of [REDACTED] and its [REDACTED]
- The IEP team would convene and conduct an annual review by May 15, 2024, to develop the Student's IEP for the 2024-2025 school year, that the IEP would be drafted to align with [REDACTED] curriculum and standards, and that if data was provided that prompted reconsideration of the Student's placement in [REDACTED]'s [REDACTED] the team would review it and propose an appropriate placement.
- The Parent maintained her right to exercise parental rights if she disagreed with any decisions made by the IEP team, but the Student's stay put placement would be the AACPS's [REDACTED] program.<sup>65</sup>

#### **EIGHTH GRADE, 2023-2024 SCHOOL YEAR**

66. On October 17, 2023, the IEP team convened and created a 2023-2024 IEP for the Student that was consistent with the Settlement Agreement. The October 17, 2023 IEP reflected that the Student would attend [REDACTED] for the 2023-2024 school year and would participate in a [REDACTED] program geared towards the Student receiving a [REDACTED] [REDACTED] as opposed to a high school diploma.

67. At the October 17, 2023 IEP meeting, the Parent indicated that she was not in agreement with the Student transitioning to [REDACTED] for the 2024-2025 school year, and that she believed [REDACTED] is an appropriate setting for the Student.<sup>66</sup>

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<sup>65</sup> AACPS Ex. 9.

<sup>66</sup> P Ex. 14-4.

██████'S ██████ PROGRAM

68. ██████ is a comprehensive public high school that provides educational services and extracurricular activities for all its students, both disabled and non-disabled alike.

69. The school day at ██████ consists of four periods<sup>67</sup> and a lunch each day. Three periods per day are in core academic areas such as English, math, science, and social studies. The remaining period is an elective such as P.E., music, or art.<sup>68</sup>

70. The ██████ program is a self-contained special education program that is housed within the general education setting at ██████. It is designed to provide intensive small-group instruction in core academic areas for its participants in separate classrooms.<sup>69</sup>

71. Students in the ██████ program can have a combination of classes in both the special education and general education setting that is specially tailored to meet their individual strengths and needs.<sup>70</sup>

72. The ██████ school week is thirty-two hours long.<sup>71</sup> By contrast, the ██████ school week is thirty-one hours and fifteen minutes long.<sup>72</sup>

73. The ██████ also includes community-based instruction that begins in ninth grade and focuses on practical skills, such as money, that would be practiced in the classroom and then later practiced in community settings to generalize<sup>73</sup> the skill.<sup>74</sup>

74. ██████ also provides transition services through transition specialists that help students and families prepare for post-graduation life.<sup>75</sup>

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<sup>67</sup> The record does not reflect the length of each period or lunch.

<sup>68</sup> ██████ testimony. Tr. p. 500.

<sup>69</sup> ██████ testimony. Tr. p. 500.

<sup>70</sup> ██████ testimony. Tr. pp. 505-506; 527-528.

<sup>71</sup> AACPS Ex. 15.50.

<sup>72</sup> AACPS Ex. 11.1.

<sup>73</sup> As explained by ██████ generalizing is when a skill is practiced or implemented across different settings.

██████ testimony. Tr. p. 896.

<sup>74</sup> ██████ testimony. Tr. pp. 506-507.

<sup>75</sup> ██████ testimony. Tr. pp. 508-509.

75. As a comprehensive high school, [REDACTED] has various extracurricular activities that include both activities that require try-outs and unified sports that do not require try-outs. The unified sports include sports such as tennis, bowling, and bocci, and they allow both disabled and non-disabled students to participate on the same teams. The unified sports are lettered sports, so they have practices and competitive games.<sup>76</sup>

76. Students from the [REDACTED] can participate in the Special Olympics, for which [REDACTED] has a fundraiser every year and is a community event at the school.<sup>77</sup>

77. As an [REDACTED] program within AACPS, the [REDACTED] provides programmatic support to its students. Whenever its students are in the general education setting, a teacher or aide remains with them. [REDACTED] students also have their supplementary aides and services, and their accommodations as listed on their IEP follow them across all settings.<sup>78</sup>

78. To the extent that the Student might require a separate bathroom and/or support with toileting, the [REDACTED] has single stall bathrooms. The Student's adult support would also accompany him to the bathroom and provide any support he might require.<sup>79</sup>

79. When groups of students in the [REDACTED] program attend electives with non-disabled peers, a one to two ratio of teaching assistants or temporary support assistants to [REDACTED] students is sent with the students to support them.<sup>80</sup>

80. The Student would always have adult supervision in the [REDACTED] program. That adult support would assist the Student with navigating social interactions, provide him with cues for his responses, and would model appropriate behaviors for him.<sup>81</sup>

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<sup>76</sup> [REDACTED] testimony. Tr. pp. 509-510.

<sup>77</sup> [REDACTED] testimony. Tr. p. 1035.

<sup>78</sup> P Ex. 07-4.

<sup>79</sup> [REDACTED] testimony. Tr. pp. 1033-1034.

<sup>80</sup> [REDACTED] testimony. Tr. p. 779.

<sup>81</sup> [REDACTED] testimony. Tr. p. 953.



81. When [REDACTED] students are interacting with or working alongside non-disabled peers or community members, the AACPS considers those interactions to be inside of the general education environment.<sup>82</sup>

82. The AACPS has determined that when its [REDACTED] students are in the general education setting, such as during electives, lunch, or recess, those students should only have special education service hours listed on their IEPs for time spent in those settings if they require specialized instruction in those settings.<sup>83</sup>

83. Students in the [REDACTED] program, especially the students with intellectual disabilities, have difficulty generalizing what they have learned in small groups. The [REDACTED] program provides those students with the opportunity to practice those skills in larger groups and to generalize what they have learned.<sup>84</sup>

84. In the [REDACTED] program, the Student would have the opportunity to generalize the skills that he is learning, when he interacts with his non-disabled peers.<sup>85</sup>

85. In the [REDACTED] program, the Student would also have exposure to his non-disabled peers in a manner that would provide him with social, behavioral, and language models that will assist the Student in developing a familiarity in learning how to interact in settings with non-disabled people.<sup>86</sup>

86. In addition to providing disabled students the opportunity to generally engage with their non-disabled peers, the [REDACTED] program includes non-disabled student involvement through the [REDACTED] program.

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<sup>82</sup> P Ex. 07-4.

<sup>83</sup> [REDACTED] testimony. Tr. p. 794.

<sup>84</sup> [REDACTED] testimony. Tr. p. 516.

<sup>85</sup> [REDACTED] testimony. Tr. p. 896.

<sup>86</sup> [REDACTED] testimony. Tr. p. 950.

87. The [REDACTED] Program is an organization dedicated to ending the social, physical and economic isolation of the 200 million people with intellectual and developmental disabilities, and it empowers the special abilities of people with such disabilities by helping them form meaningful friendships with their peers, secure successful jobs, live independently, improve public speaking, self-advocacy and communication skills, and feel valued by society.<sup>87</sup>

88. At [REDACTED] the [REDACTED] Program allows students with disabilities to engage with their non-disabled peers in close social interactions that also serve as language, social, and behavioral models.<sup>88</sup> It is a mentorship type student organization where non-disabled peers are working with their disabled peers to support them socially, behaviorally, and academically; the non-disabled students who participate in the program do so because they want to work with disabled students, and they do so voluntarily.<sup>89</sup> The [REDACTED] students who participate in the [REDACTED] program are paired with disabled peers who have similar interests so that they can develop friendships.<sup>90</sup>

89. The [REDACTED] program will provide the Student with the opportunity for close social interactions with his non-disabled peers who would provide language, social, and behavioral models for him, and will give the Student the opportunity to improve his social interaction and communication skills through modeling.<sup>91</sup>

#### **NINTH GRADE, 2024-2025 SCHOOL YEAR TRANSITION**

90. Prior to March 15, 2024, and in accordance with the Settlement Agreement, [REDACTED] created a draft school placement transition plan in preparation for the Student's 2024-2025 school year transition into [REDACTED] (Transition Plan). [REDACTED] designed the

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<sup>87</sup> P. Ex. 27-2.

<sup>88</sup> [REDACTED] testimony. Tr. p. 952.

<sup>89</sup> [REDACTED] testimony. Tr. p. 780.

<sup>90</sup> [REDACTED] testimony. Tr. p. 544.

<sup>91</sup> [REDACTED] testimony. Tr. p. 952.

Transition Plan to help ensure that the Student made a smooth transition to high school and into [REDACTED].<sup>92</sup>

91. On March 15, 2024, [REDACTED] emailed the Parent to begin collaborating with her in accordance with the Settlement Agreement and in preparation for transitioning the Student to [REDACTED] for the 2024-2025 school year.

92. As part of that email, [REDACTED] shared a draft of the Transition Plan with the Parent, and he advised her that the Transition Plan was fluid and could be updated as needed.

93. He also advised the Parent that he had scheduled the Parent and Student for a tour of [REDACTED]'s [REDACTED] program on April 4, 2024, from 9:00 to 11:00 a.m.

**APRIL 4, 2024, [REDACTED] TOUR**

94. On April 4, 2024, the Parent, Student, [REDACTED], and [REDACTED], who is the Student Services Coordinator at [REDACTED],<sup>93</sup> toured the [REDACTED] program as scheduled.<sup>94</sup>

95. The [REDACTED] tour consisted of visiting various classrooms and settings at [REDACTED] followed by a question-and-answer session at the end.

96. When at [REDACTED] for the tour, the Parent learned through her conversations with [REDACTED], an AACPS special education coordinator, that [REDACTED] had approximately 1,800 students and that the population was expected to increase to approximately 2,200.<sup>95</sup>

97. The Parent and [REDACTED] observed some of the students who would be in the Student's [REDACTED] class at [REDACTED].

98. One student appeared to be non-verbal and in a wheelchair. Another student was a young lady who hugged the Parent several times and who appeared childlike because she spoke

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<sup>92</sup> AACPS Ex. 29.

<sup>93</sup> P Ex. 14-12.

<sup>94</sup> [REDACTED] testimony. Tr. p. 767.

<sup>95</sup> Parent testimony. Tr., p. 203.

to the Parent in a sing-song manner. There were also at least two other students in the classroom.<sup>96</sup>

99. The tour participants were able to observe a teacher conducting a lesson in the [REDACTED] classroom. The lesson was sequencing the steps of making pudding, and all students cut out the steps and then glued them on another piece of paper in the correct order.<sup>97</sup>

100. Although the lesson was a whole group lesson, students were working individually, and their IEP supplementary aids and services were being used as some students needed help with cutting while others needed help with putting things in order. There were varying levels of support, depending on the individual student's IEP.<sup>98</sup>

101. During the tour and observation of the [REDACTED] class, [REDACTED] observed that there was quality teaching,<sup>99</sup> but noted that there were no higher order questions asked during the lesson.<sup>100</sup>

102. [REDACTED] did not speak to the teacher, did not ask about what the students were working on or how the lesson fit into a larger lesson plan, and did not ask about the students' disabilities.<sup>101</sup>

103. [REDACTED] noted that the [REDACTED] staffing included a teacher and an aide, and there was an appropriate student to staff ratio.<sup>102</sup>

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<sup>96</sup> Parent testimony and [REDACTED] testimony. Tr. pp. 203-204, 325. While otherwise consistent, the Parent's testimony differed from [REDACTED]'s testimony in that the Parent described three children being non-verbal and in wheelchairs, while [REDACTED] only indicated that one of the children appeared non-verbal and in a wheelchair. As an expert in special education with a concentration in the education of children with intellectual disabilities, I would have expected [REDACTED] to note if all the children, except the young lady who hugged the Parent, were nonverbal and in wheelchairs. Because [REDACTED] did not, I accept her testimony as more accurate on this point based upon her expertise and find that only one of the children was potentially nonverbal, and in a wheelchair. The AACPS could not have legally permitted the Parent or [REDACTED] to review the other [REDACTED] students' records.

<sup>97</sup> P Ex. 22-3.

<sup>98</sup> [REDACTED] testimony. Tr. pp. 786-787.

<sup>99</sup> [REDACTED] testimony. Tr. p. 386.

<sup>100</sup> P Ex. 22-3.

<sup>101</sup> [REDACTED] testimony. Tr. p. 389.

<sup>102</sup> [REDACTED] testimony. Tr. p. 386.

104. [REDACTED] also noted that the teacher, aide, and peer [REDACTED] provided the students with a high level of support at an individual level.<sup>103</sup>

105. The tour also included an observation of a physical education (P.E.) class that included non-disabled students. Although the Student told [REDACTED] that he did not like the P.E. class that they observed, [REDACTED] did not observe any problems with the class.<sup>104</sup>

#### **APRIL 2024 THERAPIST LETTER**

106. [REDACTED] is an [REDACTED],<sup>105</sup> she is the Student's therapist, and she began working with him in January 2024.<sup>106</sup>

107. [REDACTED] has only interacted with the Student through virtual telehealth sessions and has never met him in person.<sup>107</sup>

108. [REDACTED] sees the student for approximately forty-five minutes, once a week.<sup>108</sup>

109. In April 2024,<sup>109</sup> [REDACTED] prepared a letter at the Parent's request for use at the Student's upcoming IEP meeting.<sup>110</sup>

110. [REDACTED] prepared the letter to express what she "thought would be helpful for [the Student] moving forward from a mental health perspective in terms of school placement. Not a specific placement, but just overall things that would be helpful in his school environment."<sup>111</sup>

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<sup>103</sup> P Ex. 22-3.

