

██████████,
PARENT,
ON BEHALF OF ██████████,
STUDENT,
v.

BEFORE WILLIAM SOMERVILLE,
AN ADMINISTRATIVE LAW JUDGE
OF THE MARYLAND OFFICE
OF ADMINISTRATIVE HEARINGS

ANNE ARUNDEL COUNTY PUBLIC
SCHOOLS

OAH No.: MSDE-AARU-OT-24-23859

DECISION

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ORDER

STATEMENT OF THE CASE

On September 6, 2024, the Parent filed a Due Process Complaint (Complaint) with the Office of Administrative Hearings (OAH) on the Student’s behalf, requesting a hearing to review the identification, evaluation, or placement of the Student by Anne Arundel County Public Schools (AACPS or School System) under the Individuals with Disabilities Education Act (IDEA). 20 U.S.C.A. § 1415(f)(1)(A) (2017);¹ 34 C.F.R. § 300.511(a) (2023);² Md. Code Ann., § 8-413(d)(1) (Supp. 2024);³ Code of Maryland Regulations (COMAR)13A.05.01.15C(1), 20 U.S.C.A. §§ 1400-1419.

¹ “U.S.C.A.” is an abbreviation for the United States Code Annotated. Unless otherwise noted, all citations herein to the U.S.C.A. are