<sup>104</sup> [REDACTED] testimony. Tr. pp. 374-375.

<sup>105</sup> [REDACTED].

<sup>106</sup> P Ex. 21-1.

<sup>107</sup> [REDACTED] testimony. Tr. p. 708.

<sup>108</sup> [REDACTED] testimony. Tr. pp. 128-129.

<sup>109</sup> The letter, P Ex. 21, is undated and [REDACTED] could not recall the exact date during her testimony, but did indicate that she wrote it in April 2024. [REDACTED] testimony. Tr. p. 704.

<sup>110</sup> [REDACTED] testimony. Tr. pp. 127-128; 705.

<sup>111</sup> [REDACTED] testimony. Tr. p. 704.

111. ██████ provided the letter to the Parent.<sup>112</sup> The letter was thereafter submitted to AACPS and highlighted during the Student's May 2024 IEP meetings.<sup>113</sup>

112. In her letter, ██████ expressed her observations about the Student, including his strengths and weaknesses, made suggestions that she thought might help the Student fully access his school environment, and opined that at ██████ the Student was in a therapeutic learning environment that supported his mental health and helped him fully access his education. ██████'s letter does not address the ██████ program or its appropriateness for the Student.<sup>114</sup>

**██████' APRIL 17, 2024 LETTER**

113. ██████ founded ██████ in 1982 and has been its Executive Director since its founding.<sup>115</sup>

114. Over the past twenty years, a combined 758 students have graduated from ██████ ██████'s two campuses, and according to a spring 2024 survey, 93.4 percent of its graduates are working, are in post-secondary education, or both.<sup>116</sup>

115. Between its two campuses at ██████ and ██████, ██████ has approximately one hundred AACPS students that the AACPS has placed with it.<sup>117</sup>

116. On or about April 17, 2024, ██████ provided a letter to the Parent's attorney in response to his request for information regarding instructional program recommendations for the

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<sup>112</sup> ██████ testimony. Tr. p. 132.

<sup>113</sup> The record does not reflect who provided the IEP team with the letter. However, in response to Mr. Eig's question regarding whether the letter was provided to AACPS, the Parent indicated that it was. Parent testimony. Tr. p. 209. The Parent's testimony on this issue was credible, and I have therefore found that the letter was provided to AACPS.

<sup>114</sup> P Ex. 21.

<sup>115</sup> P Ex. 31.

<sup>116</sup> ██████ testimony. Tr. p. 38.

<sup>117</sup> ██████ testimony. Tr. p. 31.

Student, and the letter was provided to the IEP team for consideration at the May 2024 IEP meetings.<sup>118, 119</sup>

117. In her letter, ██████ explained that ██████ does not place its students into a ██████ or diploma track, that it has a hybrid program where students can take both zero credit courses and credit bearing courses that could lead to a diploma. ██████ anticipated that for the 2024-2025 school year, the Student would take the following classes: English Literacy for zero credits; Math Literacy for zero credits; FACS<sup>120</sup> for one credit; Health & Wellness for one credit; Career, Research, and Development for one credit; and Social Studies either one credit or no credits.<sup>121</sup>

118. In her letter, ██████ wrote in pertinent part that:

[The Student] has made many friends at ██████. He is [sic] has a peer group and is accepted by his peer group.

[Least restrictive environment (LRE)] requires that students be placed in the least restrictive environment that is appropriate to their needs. At the ██████, [the Student's] abilities will allow him to play on intermural sports teams, run for student government office (and win), participate in performing arts as a lead performer and join multiple after school clubs. These opportunities provide the least restrictions for a full school experience.

As always, it is ██████'s belief that the needs of the child come first. ██████ IEP team has taken the position that the above program is appropriate for [the Student] to experience an education appropriate to his individual needs in an environment which is least restrictive for him.<sup>122</sup>

#### **APRIL 29, 2024 PRE-PLANNING MEETING**

119. In preparation for IEP meetings, the AACPS conducts internal pre-planning meetings with ██████'s staff to review the data and information collected for all its students'

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<sup>118</sup> P Ex. 20.

<sup>119</sup> Parent testimony. Tr. p. 209.

<sup>120</sup> Family and Consumer Science.

<sup>121</sup> P Ex. 20-1. As of the hearing, ██████ was unaware of whether the Student was taking Social Studies for one credit or zero credits. ██████ testimony. Tr. p. 77.

<sup>122</sup> P Ex. 20-2.

upcoming IEP meetings. Before the pre-planning meetings, [REDACTED] staff draft data in electronic format. During the pre-planning meetings AACPS staff and [REDACTED] staff discuss the data and copy appropriate information into a draft IEP using IEP forms in preparation for upcoming IEP meetings. Parents are not invited to these meetings.<sup>123</sup>

120. As a general best practice, the AACPS has these meetings for all its students placed at [REDACTED], and a draft IEP is created at the end of a pre-planning meeting.<sup>124</sup>

121. After the pre-planning meeting the draft IEP is sent to parents in advance of the upcoming IEP meeting, so that the parents can review the draft IEP and discuss it with the IEP team at the IEP meeting.<sup>125</sup>

122. On April 29, 2024, AACPS staff met with [REDACTED] staff to prepare a draft of the Student's IEP in preparation for the Student's annual IEP review. [REDACTED] and [REDACTED] [REDACTED] were present at this meeting, which took place at [REDACTED]

123. [REDACTED] staff members who attended were the Student's speech pathologist, counselor, reading teacher, homeroom teacher, and his IEP coordinator, [REDACTED] [REDACTED].<sup>126</sup>

124. As explained by [REDACTED], during the meeting the participants:

[W]ere talking about different supports that [the Student] needed, different goals and objectives, present levels. The team was talking about some of the concerns that they had with transitions at that point. [REDACTED] [REDACTED]<sup>127</sup> had shared that she had seen both programs. Well, she obviously was very familiar with [REDACTED], but she had gone out to the [REDACTED] tour, and she shared that she did feel that [the Student] could do well at either program. She saw him as a good fit at [REDACTED] or a good fit at the [REDACTED] program.

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<sup>123</sup> [REDACTED] testimony. Tr. pp. 1056-1059.

<sup>124</sup> [REDACTED] testimony. Tr. pp. 845, 880-881.

<sup>125</sup> [REDACTED] testimony. Tr. p. 882.

<sup>126</sup> [REDACTED] testimony. Tr. pp. 1037-1038.

<sup>127</sup> Corrected transcript spelling.



[REDACTED]<sup>128</sup> . . . said that it would [be] imperative that [REDACTED]'s staff<sup>129</sup> work with [the AACPS staff]<sup>130</sup> on the transition plan for [the Student].<sup>131, 132</sup>

125. [REDACTED] described that same exchange as follows:

So there was a point in the meeting where staff had some trepidation about [the Student] transitioning to a new school. However, [REDACTED] spoke up and said that she was at the observation with me, and she just told the team that, you know, [REDACTED], they're in, they're kind of in their bubble, and she got to leave the bubble and see the possibilities at other schools, and she just shared that, you know, she thinks [REDACTED] is amazing and that they can do everything that they need to do for [the Student], to program for him, but she also shared that she was impressed with what she saw at [REDACTED]. She especially commented on the peer buddies and how great it was and how there were things that the comprehensive [REDACTED] could do that [REDACTED] could not do. She explained that based on her observation that there were [REDACTED] which were non-disabled, same-age peers. She also shared that she had witnessed students in the hallways transitioning with staff to classes. She kind of just said that she felt that based on the observation that he would be fine in either placement. That was how she phrased it, he would be fine at [REDACTED] or [REDACTED].<sup>133</sup>

126. Through the April 29, 2024 pre-planning meeting, a draft IEP was created and a copy of that draft IEP was sent to the Parent in advance of the upcoming IEP meeting.<sup>134</sup>

#### MAY 8, 2024 [REDACTED] OBSERVATION

127. On May 8, 2024, [REDACTED] observed the Student at [REDACTED] from 9:30 to 10:30 a.m.<sup>135</sup>

128. [REDACTED] has never evaluated the Student.<sup>136</sup>

129. Based upon her observation, [REDACTED] noted impressions and prepared a letter with recommendations as follows:

[The Student] is a 14 yo young man with a disability classification of [REDACTED]: [REDACTED]/OHI ([REDACTED]). He is currently enrolled at the [REDACTED] and the team is currently making decisions on LRE and placement based on his most recent eligibility for

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<sup>128</sup> Changed from "she."

<sup>129</sup> Changed from "they."

<sup>130</sup> Changed from "us."

<sup>131</sup> Changed from "him."

<sup>132</sup> [REDACTED] testimony. Tr. p. 1038.

<sup>133</sup> [REDACTED] testimony. Tr. pp. 789-790.

<sup>134</sup> [REDACTED]'s testimony. Tr. p. 881.

<sup>135</sup> P Ex. 22-1.

<sup>136</sup> [REDACTED] testimony. Tr. p. 343.

the [REDACTED] academic framework and moving to a [REDACTED] track. While [the Student] is significantly below grade and age level, he has the ability to participate in instruction with more challenging content. This was evident in his ability to engage in discussion in his current classroom at [REDACTED] where he asked clarifying questions, answered wh? questions, and was able to understand higher level vocabulary and reading passages read aloud. He would use many “filler words” when answering a question, which is evidence of slower processing speed to recall language and not lack of knowledge. On several occasions another student would call out the answer before he was able to answer himself, but it was clear he understood the content of the question. For example, when trying to explain what “siblings” meant, he said it was when someone had “multiple children.” When someone else gave the answer of “brothers and sisters” he said, “yes.” Other answers he gave point to his ability to engage with high level content, such as when asked what a fake limb is called he answered, “prosthetic arm” and when asked what dementia was he said “it’s when someone has a hard time remembering things.”

There were 2 staff present in the classroom of approximately 10 students. The middle school classrooms were in the same hallways and the small school size and open space in the center of the building with multiple staff present allowed for the students to navigate their environment independently while also providing adequate supervision.

In contrast, the large environment in a public school building with a self-contained classroom setting does not promote independence in navigating his learning environment. The classes, while focused on life skills as part of the [REDACTED] curriculum, did not seem tailored to the individual needs of all students and did not provide opportunities for higher level discussion. Students were provided a high level of support from [REDACTED] and staff at an individual level. The lesson was sequencing the steps of making pudding, and all students cut out the steps and then glued them on another piece of paper in the correct order. While cooking and making snacks is a functional skill, there was [sic] no higher order questions asked during the lesson. The significant support needed and the level of modification made to instruction is not necessary for [the Student], and he should be with peers at a more independent level of functioning.<sup>137</sup>

130. [REDACTED]’s letter was provided to the IEP team for consideration during the May 2024 IEP meetings.<sup>138</sup>

#### **MAY 9, 2024 IEP MEETING**

131. The Student’s IEP team met on May 9, 2024, and discussed the Student’s 2024-2025 school year IEP and placement.

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<sup>137</sup> P Ex. 22-3 to 22-4.

<sup>138</sup> Parent testimony. Tr. p. 209.

132. The Parent attended the May 9, 2024 IEP meeting with her attorney, Mr. Eig, and [REDACTED]; from [REDACTED], [REDACTED],<sup>139</sup> [REDACTED],<sup>140</sup> [REDACTED],<sup>141</sup> and [REDACTED]<sup>142</sup> attended; and from the AACPS [REDACTED], [REDACTED], [REDACTED], and [REDACTED]<sup>143</sup> attended.<sup>144</sup>

133. “Mr. Eig requested to have the meeting in two parts because he wanted to touch base with [the Parent] regarding her decision for participation in the [REDACTED] assessment and instruction. He agreed to go past the deadline that was in the [Settlement Agreement] for the conclusion of the IEP meeting.”<sup>145</sup>

134. The May 9, 2024 IEP meeting ended without resolving the Student’s 2024-2025 school year IEP and placement and a subsequent meeting was scheduled for May 17, 2024.

#### **MAY 17, 2024 IEP MEETING & IEP**

135. On May 17, 2024, the IEP team reconvened. The Parent attended with her attorney, Mr. Eig; from [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]<sup>146</sup> attended; and from the AACPS [REDACTED], [REDACTED], [REDACTED], and [REDACTED]<sup>147</sup> attended.

136. The May 17, 2024 IEP noted that the areas affected by the Student’s disability included: Academic – Communication; Academic – Listening Comprehension; Academic - Math Calculation; Academic - Reading Phonics; Academic - Written Language Mechanics; Behavioral - Self-Management; Behavioral - Social Emotional/Behavioral; Behavioral - Social Interaction

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<sup>139</sup> Special Educator. AACPS Ex. 14.6.

<sup>140</sup> Speech-Language Pathologist. AACPS Ex. 21.

<sup>141</sup> Occupational Therapist. AACPS Ex. 22.

<sup>142</sup> School Social Worker. AACPS Ex. 14.6.

<sup>143</sup> Special Education Program Specialist. AACPS Ex. 14.6.

<sup>144</sup> P Ex. 23-4.

<sup>145</sup> P Ex. 23-4.

<sup>146</sup> Transition Coordinator. AACPS Ex. 14.6.

<sup>147</sup> P Ex. 23-4.

and Skills; and Physical - Visual Motor. The Student had IEP goals in the each of the affected areas.<sup>148</sup>

137. According to the Student's May 17, 2024 present levels of performance in the area of social/emotional/behavioral, the Student exhibited strengths in "identifying different types of relationships with peers, identifying social rules and what they mean, aiming to please peers/staff, and has an interest in making and keeping friends." The Student was making sufficient progress towards this IEP goal according to his March 15, 2024 progress note by observing staff and peer social cues, reacting/responding accordingly, appropriately joining in group conversations with peers to discuss a common interest, giving personal space during conversations, identifying familiar versus unfamiliar people and using that information to identify whether or not to follow direction and following expected or unexpected behaviors in three out of ten trials.<sup>149</sup>

138. The Student's May 17, 2024 present level of performance in the area of social interactions indicated that the Student had made progress with his hygiene skills and increased his consistency and independence with the use of prompts and modeling, to the extent that his needs in this area can be supported with supplementary aids and services rather than an IEP goal. While the IEP team noted concerns about social interactions in larger social environments and peer pressures; maintaining respectful interactions with peers and adults at times of frustration and excitement; and peer interactions in the community when the Student lacks an understanding of "stranger danger," the Student's goal has specific objectives to work on these areas of concerns and he was noted as making sufficient progress towards his IEP goals as of March 15,

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<sup>148</sup> AACPS Ex. 15.1.

<sup>149</sup> AACPS Ex. 15.13 to 15.14.

2024. The Student also receives incentives, increased teacher modeling, and bank of signs to identify negative peer influences.<sup>150</sup>

139. In addition to the other supplementary aids and supports on the May 17, 2024 IEP, the Student has social skills development on his IEP to be provided by a special education teacher and instructional assistant daily from May 17, 2024 to May 16, 2025, because he needs opportunities for explicit, social skill instruction and participation in a social skills incentive program.<sup>151</sup>

140. One of the proposed Social / Behavioral supports in the Student's May 17, 2024 IEP was "Adult Support," which was to begin on May 17, 2024, and end on May 16, 2025.<sup>152</sup> The Adult Support was to primarily be provided by special education classroom teachers, but would also be provided by general education teachers and instructional assistants.<sup>153</sup> The May 17, 2024 IEP further provided that "due to documented needs including parental input, school team input, and data regarding his functional independence during less structured times, [the Student] requires adult support for transitioning between all classes," and "requires adult support for arrival / dismissal, restroom breaks, and community-based activities daily across settings."<sup>154</sup>

141. The AACPS proposed services on the Student's IEP to reflect the Student's current needs in the areas of counseling, speech language therapy, occupational therapy, classroom instruction and transportation in the following amounts:

Classroom Instruction – twenty-one hours per week  
Counseling – four, thirty-minute sessions a month  
Speech Language Therapy – two, thirty-minute sessions a week  
Occupational Therapy – four, thirty-minute sessions per month  
Transportation Daily<sup>155</sup>

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<sup>150</sup> AACPS Ex. 15.14 to 15.15.

<sup>151</sup> AACPS Ex. 15.35.

<sup>152</sup> AACPS Ex. 15.34.

<sup>153</sup> AACPS Ex. 15.34.

<sup>154</sup> AACPS Ex. 15.34.

<sup>155</sup> P Ex. 26-2.

142. When making this proposal, the IEP team considered the Parent's input, present levels of performance, supplementary aids and supports, and the Student's goals and objectives.<sup>156</sup>

143. The Parent disagreed with this proposal because she believed that the Student required a full day of special education services based on his need to be in an educational environment that is peer-matched, and that would give him instruction based on both general education and alternate academic achievement standards.<sup>157</sup>

144. The AACPS also proposed an LRE where the Student would be inside a general education setting for less than forty percent of the time, and the Parent disagreed. The Parent requested placement for the Student outside of the general education environment arguing that a private separate day program was the LRE, and the AACPS refused the Parent's request.<sup>158</sup>

145. When determining the Student's LRE, the IEP team considered the Parent's input, staff input, the present levels of performance, supplementary aids and services, goals and objectives, and services. The IEP team determined that the Student's IEP could be implemented in his home school, [REDACTED], in the [REDACTED], and noted that the lesser restrictive setting would provide the Student with opportunities to engage with his non-disabled peers throughout the school day, while continuing to have access specialized, small group instruction and opportunities for community-based instruction.<sup>159</sup>

146. The Parent disagreed and requested that the Student remain at [REDACTED] asserting that he required a full day of special education services based on his need to be in an educational environment in which he is peer-matched, and that would give him access to instruction based on both general education and alternate academic achievement standards. The Parent believed that

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<sup>156</sup> P Ex. 26-2.

<sup>157</sup> P Ex. 26-2 to 26-3.

<sup>158</sup> P Ex. 26-3.

<sup>159</sup> P Ex. 26-3.

the Student had made progress at [REDACTED] and should remain there. The Parent also shared that the Student wants to stay at [REDACTED]. The Parent further noted concerns with the peers in the [REDACTED] being nonverbal and functioning at a lower ability level.<sup>160</sup>

147. The IEP team refused the Parent's request having considered the Parent's input, staff input, the present levels of performance, supplementary aids and services, goals and objectives, and services. The IEP team rejected the Parent's request for the Student to remain at [REDACTED], because the present levels of performance, supplementary aids and services, and the goals and objectives could be implemented in the public-school environment, where the Student would have access to general education peers as language models when in general education elective classes and other environments.<sup>161</sup>

148. The Parent also requested that the AACPS remove the IEP's transportation requirement that a parent / designee meet the Student at the bus stop because the bus drops the Student off at his apartment door, and the Student could independently go into the home. The AACPS and Parent agreed with making this change.<sup>162</sup>

149. At the May 17, 2024 IEP meeting, the Parent advised that she makes the final decisions for the Student, that the Student would not be attending [REDACTED], and that she would continue the Student's private placement at [REDACTED].<sup>163</sup>

150. The May 17, 2024 IEP team discussions were documented in the May 17, 2024 PWN, which was sent to the Parent after the meeting.<sup>164</sup>

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<sup>160</sup> P Ex. 26-3.

<sup>161</sup> P Ex. 26-3.

<sup>162</sup> P Ex. 26-4.

<sup>163</sup> P Ex. 26-1.

<sup>164</sup> P Ex. 26.

## SHADOW DAY & SOCIAL STORIES

151. As referenced by the Settlement Agreement and to assist the Student in preparing for his transition to the [REDACTED], [REDACTED] collaborated with [REDACTED] staff to prepare social stories for the Student, which were designed to give the Student visuals of what the school environment would look like to help reduce any anxieties that the Student might have when transitioning to [REDACTED].<sup>165</sup>

152. The social stories provided the Student with an opportunity to slowly acclimate to a different school building, staff, structures, and routines.<sup>166</sup>

153. [REDACTED] staff agreed that including pictures of [REDACTED] would benefit the Student in his transition there, and that they would be willing to use the social stories at [REDACTED] to help the Student with the transition.<sup>167</sup>

154. [REDACTED] provided the social stories to [REDACTED] for [REDACTED] staff to place in the student's backpack. [REDACTED] also mailed a copy to the Parent.<sup>168</sup>

155. On May 20, 2024, [REDACTED] mailed the social stories to the Parent,<sup>169</sup> and he also emailed the Parent to schedule the shadow day for the Student to visit [REDACTED] on May 23, 2024, provided an updated copy of the transition plan, and provided a copy of the social stories.<sup>170</sup>

156. On May 20, 2024, the Parent indicated by email that the Student would not be available on May 23, 2024 for the shadow day and asked [REDACTED] to request dates and times. [REDACTED] indicated that [REDACTED] was seeking availability from 9:30 to 10:30 a.m. and again

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<sup>165</sup> [REDACTED] testimony. Tr. pp. 773-744; 955.

<sup>166</sup> [REDACTED] testimony. Tr. p. 955.

<sup>167</sup> [REDACTED] testimony. Tr. p. 774.

<sup>168</sup> [REDACTED] testimony. Tr. pp. 773-774.

<sup>169</sup> AACPS Ex. 29.1.

<sup>170</sup> AACPS Ex. 30.4.



asked the Parent for dates. On May 21, 2024, and on May 23, 2024, [REDACTED] followed up with the Parent by email to schedule a shadow day. The Parent did not respond.<sup>171</sup>

157. The copy of the social stories that [REDACTED] mailed to the Parent was returned to the ACCPS as “returned to sender.”<sup>172</sup>

158. The Parent contacted [REDACTED] to question why the social stories were being provided.<sup>173</sup>

159. On May 28, 2024, the Parent filed her Due Process Complaint.

## **DISCUSSION**

### **LEGAL FRAMEWORK**

The IDEA requires the states to provide a FAPE<sup>174</sup> to all children who qualify for special education services.<sup>175</sup> To meet this obligation, local educational agencies (LEAs) must ensure that “FAPE emphasizes special education and related services designed to meet [the eligible child’s] unique needs and prepare them for further education, employment and independent living.”<sup>176</sup> In order to qualify to receive special education services, the child must be identified

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<sup>171</sup> AACPS Ex. 30.

<sup>172</sup> [REDACTED] testimony. Tr. p. 776.

<sup>173</sup> [REDACTED] testimony. Tr. p. 776.

<sup>174</sup> 34 C.F.R. § 300.17. (“*Free appropriate public education* or *FAPE* means special education and related services that—(a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the [State Educational Agency (SEA)], including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.”). *See also* 20 U.S.C.A. § 1401(9).

<sup>175</sup> 20 U.S.C.A. § 1412.

<sup>176</sup> 20 U.S.C.A. § 1400(d)(1)(A); *see also* Educ. § 8-403.

under one of the enumerated educational disabilities<sup>177</sup> and “by reason thereof, [need] special education and related services.”<sup>178</sup>

LEAs meet the federal requirement to provide FAPE to eligible students through development and implementation of IEPs.<sup>179</sup> An IEP is a comprehensive program prepared by a child’s IEP Team, which includes mandatory members from the LEA as well as the child’s parents.<sup>180</sup> An IEP must be drafted in compliance with a detailed set of procedures.<sup>181</sup> It also must contain, among other things, “a statement of the child’s present levels of academic achievement,” “a statement of measurable annual goals,” and “a statement of the special education and related services to be provided to the child.”<sup>182</sup>

“The IDEA cannot and does not promise any particular [educational] outcome.”<sup>183</sup> But, to ensure that an eligible child receives FAPE, an IEP must be reasonably calculated to yield meaningful educational benefit to the student.<sup>184</sup> The United States Supreme Court has developed a two-part test for determining whether a school district has provided a FAPE to a student with a disability. There must be: (1) a determination as to whether a school district has complied with the procedural safeguards as set forth in the IDEA,<sup>185</sup> and (2) an analysis of

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<sup>177</sup> There are thirteen designated educational disabilities under the IDEA. 34 C.F.R. § 300.8(a)(1). However, Maryland has fourteen educational disabilities including: Autism, Deaf-Blindness, Developmental Delay, Emotional Disability, Hearing Impairment including deafness, Intellectual Disability, Multiple Disabilities, Orthopedic Impairment, Other Health Impairment, Specific Learning Disability, Speech Language Impairment, Traumatic Brain Injury, and Visual Impairment. COMAR 13A.05.01.03B(78) (generally); *see also* COMAR 13A.05.01.03B(8), (17), (23), (29), (36), (44), (50), (51), (73), (74), (82) and (84); COMAR 13A.05.01.06B and 13A.13.01.03B(12) (regarding developmental delay).

<sup>178</sup> 20 U.S.C.A. § 1401(3)(A); *see also* 34 C.F.R. § 300.8; Educ. § 8-401(a)(2); and COMAR 13A.05.01.03B(78).

<sup>179</sup> *See M.S. ex rel Simchick v. Fairfax Cnty. Sch. Bd.*, 553 F.3d 315, 319 (4th Cir. 2009) (“IEPs are the primary vehicle through which schools provide a particular student with a FAPE.”); *see also* 20 U.S.C.A. § 1414(d); 34 C.F.R. §§ 300.320-300.324.

<sup>180</sup> 20 U.S.C.A. § 1414(d)(1)(B)-(d)(1)(D); 34 C.F.R. § 300.321; COMAR 13A.05.01.07.

<sup>181</sup> 20 U.S.C.A. § 1414(d)(1)(B).

<sup>182</sup> 20 U.S.C.A. § 1414(d)(1)(A)(i).

<sup>183</sup> *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 398 (2017). (internal quotations omitted).

<sup>184</sup> *Bd. of Educ. v. Rowley*, 458 U.S. 176, 187-204 (1982).

<sup>185</sup> “Therefore, a court’s inquiry in suits brought under § 1415(e)(2) is twofold. First, has the State complied with the procedures set forth in the [IDEA]? And second, is the individualized educational program developed through the [IDEA’s] procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.”

whether the IEP is reasonably calculated to enable the child to make meaningful educational benefit in light of the child's unique individual circumstances.<sup>186</sup> A "reasonably calculated" IEP involves a "fact-intensive exercise" derived from "the prospective judgment by school officials" and "input of the child's parents or guardians" "after careful consideration of the child's present levels of achievement, disability, and potential for growth. §§ 1414(d)(1)(A)(i)(I)-(IV), (d)(3)(A)(i)-(iv)."<sup>187</sup>

Further, "meaningful benefit" cannot be de minimis or slight.<sup>188</sup> Rather, a student's progress must be "appropriately ambitious in light of [the child's] circumstances."<sup>189</sup> Grade-to-grade advancement may be "appropriately ambitious" for students capable of grade-level work who are fully integrated in a regular classroom, but that is not the case for all students.<sup>190</sup> When grade-to-grade advancement is not reasonable for the student in light of their unique circumstance, they should be afforded the opportunity to meet other challenging objectives.<sup>191</sup>

A component of determining whether a LEA has complied with its FAPE obligations is whether the special education and related services in the Student's IEP are provided in the LRE to meet the Student's unique educational needs. LRE refers to the Student's placement. The IEP team must consider the continuum of alternative placements, which span from the least restrictive setting, such as a general education classroom, to more restrictive settings like self-contained special education classes, placements outside of the school district, home and hospital

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*Rowley*, 458 U.S. at 206–07; see also *Endrew F.*, 580 U.S. at 402 ("But the procedures are there for a reason, and their focus provides insight into what it means, for purposes of the FAPE definition, to "meet the unique needs" of a child with a disability. §§ 1401(9), (29).").

<sup>186</sup> "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." *Endrew F.*, 580 U.S. at 399.

<sup>187</sup> *Id.* at 399, 400 (citations in original).

<sup>188</sup> *Id.* at 402.

<sup>189</sup> *Id.* at 388.

<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

instruction, and even residential care or treatment facilities.<sup>192</sup> The IDEA requires that the LEA must:

To the maximum extent appropriate [ensure that] children with disabilities. . . are educated with children who are nondisabled and . . . [that] [s]pecial classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only if the nature or severity of the disability is such that education in the regular classroom with the use of supplementary aids and services cannot be achieved satisfactorily.<sup>193</sup>

Parents who believe that an LEA is not providing or offering a FAPE to their child may unilaterally place them in a private / non-public school and thereafter seek reimbursement.<sup>194</sup> In order to receive reimbursement for tuition resulting from the unilateral private school placement, an ALJ must find that: (1) that the school district has denied a FAPE to the student or committed another substantive violation of the IDEA; (2) that the parents' private school placement is appropriate; and (3) that the equitable factors in the particular case do not preclude the relief.<sup>195</sup> A private placement also need not satisfy all of the procedural and substantive requirements of the IDEA.<sup>196</sup> The standard is whether the parental placement was reasonably calculated to provide the child with educational benefit.<sup>197</sup> However, if the LEA made a FAPE available to the student through its IEP, the LEA is not required to reimburse the parents for the cost of the unilateral placement.<sup>198</sup>

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<sup>192</sup> 34 C.F.R. § 300.115.

<sup>193</sup> 34 C.F.R. § 300.114(a)(2).

<sup>194</sup> 20 U.S.C. § 1412(a)(10)(C); 34 C.F.R. § 300.148(c).

<sup>195</sup> *Sch. Comm. Town of Burlington v. Dep't of Educ.*, 471 U.S. 359 (1985); *Florence Cnty. Sch. Dist. #4 v. Carter*, 510 U.S. 7 (1993); see also *Forest Grove Sch. Dist. v. TA*, 557 U.S. 230, 246–47 (2009) (“Parents ‘are entitled to reimbursement *only* if a federal court concludes both that the public placement violated IDEA and the private school placement was proper under the [IDEA].’ And even then courts retain discretion to reduce the amount of a reimbursement award if the equities so warrant—for instance, if the parents failed to give the school district adequate notice of their intent to enroll the child in private school. In considering the equities, courts should generally presume that public-school officials are properly performing their obligations under IDEA.”) (internal citations omitted).

<sup>196</sup> See *Carter*, 510 U.S. 7 (1993).

<sup>197</sup> *Id.* at 11.

<sup>198</sup> If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE

## **BURDEN OF PROOF**

The Parent bears the burden of showing that the AACPS denied the Student a FAPE, that the Student's unilateral placement at [REDACTED] is appropriate, and that she is entitled to tuition reimbursement and any other relief sought under the IDEA.<sup>199</sup> The standard of proof in this case is a preponderance of the evidence.<sup>200</sup> 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.<sup>201</sup>

## **ANALYSIS**

At the hearing, the Parent raised a procedural violation that she had not previously raised in her Due Process Complaint. I will address the procedural argument first. Then I will address whether the Parent has proven her allegation that the AACPS failed to provide the Student with a FAPE for the 2024-2025 school year by failing to provide an appropriate IEP and placement that was reasonably calculated to address the Student's unique disability-related needs.

### **I. Procedural Violation - Predetermination**

Prior to the hearing, the Parent did not raise any procedural arguments. During the hearing, and for the first time, the Parent alleged that the AACPS predetermined the Student's placement. In support of her allegation, the Parent alleged that the AACPS conducted a secret pre-planning meeting on April 29, 2024, during which the participants discussed and pre-determined the Student's placement. Specifically, the Parent averred that a [REDACTED] employee, [REDACTED], made statements during the April 29, 2024 pre-planning meeting that

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available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. 34 C.F.R. § 300.148(c). 34 C.F.R. § 300.148(c).

<sup>199</sup> *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005).

<sup>200</sup> State Gov't § 10-217 (2021); COMAR 28.02.01.21K(1).

<sup>201</sup> *Coleman v. Anne Arundel Cnty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

established that placement discussions occurred and that those discussions showed that the AACPS had pre-determined the Student's placement.

The IDEA provides that “[t]he party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in [their due process complaint], unless the other party agrees otherwise.”<sup>202</sup> This provision is further echoed by applicable regulation, which provides that “[t]he party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under § 300.508(b), unless the other party agrees otherwise.”<sup>203</sup> Further, an ALJ cannot enlarge agency jurisdiction, nor may subject matter jurisdiction be conferred upon the agency by the courts or the parties before the OAH.<sup>204</sup> The scope of an administrative hearing is limited to the matters contained in the “complaint” filed triggering the hearing.<sup>205</sup> Here, the Parent admittedly did not raise this issue in her Due Process Complaint and this is determinative.

Notwithstanding, the Parent asserted that she can belatedly raise the issue because she did not learn about it until she heard testimony regarding it during the hearing. As authority for this proposition, the Parent cited the following footnote from *S.M. ex rel. D.M. v. McKnight*, 2024 WL 4349740 (D. Md. Sept. 30, 2024):

MCPS argues the ReST<sup>206</sup> claim is unexhausted because the parents did not raise it in their due process complaint or before the ALJ. Parents are required to request a due process hearing before they bring an IDEA claim in federal court, save for three limited exceptions. *See M.M.*, 303 F.3d at 535–36 (citing 20 U.S.C. § 1415(f)). The parents complied with that requirement. They requested a due process hearing before filing this suit. They did not, however, identify the inability of Barnsley to administer the ReST program as a ground for their due process challenge. The Court has not located (and MCPS has not cited) any binding authority that requires parents to administratively

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<sup>202</sup> 20 U.S.C.A. § 1415(f)(3)(B).

<sup>203</sup> 34 C.F.R. § 300.511(d).

<sup>204</sup> *John A. v. Bd. of Educ. for Howard Cnty.*, 400 Md. 363, 388 (2007) (citing *Boyd v. Supervisor of Assessments of Baltimore City*, 57 Md. App. 603, 608 (1984)).

<sup>205</sup> *John A.* at 388–89 (citing *County of San Diego v. Cal. Special Educ. Hearing Office*, 93 F.3d 1458, 1465 (9th Cir.1996)).

<sup>206</sup> This acronym is referred to as “Rapid Syllable Transition Treatment”. *S.M. ex rel. D.M. v. McKnight*, No. CV DLB-23-1387, 2024 WL 4349740, at \*4 (D. Md. Sept. 30, 2024).

exhaust every issue. The Court need not decide whether there is an issue exhaustion requirement in IDEA cases. Regardless of whether the claim was exhausted, it has no merit.<sup>207</sup>

As the footnote's penultimate sentence indicates, the *S.M.* Court did not resolve the issue.

Moreover, the footnote addressed an exhaustion issue regarding claims brought under the IDEA in federal court, which is a separate matter from an initial administrative due process hearing.<sup>208</sup>

Accordingly, the Parent did not provide authority that would permit me to disregard the express language in 20 U.S.C.A. § 1415(f)(3)(B) and 34 C.F.R. § 300.511(d), and I remain bound by those provisions. I conclude, therefore, that the Parent's alleged procedural violation is not before me because she did not raise it in her Due Process Complaint.

In addition, I note that the Parent's claim that she did not know about this issue until the hearing and thus in fairness can properly raise it, is unavailing. The Parent's attempt to belatedly raise this predetermination issue is premised upon the inherent assertion that the Parent could not have reasonably known that the April 29<sup>th</sup> pre-planning meeting occurred and could not have further explored what occurred during it. However, the declarant, [REDACTED], was a [REDACTED] employee and she was present at both May 2024 IEP meetings. Also present were the Parent and her counsel. As such, they had direct access to [REDACTED] on at least two occasions after the April 29<sup>th</sup> meeting. They could have spoken with [REDACTED], or any other [REDACTED] staff at the two May 2024 IEP meetings, to inquire whether a pre-planning meeting occurred and what was discussed. Any suggestion that the Parent, or her counsel, could

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<sup>207</sup> *Id.* at \*19 n. 16.

<sup>208</sup> *See generally, Perez v. Sturgis Pub. Sch.*, 598 U.S. 142 (2023).

not have spoken to [REDACTED] or the other [REDACTED] staff members in the IEP drafting process is not reasonable.

Moreover, even had the Parent timely raised this issue in her Due Process Complaint, I likely would have found that predetermination did not occur. Predetermination is a type of procedural violation that, under the IDEA, consists of deciding a student's placement before developing an IEP.<sup>209</sup> "A school district violates the IDEA if it predetermines placement for a student before the IEP is developed or steers the IEP to the predetermined placement."<sup>210</sup> "Predetermination violates the IDEA because the [IDEA] requires that the placement be based on the IEP, and not vice versa."<sup>211</sup> The United States District Court for the District of Maryland explained that "while a school system must not finalize its placement decision before an IEP meeting, it can and should have given some thought to that placement."<sup>212</sup> The court also discussed *Doyle v. Arlington County School Board*, 806 F. Supp. 1253, 1262 (E.D. Va. 1992), *aff'd*, 39 F.3d 1176 (4th Cir. 1994), and stated "if the school system has already *fully* made up its mind before the parents ever get involved, it has denied them the opportunity for any meaningful input."<sup>213</sup> Citing *Doyle's* discussion of *Spielberg*, the court continued, "*Spielberg* required the school board to come to the table with an 'open mind,' but did not require them to come to the IEP table with a 'blank mind.'"<sup>214</sup>

Here, the only evidence that the Parent has produced on this issue is testimony from [REDACTED] and [REDACTED], which reflects that [REDACTED]'s statements were occasioned by a need to further the pre-planning meeting progress, and thus the preparations for the upcoming

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<sup>209</sup> See 34 C.F.R. § 300.116(b)(2) ("In determining the educational placement of a child with a disability . . . each public agency must ensure that . . . [t]he child's placement . . . [i]s based on the child's IEP . . .").

<sup>210</sup> *K.D. ex rel. C.L. v. Dep't of Educ.*, 665 F.3d 1110, 1123 (9th Cir. 2011).

<sup>211</sup> *Id.* (citing *Spielberg ex rel. Spielberg v. Henrico Cnty. Pub. Schs.*, 853 F.2d 256, 259 (4th Cir. 1988)).

<sup>212</sup> *Hanson ex rel. Hanson v. Smith*, 212 F. Supp. 2d 474, 486 (D. Md. 2002).

<sup>213</sup> *Hanson*, 212 F. Supp. 2d at 486 (emphasis added).

<sup>214</sup> *Id.* (quoting *Doyle*, 806 F. Supp. at 1262).



IEP meetings. ██████ testified that the team had “concerns”<sup>215</sup> with the Student transitioning to the ██████, and ██████ described the team as having “trepidation about [the Student] transitioning to a new school.”<sup>216</sup> ██████’s testimony and ██████’s testimony are consistent on this issue and corroborate each other. Accordingly, I find their characterization credible. The fact that Harbour’s staff might have concerns or trepidation is also understandable considering that ██████ had already indicated in writing that the ██████ IEP team, who I infer included the ██████ staff at the April 29<sup>th</sup> pre-planning meeting, had taken the position that its program was appropriate for the Student to experience an education appropriate to his individual needs in an environment which is least restrictive for him.<sup>217</sup> Stated alternatively, their employer had already determined that the Student should stay at ██████

In addition, the April 29<sup>th</sup> pre-planning meeting and May 2024 IEP meetings occurred upon the backdrop of the Settlement Agreement, wherein the Parties had already voluntarily agreed the Student would transition to the ██████ for the 2024-2025 school year, and that his “stay put” placement was the ██████.<sup>218</sup> Accordingly, when faced with the ██████ staff’s concerns and trepidation, it would have been completely reasonable and appropriate for ██████ to say “that it would [be] imperative that [██████]’s staff”<sup>219</sup> work with [the AACPS staff]<sup>220</sup> on the transition plan for [the Student]<sup>221</sup>”<sup>222</sup> as that was precisely what the parties had voluntarily agreed to do in their Settlement Agreement.<sup>223</sup>

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<sup>215</sup> ██████ testimony. Tr. p. 1038.

<sup>216</sup> ██████ testimony. Tr. 789.

<sup>217</sup> P Ex. 20-2.

<sup>218</sup> AACPS Ex. 9.

<sup>219</sup> Changed from “they.”

<sup>220</sup> Changed from “us.”

<sup>221</sup> Changed from “him.”

<sup>222</sup> ██████ Tr. p. 1038.

<sup>223</sup> AACPS Ex. 9.

Lastly, after the pre-planning meeting, the IEP team met twice to discuss the 2024-2025 school year IEP and placement. At no point prior to the hearing was any suggestion made that the IEP team did not consider the Parent's position in good faith or without an open mind. Instead, the Parent and AACPS disagreed along similar lines as they had from the prior year, which resulted in litigation and the Settlement Agreement. Those lines were essentially whether the Student could receive a FAPE on a certificate track with an AACPS [REDACTED] program as his LRE or whether the appropriate LRE and program for him was the full day separate program at [REDACTED]

If the Parent's procedural violation was properly before me in this case, I would conclude that the Parent has not produced sufficient evidence to persuade me that the ACCPS was unwilling to consider the parent's long-standing position at the May IEP meetings with an open mind. Accordingly, even if the Parent had properly raised this alleged procedural violation, I would have found that the Parent failed to meet her burden.

## **II. Failure to Provide FAPE for the 2024-2025 School Year**

The Parent alleged that the AACPS failed to provide the Student with a FAPE for the 2024-2025 school year by failing to provide an appropriate IEP and placement that was reasonably calculated to address the Student's unique disability-related needs. For me to determine that the Parent is entitled to reimbursement for tuition resulting from her unilateral placement at [REDACTED], I must find that: (1) the AACPS has denied FAPE to the Student or committed another substantive violation of IDEA; (2) the Parent's private school placement at [REDACTED] is appropriate; and (3) the equitable factors in the particular case do not preclude the relief. As such, before I reach the second or third prong of the analysis, I must first determine whether the AACPS denied the Student FAPE or committed another substantive IDEA violation.

Here, the stipulations in this case indicate that the Parent and Student are not challenging: the present levels of performance on the IEP; that the curriculum and state testing standards on

the IEP aligned with [REDACTED] learning outcomes, standards, and assessment; the finding that the student qualifies for [REDACTED] standards pursuant to Appendix A; the instructional accommodations and modifications on the IEP; the supplemental aids and services on the IEP, other than adult support; the goals and objectives on the IEP; or the related services on the IEP. As such, the primary issues in this case are whether the AACPS has failed to provide the Student with FAPE by a deficiency in supplemental aids and services on the IEP for adult support, by a deficiency in the number of special education service hours, and by determining that the [REDACTED] [REDACTED] was his LRE and appropriate placement. If the AACPS made a FAPE available to the Student through the IEP, it is not required to reimburse the Parent's for the cost of the unilateral placement at Harbour.

#### A. SUPPLEMENTARY AIDS AND SERVICES – ADULT SUPPORT

Adult Support is generally addressed as a supplementary aid, service and support, which is a necessary component of an IEP.<sup>224</sup> “Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§ 300.114 through 300.116.”<sup>225</sup> As provided in the Student's May 17, 2024 IEP, one of the proposed Social / Behavioral supports is “Adult Support.”<sup>226</sup>

The Adult Support was to primarily be provided by special education classroom teachers, but would also be provided by general education teachers and instructional assistants.<sup>227</sup> The

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<sup>224</sup> See 34 C.F.R. § 300.320(a)(4) (“A statement of the . . . supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child . . . (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section.”).

<sup>225</sup> 34 C.F.R. § 300.42

<sup>226</sup> AACPS Ex. 15.34.

<sup>227</sup> AACPS Ex. 15.34.

May 17, 2024 IEP further provided that “due to documented needs including parental input, school team input, and data regarding his functional independence during less structured times, [the Student] requires adult support for transitioning between all classes,” and “requires adult support for arrival / dismissal, restroom breaks, and community-based activities daily across settings.”<sup>228</sup> [REDACTED] clarified that the adult support would not only be provided in those less structured times; rather, the supplemental aids and services and the adult support would go with the Student when he left the self-contained special education [REDACTED] classrooms and went to his elective classes.<sup>229</sup>

[REDACTED] further explained that “when groups of students in the [REDACTED] program attend electives with non-disabled peers, a 1:2 teaching assistants or temporary support assistants are sent with students to support them during those times.”<sup>230</sup> He also noted that the adult support is “a programmatic support, however if a student has additional adult support on their IEP, they would be sent with them based on their IEP.”<sup>231</sup> As such, the Student’s May 17, 2024 IEP and [REDACTED]’s programmatic supports reflect that in addition to the support that the Student would receive while in special education classes in the [REDACTED] classrooms, the Student would have adult support upon his arrival, at his dismissal, for restroom breaks, during community-based activities in the school class setting, and during all of his electives.

For comparison purposes, the Student’s 2023-2024 school year IEP does not contain an adult support supplementary aid or service.<sup>232</sup> As a private separate day school, [REDACTED] is a much different environment. [REDACTED] described the setting at [REDACTED] as follows:

There were 2 staff present in the classroom of approximately 10 students. The middle school classrooms were in the same hallways and the small school size and open space in

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<sup>228</sup> AACPS Ex. 15.34.

<sup>229</sup> [REDACTED] testimony. Tr. p. 513.

<sup>230</sup> [REDACTED] testimony. Tr. p. 779.

<sup>231</sup> [REDACTED] testimony. Tr. p. 779.

<sup>232</sup> P Ex. 15.

the center of the building with multiple staff present allowed for the students to navigate their environment independently while also providing adequate supervision.<sup>233</sup>

Accordingly, I infer that the Student's prior year's IEP did not require adult support based upon the different environment at [REDACTED].

As to a potential need for adult support, in the August 31, 2022 [REDACTED] Report's summary and impressions section, [REDACTED] noted that the Student "requires routines and supervision throughout the school day (including school bus pick up/drop off), with increased supervision during less structured times (e.g., recess, field trips, vocational training, etc.)."<sup>234</sup> [REDACTED] echoed this recommendation in her March 21, 2023, Report of [REDACTED] Consultation, wherein she recommended that the Student have continued access to escorting between classrooms.<sup>235</sup>

The Student requires extensive, direct, repeated and individualized instruction and substantial supports to achieve measurable gains in the grade and age appropriate curriculum, and I find that these needs can be met with the supported staffing model within the [REDACTED] classes, and with the dedicated adult support throughout the Student's school day during transitions and in electives. The Parent did not expressly argue how the adult support in the IEP is deficient. The only evidence set forth regarding how the AACPS adult support is inappropriate occurs in [REDACTED]'s observation report in which she identified that students in the [REDACTED] middle school classes were able "to navigate their environment independently while also providing adequate supervision" versus the larger [REDACTED] classroom which "does not promote independence" and requires "significant support needed and . . . modification."<sup>236</sup> However, I discounted [REDACTED]'s assertions on this issue based upon the Student's present levels

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<sup>233</sup> P Ex. 22-3.

<sup>234</sup> P Ex. 02-8.

<sup>235</sup> P Ex. 03-2.

<sup>236</sup> P Ex. 22-3 to 22-4.

because, while he is working towards independence in social skills, he still requires extensive teacher modeling to support appropriate and positive peer interactions.

Although the May 17, 2024 IEP's adult support cannot be directly compared to the prior year's IEP because it did not contain them, the May 17, 2024 IEP's description of the adult support to be provided, and as clarified by [REDACTED] and [REDACTED]'s testimony, indicates that the Student will have appropriate adult support that would satisfy [REDACTED]'s recommendations. It also indicates that the Student will have adult support provided both programmatically in the [REDACTED] in general education classes, as well as throughout the less structured times of his school day at [REDACTED]. Based upon the evidence presented I conclude that the May 17, 2024 IEP provides the Student with appropriate adult support to address the environmental and behavioral needs the Student requires during times of multiple changes.<sup>237</sup> Accordingly, I conclude that the AACPS has not failed to provide the Student with FAPE by a deficiency in supplemental aids and services on the May 17, 2024 IEP for adult support.

#### B. SPECIAL EDUCATION SERVICE HOURS

Special education and related services are also a necessary component of an IEP.<sup>238</sup> Additionally, an IEP must denote the frequency, duration and location of such services.<sup>239</sup> The Student's May 17, 2024 IEP indicates that he would receive classroom instruction outside the general education setting for twenty-one hours per week beginning on August 26, 2024.<sup>240</sup> By contrast the Student's October 17, 2023 IEP for the prior 2023-2024 school year provided him with twenty-nine hours and fifteen minutes of classroom instruction per week outside the general

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<sup>237</sup> "Given [the Student]'s complex medical ([REDACTED]) and ([REDACTED]) functioning, it is important that appropriate environmental and behavioral support is in place to help him in a time of multiple changes going forward." P Ex. 03-1 to 03-2.

<sup>238</sup> 34 C.F.R. § 300.320(a)(4).

<sup>239</sup> See 34 C.F.R. §300.320(a)(7).

<sup>240</sup> AACPS Ex. 15.47.

education setting. Accordingly, the Parent argues that the May 17, 2024 IEP represents an eight hour and fifteen-minute reduction, which constitutes a denial of FAPE.

When the IEP team first proposed moving the Student from [REDACTED] to an AACPS [REDACTED] program, it explained this issue to the Parent. During the May 15, 2023 IEP meeting, the AACPS explained to the Parent that when the [REDACTED] students were interacting or working alongside non-disabled peers or community members, they would be considered inside the general education environment, so services hours may look different; however, [REDACTED] students continue to have the supplementary aides and services and accommodations listed on their IEPs, across all settings.<sup>241</sup> Further, as [REDACTED] noted, the AACPS has determined that during electives, lunch, and recess, students should only have hours listed if they require specialized instruction.<sup>242</sup>

Moreover, the Parent did not present evidence to establish what specialized instruction the Student might require for electives and lunch. As [REDACTED] explained in her expert capacity, which I found persuasive and accept, the reduction of hours was appropriate because the Student did not require specialized instruction in the general education setting and only needed supplementary aids and supports,<sup>243</sup> which as noted in the May 15, 2023 PWN, the Student would receive.<sup>244</sup> Accordingly, the reduction in hours did not represent a flat reduction in services because the Student would continue to receive services and supports programmatically through the [REDACTED] program during lunch and his daily elective class.

In addition, the reduction to twenty-one hours on the May 17, 2024 IEP is intertwined with the IEP team's determination that the Student's appropriate placement and LRE was the [REDACTED]. [REDACTED] explained that even in 2023, he did not think that twenty-nine hours and fifteen minutes was appropriate; however, he understood the hours to be controlled by the

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<sup>241</sup> P Ex. 07-4.

<sup>242</sup> [REDACTED] testimony. Tr. p. 794.

<sup>243</sup> [REDACTED] testimony. Tr. p. 633.

<sup>244</sup> P Ex. 07-04.

Settlement Agreement that preceded the October 17, 2023 IEP.<sup>245</sup> He further explained that even in 2023, he believed that 29 hours and fifteen-minutes was too many hours because the Student could be successful in the [REDACTED] program, which includes one period per day in general education and an attendant reduction in hours.<sup>246</sup>

[REDACTED] echoed [REDACTED]'s sentiment and explained that Student could be switched from a full-time special education environment to the [REDACTED] program, with one of four periods per day and lunch outside the special education environment, based upon his strengths in the social domain as reflected in his recent assessments.<sup>247</sup> I also note that the overall [REDACTED] school week is thirty-two hours per week, while [REDACTED] is only thirty-one hours and fifteen minutes.<sup>248</sup> Accordingly, because the Student's supplementary aides and services and accommodations would follow him across all settings at [REDACTED], and because [REDACTED] has a shorter school day, the Student would receive more overall IEP directed programming at [REDACTED] with its longer school day. Because the Student would continue to receive programmatic support through the [REDACTED] program during lunch and his one period per day elective, and because for reasons more fully discussed below I have concluded that the Student's LRE is the [REDACTED], I conclude that the Parent has not proven that the reduction in hours on the Student's May 17, 2024 IEP was a denial of FAPE.

### C. LEAST RESTRICTIVE ENVIRONMENT

When determining the Student's placement, the AACPS was obliged to ensure that, to the maximum extent appropriate, the Student would be educated with children who are nondisabled and that the AACPS would only use special classes, separate schooling, or other removal of the Student from the regular educational environment if the nature or severity of his disability was

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<sup>245</sup> [REDACTED] testimony. Tr. pp. 871-872.

<sup>246</sup> [REDACTED] testimony. Tr. p. 872.

<sup>247</sup> [REDACTED] testimony. Tr. pp. 695-696.

<sup>248</sup> AACPS Ex. 11.1.



such that education in regular classes with the use of supplementary aids and services could not be achieved satisfactorily.<sup>249</sup> The AACPS was further required to consider a continuum of alternative placements, which span from the least restrictive setting, such as a general education classroom, to more restrictive settings like self-contained special education classes, placements outside of the school district, home and hospital instruction, and even residential care or treatment facilities.<sup>250</sup> Importantly, when selecting the LRE, the AACPS needed to also consider any potential harmful effects on the Student or the quality of services that he needed.<sup>251</sup>

These considerations constitute the heart of this case as the AACPS believes based upon his social strengths and switch to a certificate track program, the Student can succeed in an environment that is less restrictive than a full-time special education placement. As an initial point, the Parent asserted that when presented with the Parent's disagreement with its proposed placement of the Student in the [REDACTED] and its refusal to accept the Parent's proposed placement at [REDACTED], the AACPS failed to provide a cogent and responsive explanation for its decisions that shows the IEP was reasonably calculated to enable the Student to make progress appropriate in light of his circumstances.<sup>252</sup>

#### Cogent and Responsive Explanation

The May 15, 2023 PWN reflects that the AACPS has been explaining its position to the Parent consistently for more than a year. In pertinent part, the May 15, 2023 PWN reflects the following:

**Explanation of why action was proposed or refused by school district:**

[The Student]'s IEP can be implemented in his home school of [REDACTED] in the [REDACTED]. The lesser restrictive setting would provide [the Student] opportunities to engage with his non-disabled peers throughout the school day, while continuing to access specialized, small group instruction and opportunities for community[-]based instruction. It was discussed that even in the general education setting, a teacher or aide remains with

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<sup>249</sup> See 34 C.F.R. § 300.114(a)(2).

<sup>250</sup> 34 C.F.R. § 300.115.

<sup>251</sup> 34 C.F.R. § 300.116(d).

<sup>252</sup> *Endrew F.*, 580 U.S. at 404.

the students. It was discussed that at any point where the students are interacting or working alongside non-disabled peers or community members, that is considered inside the general education environment, which is why services hours may look different. [The Student] still have the supplementary aides and services and accommodations listed on their IEP across all settings.<sup>253</sup>

The AACPS provided a similar rationale in May 2024.

When determining the Student's LRE at the May 17, 2024 IEP meeting, which the Parent attended, the IEP team considered the Parent's input, staff input, the present levels of performance, supplementary aids and services, goals and objectives, and services.<sup>254</sup> Having considered that information, the IEP team determined that the Student's IEP could be implemented the [REDACTED], and noted that the lesser restrictive setting would provide the Student with opportunities to engage with his non-disabled peers throughout the school day, while continuing to have access to specialized, small group instruction and opportunities for community-based instruction.<sup>255</sup> In addition, when the IEP team refused the Parent's request to have the Student remain at [REDACTED], it did so after considering the Parent's input, staff input, the present levels of performance, supplementary aids and services, goals and objectives, and services.<sup>256</sup> The IEP team explained that it rejected the Parent's request for the Student to remain at [REDACTED], because the present levels of performance, supplementary aids and services, and the goals and objectives could be implemented in the public school environment, where the Student would have access to general education peers as language models when in general education elective classes and other environments.<sup>257</sup> These explanations, which were both cogent and responsive, were provided to the Parent at the May 17, 2024 IEP meeting and later provided to her again in the May 17, 2024 PWN.<sup>258</sup>

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<sup>253</sup> P Ex. 07-4.

<sup>254</sup> P Ex. 26-3.

<sup>255</sup> P Ex. 26-3.

<sup>256</sup> P Ex. 26-3.

<sup>257</sup> P Ex. 26-3.

<sup>258</sup> P Ex. 26-3.

In support of this argument, the Parent also highlighted in her case that there was a contrast between the graduation and employment data that [REDACTED] provided for [REDACTED] versus the AACPS witnesses' lack of knowledge about any studies showing the [REDACTED]'s efficacy, as a significant deficiency. In essence, the Parent asserted that the AACPS only has a belief that the [REDACTED] will work for the Student and that belief alone is not sufficient to justify his removal from [REDACTED], particularly when he has had success there.

However, the Parent's argument discounts the value of the staff input at the May 17, 2024 IEP meeting and the AACPS witnesses' knowledge and expertise about the Student based upon multiple evaluations coupled with their knowledge of the [REDACTED] program. As highly credible and persuasive experts with specific knowledge about the Student and the [REDACTED] program, [REDACTED], [REDACTED], [REDACTED], and [REDACTED] all agreed in their expert capacities that the [REDACTED] was appropriate for the Student. Their opinions represent the product of significant training, knowledge, and experience that touches directly on the appropriateness of the [REDACTED] for the Student. Moreover, the AACPS consistently explained that its recommendation for the [REDACTED] was based upon the Student's strengths and his shift from a [REDACTED] track to a [REDACTED] track, which would allow the [REDACTED] to meet his needs. Accordingly, I conclude that the Parent has not proven that the AACPS failed to provide her with a cogent or responsive explanation for its proposed IEP, proposed placement, and rejection of her request to keep the Student at [REDACTED]r.

AACPS Established [REDACTED] was the Student's LRE

More importantly, even though it does not bear the burden in this case, the AACPS has established that the Student's LRE is the [REDACTED]. It follows that [REDACTED] is not the appropriate placement for the Student because it unnecessarily separates the Student from his non-disabled peers and the benefits that interacting with them would provide. As the AACPS's

witnesses explained, the [REDACTED] is the most appropriate placement for the Student because it provides him with small group instruction in the self-contained [REDACTED] classroom where he would be appropriately peer matched.

As noted in the Student's May 17, 2024 present levels of performance in the area of social/emotional/behavioral, the Student exhibited strengths in "identifying different types of relationships with peers, identifying social rules and what they mean, aiming to please peers/staff, and has an interest in making and keeping friends."<sup>259</sup> The Student was making sufficient progress towards this IEP goal according to his March 15, 2024 progress note by observing staff and peer social cues, reacting/responding accordingly, appropriately joining in group conversations with peers to discuss a common interest, giving personal space during conversations, identifying familiar versus unfamiliar people and using that information to identify whether or not to follow direction, and following expected or unexpected behaviors in three out of ten trials.<sup>260</sup> Accordingly, the IEP team had sound reasons to think the Student's relative social strengths would allow him to capitalize on further developing his social/emotional/behavioral skills if he was allowed to interact with his non-disabled peers at [REDACTED], with the structured programmatic support that the [REDACTED] provides.

In addition, the Student's May 17, 2024 present level of performance in the area of social interactions indicated that the Student had made progress with his hygiene skills and increased his consistency and independence with the use of prompts and modeling, to the extent that his needs in this area can be supported with supplementary aids and services rather than an IEP goal.<sup>261</sup> While the IEP team noted concerns about social interactions in larger social environments and peer pressures; maintaining respectful interactions with peers and adults at

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<sup>259</sup> AACPS Ex. 15.13 to 15.14.

<sup>260</sup> AACPS Ex. 15.13 to 15.14.

<sup>261</sup> AACPS Ex. 15.13 to 15.14.

times of frustration and excitement; and peer interactions in the community when the Student lacks an understanding of “stranger danger,” the Student’s goal has specific objectives to work on these areas of concerns and he was noted as making sufficient progress towards his IEP goals as of March 15, 2024.<sup>262</sup> The Student also was receiving incentives, increased teacher modeling, and bank of signs to identify negative peer influences.<sup>263</sup> Again, this information gave the IEP team sound reasons to conclude that the Student would be able to benefit and continue to improve his social interaction abilities if he had the opportunity to engage with his non-disabled peers in the supportive environment that the [REDACTED] could provide.

As [REDACTED] explained in the August 31, 2022 [REDACTED] Report, the Student will benefit greatly from constant, daily exposure to peer interaction within a structured, supervised environment to promote continued emotional and social skills development.<sup>264</sup> [REDACTED]. [REDACTED] made similar observations when she performed a [REDACTED] assessment on the Student. In her February 2, 2023 [REDACTED] Assessment Report, [REDACTED] noted that even the Parent reported that the Student has strengths in his social skills and interest in initiating relationships and making friends.<sup>265</sup> While the Student’s ratings within the Social Domain were in the Low range on teacher ratings when compared to his same age peers, they were a relative personal strength for him when compared to his overall adaptive functioning, which was consistent with his historical areas of strength.<sup>266</sup>

[REDACTED] has been a nationally certified school psychologist and has been employed by the AACPS as a school psychologist since 1997. [REDACTED] has a [REDACTED] in [REDACTED], a [REDACTED] in [REDACTED], and an [REDACTED] degree in [REDACTED].

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<sup>262</sup> AACPS Ex. 15.14 to 15.15.

<sup>263</sup> AACPS Ex. 15.14 to 15.15.

<sup>264</sup> P Ex. 02-7.

<sup>265</sup> AACPS Ex. 19.2.

<sup>266</sup> AACPS Ex. 19.4.

██████████.<sup>267</sup> As a school psychologist for AACPS, ██████████ has worked with all disability populations in elementary, middle, and high school.<sup>268</sup> Over her twenty-seven years with AACPS, ██████████ has worked with every educational disability, which includes the thirteen identified federally recognized disabilities, and has experience with all of those populations.<sup>269</sup> ██████████ has worked in several schools throughout the AACPS system, AACPS's non-public office, and is familiar with AACPS's ██████████ programs.<sup>270</sup> As part of her duties with AACPS's non-public office, ██████████ goes to non-public schools to observe students, reviews their records to provide input for their IEPs, and assesses students cognitively, adaptively, and their social-emotional behavior.<sup>271</sup> ██████████ has served students in the ██████████ and has been to it.<sup>272</sup>

██████████ has reviewed the Student's IEPs from ██████████, has attended IEP meetings for the Student, she has observed him at ██████████, and after performing a ██████████ assessment on the Student she issued the February 2, 2023 ██████████ Assessment Report.<sup>273</sup> As a school psychologist with decades of experience serving children with disabilities in the AACPS system who has personally observed and evaluated the Student, and who has served children in ██████████ program, I found ██████████ extremely persuasive. ██████████ opined that the Student is a good candidate for success within the ██████████ program because his social interests, social motivation, and social skills are a personal strength for him, and because he has no significant behavioral concerns.<sup>274</sup> As I found ██████████ to be a highly qualified, experienced, and persuasive expert, I accept her opinion and agree.

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<sup>267</sup> AACPS Ex. 36.1.

<sup>268</sup> ██████████ testimony. Tr. p. 911.

<sup>269</sup> ██████████ testimony. Tr. p. 911.

<sup>270</sup> ██████████ testimony. Tr. p. 912.

<sup>271</sup> ██████████ testimony. Tr. p. 913.

<sup>272</sup> ██████████ testimony. Tr. p. 919.

<sup>273</sup> AACPS Ex.19, and ██████████ testimony. Tr. pp. 918, 923.

<sup>274</sup> ██████████ testimony. Tr. p. 956.

██████████ is currently employed by the AACPS as an assistant principal, has been a teacher since 2016, and has worked in special education since 2018.<sup>275</sup> ██████████ has a ██████████, a ██████████, and is completing a ██████████.<sup>276</sup> ██████████ is currently certified to teach pre-kindergarten through twelfth grade music, teach pre-kindergarten through twelfth grade special education, and has an administrator certification.<sup>277</sup> All of the special education students that ██████████ has taught have been receiving special education services in a general education setting.<sup>278</sup> Through his role as a teacher specialist with the AACPS's Interagency and Non-Public Placement Central Office, ██████████ collaborated with schools to develop IEPs, and coached IEP coordinators, teachers, and staff.<sup>279</sup> In that role, ██████████ also regularly worked with AACPS students by evaluating and observing them, and worked with eight different non-public schools, including ██████████.<sup>280</sup> ██████████ worked with students with varying disabilities including autism, intellectual disabilities, multiple disabilities, OHI, emotional disability, and specific learning disability, along with students with traumatic brain injuries.<sup>281</sup>

██████████ first met the Student in 2022 as his case manager, has met him approximately thirty to forty times, and has formally evaluated him.<sup>282</sup> ██████████ participated in the Student's IEP meetings and development process, and has met with the Student's teachers at ██████████.<sup>283</sup> As an expert in special education who is familiar with both ██████████ and the ACCPS's ██████████, and who has both met the Student many times and formally evaluated him, ██████████'s expert testimony was highly persuasive. ██████████ opined in his expert capacity that the Student was

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<sup>275</sup> AACPS Ex. 34.

<sup>276</sup> AACPS Ex. 34.

<sup>277</sup> AACPS Ex. 34, and ██████████ testimony. Tr. p. 737.

<sup>278</sup> ██████████ testimony. Tr. p. 744.

<sup>279</sup> AACPS Ex. 34.1, and ██████████ testimony. Tr. p. 740.

<sup>280</sup> ██████████ testimony. Tr. pp. 740, 746.

<sup>281</sup> ██████████ testimony. Tr. p. 741.

<sup>282</sup> ██████████ testimony. Tr. pp. 747-748.

<sup>283</sup> ██████████ testimony. Tr. pp. 746-748.

“yearning” for peer interactions and exposure.<sup>284</sup> As a highly qualified expert with significant exposure to the Student, [REDACTED]’s characterization of the Student’s desire for socialization is highly persuasive.

In addition, [REDACTED] was also an extremely persuasive expert witness in this case because she has years of experience working both at [REDACTED] and in the AACPS. Moreover, she has observed the Student at [REDACTED] fifteen to twenty times. [REDACTED] succinctly explained why the [REDACTED] program would benefit the Student and capitalize on his social strength as follows:

So, [the Student] has the ability to interact with peers, and with modeling and prompting, so with that adult support, [he] can access general education classes with his general education peers without needing specialized instruction. He wants to do that. That’s something that he desires, and he can learn from that. So, throughout the IEP, they talk about how he’s open to prompting and teacher feedback, so he’s able to take that information, and then apply it, which is what is essential to generalizing skills. So, when we get out into those general education classes, if we give him a prompt, a reminder, he’s able to then do that with that support, and then we start to see it as we wean off those prompts.

...

As much as we would like our students to live in a bubble, it’s not the real world. So, once they graduate, they’re in the workforce. They’re in programs. Their day-to-day operations, going to the grocery store, is with general education -- with general education peers or general population, so being able to learn those skills and know how to appropriately engage with people and interact is essential to their development.<sup>285</sup>

I am persuaded and agree. I therefore conclude that the [REDACTED] is the student’s LRE as it will capitalize on his social strengths in a supervised and structured environment that will enable him to meaningfully engage with his non-disabled peers.

Parent failed to establish [REDACTED] was not the Student’s LRE

I also found the AACPS’s expert witnesses more persuasive than the Parent’s and did not find that the Parent established any of her particularized concerns about the [REDACTED]

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<sup>284</sup> [REDACTED] testimony. Tr. p. 862.

<sup>285</sup> [REDACTED] testimony. Tr. pp. 1041-1042.



Although highly credentialed and experienced, the Parent's first expert witness, [REDACTED], did not present persuasive testimony in this case. [REDACTED] is [REDACTED]'s founder and has been its Executive Director since 1982.<sup>286</sup> She has a [REDACTED] in [REDACTED], a [REDACTED] in [REDACTED], and a [REDACTED]. She has been working in the education field since 1962.<sup>287</sup> She was also a visiting professor at [REDACTED] from 1991 to 1995, an adjunct faculty member at [REDACTED] from 1996 to 1997, and has been an adjunct faculty member at [REDACTED] since 1999.<sup>288</sup> Based upon her training, knowledge, and experience, [REDACTED] is undoubtedly an expert in special education.

Consistent with her letter to Mr. Eig, [REDACTED] opined that the [REDACTED] was the appropriate placement to provide the Student with a FAPE. [REDACTED] understands the concept of LRE to mean "an environment that gives a child maximum opportunity to be with nondisabled peers appropriate to their needs",<sup>289</sup> however, [REDACTED] also believes that "it is naïve to think that the schoolhouse is the only place a child with disabilities [can] get to associate with nondisabled kids," and that students with significant disabilities like the Student, will "find themselves sort of fenced off from" school activities.<sup>290</sup> Although [REDACTED] knows the Student "fairly well" and has both "chatted" with him "a lot" and "seen him do things at school" as well as having observed the Student in the classroom, she is not his teacher.<sup>291</sup> [REDACTED] has not attended any IEP meetings for the Student, has not attended any parent teacher conferences for him, has not evaluated him, has never taught him, has never collected work samples from him, and has never seen him outside of [REDACTED].<sup>292</sup> Moreover, other than the exhibits provided in this

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<sup>286</sup> P Ex. 31.

<sup>287</sup> P Ex. 31.

<sup>288</sup> P Ex. 31.

<sup>289</sup> [REDACTED] testimony. Tr. p. 98.

<sup>290</sup> [REDACTED] testimony. Tr. p. 97.

<sup>291</sup> [REDACTED] testimony. Tr. pp. 32-33, 56-57.

<sup>292</sup> [REDACTED] testimony. Tr. pp. 56-57.

case, [REDACTED] has not reviewed any of the Student's records or the May 17, 2024 IEP at issue in these proceedings.<sup>293</sup>

[REDACTED] has also not been to a comprehensive public school more than once in the last forty to fifty years.<sup>294</sup> As [REDACTED] candidly conceded, she does not "know anything about any of the Anne Arundel County programs, nor [does she] have the authority, competence, [or] the ability to evaluate [AAPCS's] programs."<sup>295</sup> Accordingly, [REDACTED] inability to comment on the [REDACTED] program severely limits her expert opinion's value in this case.

The Parent also noted various concerns with the [REDACTED]; however, the Parent has not established that those concerns would warrant a more restrictive placement. The Parent cited the Student's anxiety and vulnerability. The Parent explained her fears regarding social interactions with non-disabled peers as follows:

If he was in a regular community with non-disabled kids, I fear for him because he doesn't understand their social cues and nuances, and he wouldn't understand if he was being bullied or being teased. He wouldn't get it. He'll just be zeroed in on wanting a friend and wanting their numbers and wanting to hang out with them and know if they have siblings and their parents' information and all of that stuff.<sup>296</sup>

The Parent also noted that she would have concerns that the Student would be vulnerable in the bathroom based upon an incident during a [REDACTED] school trip where an assistant teacher found the Student standing at a urinal not fully clothed because he could not get into a stall and did not understand what to do when he could not get into a stall.<sup>297</sup> The Parent wants to protect her son, and her concerns are understandable. However, in the [REDACTED] the Student would have significant support throughout the entirety of the school day, which would always include adult support. That support appropriately addresses those concerns.

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<sup>293</sup> [REDACTED] testimony. Tr. pp. 86-87.

<sup>294</sup> [REDACTED] testimony. Tr. p. 104.

<sup>295</sup> [REDACTED] testimony. Tr. p. 85.

<sup>296</sup> Parent testimony. Tr. p. 219.

<sup>297</sup> Parent testimony. Tr. p. 200.

The Parent also cited the Student's anxieties as a basis for him remaining at [REDACTED]. The Parent offered [REDACTED] to help establish this claim. [REDACTED] has a [REDACTED] in [REDACTED] and [REDACTED], and a [REDACTED].<sup>298</sup> She is a [REDACTED] and since 2009 has worked in a combination of treatment roles and non-public educational settings.<sup>299</sup> Based upon her training, knowledge, and experience, [REDACTED] was accepted as an expert in social work. [REDACTED] opined that at [REDACTED] the Student was in a therapeutic learning environment that supported his mental health and helped him fully access his education.

[REDACTED] is the Student's therapist and has been working with him since January 2024.<sup>300</sup> She sees the student for approximately forty-five minutes, once a week.<sup>301</sup> She has reviewed the August 31, 2022 [REDACTED] Report, and spoken with the Parent.<sup>302</sup> [REDACTED] has also communicated with the Student's counselor at [REDACTED].<sup>303</sup> However, [REDACTED] has never met the Student in person as she only interacts with him through virtual telehealth sessions.<sup>304</sup> She has also not attended any IEP meetings for the Student or any meetings with [REDACTED] staff.<sup>305</sup> Most importantly, [REDACTED] has never seen an [REDACTED] program, had not reviewed the May 17, 2024 IEP at issue in this case prior to preparing her letter, only briefly reviewed it in preparation for testifying, and was unable to articulate any specific disagreements with the May 17, 2024 IEP when testifying.<sup>306</sup> As such, [REDACTED]'s expert opinion does not directly address the reasonableness of the Student's IEP and placement at the [REDACTED], so has limited persuasive value in this case.

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<sup>298</sup> P Ex. 32.

<sup>299</sup> P Ex. 32.

<sup>300</sup> P Ex. 21-1.

<sup>301</sup> [REDACTED] testimony. Tr. pp. 128-129.

<sup>302</sup> [REDACTED] testimony. Tr. pp. 709-710.

<sup>303</sup> [REDACTED] testimony. Tr. p. 705.

<sup>304</sup> [REDACTED] testimony. Tr. p. 708.

<sup>305</sup> [REDACTED] testimony. Tr. p. 705.

<sup>306</sup> [REDACTED] testimony. Tr. pp. 718-719, 724.

In addition to [REDACTED], the Parent offered [REDACTED], a special education consultant. Ostensibly, the Parent offered [REDACTED]'s testimony and expertise to help establish that the [REDACTED] was not appropriate for the Student, so was not his LRE, and to show that [REDACTED] was appropriate. Since December 2022, [REDACTED] has been employed by the [REDACTED]. Prior thereto, from August 1997 to December 2021, [REDACTED] worked at the [REDACTED] [REDACTED]<sup>307</sup> in various capacities that included being a special education teacher, 1997 to 2002, an Autism resource specialist, 2002 to 2006, an assistant principal, 2006 to 2017, and the principal, 2017 to 2021.<sup>308</sup> When [REDACTED] was required to have a teaching license or certificate for her work she had one, but she is not currently licensed or certified by any jurisdiction and has not been so for approximately ten to fifteen years. She did not require any teaching licensure or certification after she became an administrator.<sup>309</sup> [REDACTED] has a [REDACTED] in [REDACTED], and a [REDACTED] in [REDACTED].<sup>310</sup> Based upon her training, knowledge, and experience, [REDACTED] was accepted as an expert in special education with a concentration in the education of children with intellectual disabilities.

[REDACTED] testified consistently with her observation report that [REDACTED] was the appropriate placement for the Student. According to her observation report, the large environment in a public-school building with a self-contained classroom setting does not promote independence in navigating the Student's learning environment. Additionally, she reasoned that the [REDACTED] did not seem tailored to the individual needs of all students, and did not provide opportunities for higher level discussion.<sup>311</sup> [REDACTED] believes that the Student is

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<sup>307</sup> [REDACTED] is in [REDACTED] it is a full-time separate day special education school for children on a certificate track, and it is a public charter school. [REDACTED] testimony. Tr. pp. 301, 307.

<sup>308</sup> P Ex. 30.

<sup>309</sup> [REDACTED] testimony. Tr. p. 306.

<sup>310</sup> P Ex. 30-2.

<sup>311</sup> P Ex. 22-3 to 22-4.

thriving at [REDACTED], that the only thing that has changed is that he has been determined eligible for [REDACTED], and that it would not be necessary to remove him from [REDACTED] where he is established because moving him to a new school will, in her opinion, very likely cause him to regress.<sup>312</sup>

I note, however, that although the Parent hired [REDACTED] as an educational consultant in early 2023,<sup>313</sup> and [REDACTED] attended the Student's IEP meetings on July 11, 2023,<sup>314</sup> October 5, 2023,<sup>315</sup> and May 9, 2024,<sup>316</sup> she only met the Student when she attended the [REDACTED] tour on April 4, 2024, and when she observed the Student at [REDACTED] on May 8, 2024.<sup>317</sup> The only time that [REDACTED] spoke with the Student was on the April 4, 2024 tour.<sup>318</sup> [REDACTED] has never evaluated the Student either.<sup>319</sup> Considering [REDACTED]'s limited exposure to the Student and [REDACTED], her expert opinions only offer a similarly limited impact.

As echoed by [REDACTED], the Parent expressed a concern that the [REDACTED]'s classroom instruction would be too simplified, and that the Student would not be appropriately peer matched. The Parent and [REDACTED] based this conclusion on what they observed during the tour on April 4, 2024. As to the curriculum, the Parent has not established that the curriculum would be inappropriate for the Student. The Parent and [REDACTED] only observed one self-contained [REDACTED] class. Although [REDACTED] testified as an expert in special education with a concentration in the education of children with intellectual disabilities, her opinion on this issue was not persuasive because she did not speak to the [REDACTED] teacher, did not ask about what the students were working on or how the lesson fit into a larger lesson plan, and did not ask about

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<sup>312</sup> [REDACTED] testimony. Tr. pp. 333-334.

<sup>313</sup> [REDACTED] testimony. Tr. p. 338.

<sup>314</sup> P Ex. 11-8.

<sup>315</sup> P Ex. 14-2.

<sup>316</sup> P Ex. 23-1.

<sup>317</sup> [REDACTED] testimony. Tr. p. 341.

<sup>318</sup> [REDACTED] testimony. Tr. p. 342.

<sup>319</sup> [REDACTED] testimony. Tr. p. 343.

the students' disabilities. Accordingly, the Parent did not testify as an expert, so she did not offer an expert opinion on the classroom instruction, and [REDACTED]'s expert opinion was unpersuasive because it was based on insufficient information. I conclude, therefore, that the Parent has not established that the [REDACTED] curriculum is too simplified or otherwise inappropriate for the Student.

As to the peer matching, neither the Parent nor [REDACTED] knew anything about the students in the [REDACTED] program aside from what they observed on the tour. By contrast, [REDACTED] is familiar with the other students in the [REDACTED] program who would be the Student's peers, and she has reviewed their records. [REDACTED] opined as an expert that the other students in the [REDACTED] program would be appropriate peers for the Student.<sup>320</sup> Similarly, [REDACTED] is also familiar with the students in [REDACTED] program, and she reviewed their records. Through her familiarity with those students and a review of their records, [REDACTED] opined that the other students in [REDACTED] program would be a peer group for the Student based upon their and the Student's needs and interests. She also opined that the other students in [REDACTED] program would be a match for the Student intellectually and communicatively.<sup>321</sup> [REDACTED] and [REDACTED] presented highly persuasive testimony on this issue. Based upon their testimony, I agree that the Student would be appropriately peer matched in the [REDACTED] and conclude that the Parent has not established to the contrary.

The Parent also asserted that the Student should not be moved to the [REDACTED] because his transition programming at [REDACTED] has already started. [REDACTED] provides transition services through transition specialists that help students and families prepare for post-graduation life.<sup>322</sup> The Parent did not present any persuasive evidence to establish that [REDACTED]'s

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<sup>320</sup> [REDACTED] testimony. Tr. p. 668.

<sup>321</sup> [REDACTED] testimony. Tr. pp. 1035-1036.

<sup>322</sup> [REDACTED] testimony. Tr. p. 508-509.

transitioning programming could not appropriately accommodate the Student's needs over the next few years of his high school career, and the Parent has not established that the Student should remain at [REDACTED] because his transition program has begun.

Lastly, the Parent argued that moving the Student to [REDACTED] after his freshman year has started would be inappropriate.<sup>323</sup> The Parent did not present any persuasive evidence on this issue. [REDACTED] claimed that the Student would be very unhappy if he switched schools and that it would take "quite a while for him to settle down."<sup>324</sup> Although I agree that moving to a new school would certainly be a significant change for the Student, [REDACTED]' opinion is not supported by the Student's history. The Student moved several times in the [REDACTED] PS. He also successfully moved from [REDACTED] to [REDACTED] when his family moved to Maryland. The Parent has not presented evidence to establish that the Student could not transition successfully to the [REDACTED] just as he did from [REDACTED] to [REDACTED].

Further, [REDACTED] asserted that the Student is "close to finishing high school" and that as he has "started high school now and this is the time to dig in on transition, a real transition program."<sup>325</sup> [REDACTED]' suggestion that the Student is close to finishing high school is incorrect. The Student just started his freshman year, so his high school career has only just begun.

More importantly, when the ACCPS proposed to move the Student from [REDACTED] to an [REDACTED] program for his eighth grade year, the Parent notably "asked if the recommendation could wait until next year, during a natural transition time for [the Student] and when he has enough time to process the change."<sup>326</sup> This statement reflects that even the Parent recognizes that

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<sup>323</sup> The Parent suggested at the Conference and at the start of the hearing that because the Parent filed the Due Process Complaint on May 28, 2024, the timeline for this matter's adjudication constituted a denial of FAPE. However, the Parent did not attempt to amend her Due Process Complaint or present any evidence to establish that the AACPS engaged in any conduct after the Parent filed her Due Process Complaint that constituted a denial of FAPE. As such, to the extent that the Parent has maintained this argument, it is addressed within the context of the Parent's general assertion that the Student should not be moved to the [REDACTED] during his freshman year.

<sup>324</sup> [REDACTED] testimony. Tr. p. 47.

<sup>325</sup> [REDACTED] testimony. Tr. p. 47.

<sup>326</sup> P Ex. 07-4.

moving to a new school at the start of the ninth grade was a natural transition time. During her testimony, [REDACTED] addressed the move to [REDACTED]'s timing as follows:

So, as a ninth grader, it's one of -- it's a good time for transition. Generally, this is when students start their high school career, so start their transition plans, community-based instruction. We want to have the time to build the skills in a self -- in the [REDACTED] or in the self-contained environment, and then as students get older, we're ready to expose them to more experiences outside in the community.<sup>327</sup>

[REDACTED]'s opinion on this is persuasive, consistent with the Parent's prior sentiments, and comports with common sense. I accept her opinion and agree. I further conclude that the AACPS appropriately considered the transition's timing and conclude that the Parent has not proven that the timing of the transition or these proceedings constitutes a denial of FAPE.

While the Parent assuredly only wants the best for her son and wants to protect him, she has not proven that the AACPS's proposed IEP and placement for the 2024-2024 school year has denied him FAPE. In addition, the IDEA requires educators to place students in their LRE and with their non-disabled peers if possible. The Student's LRE is the [REDACTED] where he will have appropriate adult supports and where his service hours are appropriate. Accordingly, I conclude that the AACPS provided the Student with a FAPE for the 2024-2025 school year by providing an appropriate IEP and placement that was reasonably calculated to address the Student's unique disability-related needs.

As noted above, if the AACPS made a FAPE available to the Student through the May 17, 2024 IEP, it would not be required to reimburse the Parent for the cost of the unilateral placement for the 2024-2025 school year.<sup>328</sup> Accordingly, because the Parent needed to establish that the AACPS denied the Student FAPE or committed another substantive violation of IDEA as a prerequisite and has not, I do not reach the issues of whether a [REDACTED] placement was

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<sup>327</sup> [REDACTED] testimony. Tr. p. 1042.

<sup>328</sup> 34 C.F.R. § 300.148(c).



appropriate or whether any equitable factors in this particular case would preclude the Parent's requested relief.<sup>329</sup>

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Parent's alleged procedural violation is not before me because she did not raise it in her Due Process Complaint.<sup>330</sup> I further conclude as a matter of law that the AACPS provided the Student with a FAPE for the 2024-2025 school year by providing an appropriate IEP and placement through the May 17, 2024 IEP that was reasonably calculated to address the Student's unique disability-related needs, and that therefore as a matter of law, the Parent is not entitled to reimbursement for tuition paid to [REDACTED] for the 2024-2025 school year or prospective placement at [REDACTED] for the remainder of the 2024-2024 school year.<sup>331</sup>

### **ORDER**

I **ORDER** that the Parent's request for reimbursement of funds paid to [REDACTED] [REDACTED] by the Parent for the 2024-2025 school year, and request for prospective placement at [REDACTED] [REDACTED] for the remainder of the 2024-2025 school year is **DENIED**.

October 31, 2024  
Date Decision Issued

Andrew J. Brouwer  
Administrative Law Judge

AJB/emh  
#214755

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<sup>329</sup> *Burlington*, 471 U.S. 359 (1985); *Carter*, 510 U.S. 7 (1993); *see also Forest Grove*, 557 U.S. 230, 246–47 (2009).

<sup>330</sup> 20 U.S.C.A. § 1415(f)(3)(B); 34 C.F.R. § 300.511(d).

<sup>331</sup> 20 U.S.C.A. §§ 1400(d)(1)(A); Educ. § 8-403; *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386 (2017); *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49 (2005); *Florence Cnty. Sch. Dist. #4 v. Carter*, 510 U.S. 7 (1993); *Forest Grove Sch. Dist. v. TA*, 557 U.S. 230 (2009); *Sch. Comm. Town of Burlington v. Dep't of Educ.*, 471 U.S. 359 (1985); 34 C.F.R. § 300.114(a)(2); 34 C.F.R. § 300.115; 34 C.F.R. § 300.116(c); 34 C.F.R. § 300.148(c); 34 CFR § 300.320(a)(4); 34 CFR §300.320(a)(7); 34 CFR § 300.42.

## **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) (2022). 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 and Emailed to:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Michael J. Eig, Esquire

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Manisha Kavadi, Esq.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

██████████,  
STUDENT, and

██████████,  
PARENT

v.

ANNE ARUNDEL COUNTY  
PUBLIC SCHOOLS

BEFORE ANDREW J. BROUWER,  
AN ADMINISTRATIVE LAW JUDGE  
OF THE MARYLAND OFFICE  
OF ADMINISTRATIVE HEARINGS

OAH No.: MSDE-AARU-OT-24-14239

**APPENDIX - EXHIBIT LIST<sup>332</sup>**

I admitted the following exhibits offered by the Parent:

- P Ex. 1. Request for Due Process, 5-28-24
- P Ex. 2. ██████████ Evaluation by ██████████, 8-17-22
- P Ex. 3. ██████████ Evaluation by ██████████, 3-21-23
- P Ex. 4. AACPS Academic Assessment Report, 3-30-23
- P Ex. 5. AACPS Contact Log, 3-21-23 and 5-15-23
- P Ex. 6. AACPS Consent Form, signed, 5-15-23
- P Ex. 7. AACPS Prior Written Notice, 5-15-23
- P Ex. 8. AACPS Participation Criteria and Checklist, 5-16-23
- P Ex. 9. AACPS ██████████ Appendix A, 7-11-23
- P Ex. 10. AACPS Consent Form, signed, 7-11-23
- P Ex. 11. AACPS Prior Written Notice, 7-11-23
- P Ex. 12. AACPS ██████████ Appendix A, 10-5-23
- P Ex. 13. AACPS Consent Form, signed, 10-5-23

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<sup>332</sup> The parties provided exhibit lists, and I have copied and utilized their exhibit descriptions.

- P Ex. 14. AACPS Prior Written Notice, 10-5-23
- P Ex. 15. AACPS approved IEP, 10-17-23
- P Ex. 16. [REDACTED] Comprehensive Post Secondary Plan, 11-3-23
- P Ex. 17. [REDACTED] IEP Progress Report, 3-15-24
- P Ex. 18. [REDACTED] Quarterly Progress Report, 3-15-24
- P Ex. 19. Emails between the Parent and AACPS, 3-15-24 to 4-17-24
- P Ex. 20. Letter by [REDACTED] regarding instructional program recommendations, 4-17-24
- P Ex. 21. Letter by therapist, [REDACTED], April 2024
- P Ex. 22. Observation Report by [REDACTED], 5-8-24
- P Ex. 23. AACPS Prior Written Notice, 5-9-24
- P Ex. 24. AACPS Alternate Appendix A, 5-9-24
- P Ex. 25. Letter to AACPS from parent, 5-13-24
- P Ex. 26. AACPS Prior Written Notice, 5-17-24
- P Ex. 27. AACPS Transition Plan, Spring 2024
- P Ex. 28. [REDACTED] IEP Progress Report, 6-12-24
- P Ex. 29. Letter serving notice, 8-5-24
- P Ex. 30. Resume of [REDACTED]
- P Ex. 31. Resume of [REDACTED]
- P Ex. 32. Resume of [REDACTED]
- P Ex. 33. Resume of [REDACTED]

I admitted the following exhibits offered by the AACPS:

- |             |            |         |
|-------------|------------|---------|
| AACPS Ex. 1 | 10/20/2022 | IEP     |
| AACPS Ex. 2 | 10/20/2022 | IEP PWN |
| AACPS Ex. 3 | 02/23/2023 | IEP PWN |
| AACPS Ex. 4 | 03/28/2023 | IEP PWN |
| AACPS Ex. 5 | 05/15/2023 | IEP PWN |
| AACPS Ex. 6 | 07/11/2023 | IEP PWN |

AACPS Ex. 7	10/17/2023	IEP PWN
AACPS Ex. 8	10/17/2023	IEP
AACPS Ex. 9	10/12/2023	Release and Settlement of Claims
AACPS Ex. 10	10/04/2023	AACPS Alternate Appendix A
AACPS Ex. 11	10/20/2023	IEP Amendment Changes
AACPS Ex. 12	05/09/2024 <sup>333</sup>	IEP PWN
AACPS Ex. 13	05/09/2024	AACPS Alternate Appendix A
AACPS Ex. 14	05/17/2024	IEP PWN
AACPS Ex. 15	05/17/2024	IEP
AACPS Ex. 16	03/30/2023	Academic Assessment Report
AACPS Ex. 17	10/09/2017	██████████ Evaluation Report – ██████████ ██████████, ██████████
AACPS Ex. 18	08/17/2022	Report of ██████████ Evaluation – ██████████ ██████████
AACPS Ex. 19	02/02/2023	██████████ Assessment Report - AACPS
AACPS Ex. 20	03/21/2023	Report of ██████████ Evaluation – ██████████ ██████████
AACPS Ex. 21	April 2023	Speech and Language Evaluation – ██████████
AACPS Ex. 22	May 2023	Occupational Therapy Re-Evaluation – ██████████ ██████████
AACPS Ex. 23	-	IEP Progress Reports, 12/15/2022 to 9/28/2023
AACPS Ex. 24	-	IEP Progress Report, 9/28/2023
AACPS Ex. 25	-	IEP Progress Report, 12/15/2023 to 6/12/2024
AACPS Ex. 26	Undated	Mini-Map for M.EE.8.EE.1 – Math – Dynamic Learning Maps/Work Samples
AACPS Ex. 27	Undated	Mini-Map for MLA.EE.RL.8.4 – ELA – Dynamic Learning Maps/Work Samples
AACPS Ex. 28	03/04/2024	Work Samples

<sup>333</sup> Changed from 5/29/24, which was a typographical error in the AACPS’s exhibit list.

AACPS Ex. 29	-	School Placement Transition Plan for 2024/25 [REDACTED]
AACPS Ex. 30	05/23/2024	Email from AACPS to Parent re Shadow Visit
AACPS Ex. 31	-	Contact Log – Official Telephone Contacts or Personal Visits, 3/21/2023 to 5/15/2023
AACPS Ex. 32	-	Mini-Map for M.EE.8.G.9 – Math – Dynamic Learning Maps/Work Samples
AACPS Ex. 33	-	Resume - [REDACTED]
AACPS Ex. 34	-	Resume – [REDACTED]
AACPS Ex. 35	-	Resume – [REDACTED]
AACPS Ex. 36	-	Resume – [REDACTED]
AACPS Ex. 37	-	Resume – [REDACTED]
AACPS Ex. 38	04/16/2024	Student Fluency Graph
AACPS Ex. 39	6/6/2023	[REDACTED] reports
AACPS Ex. 40	-	Math Work Samples
AACPS Ex. 41	-	ELA Literacy Work Samples
AACPS Ex. 42	3/15/2024	Emails between [REDACTED] and the Parent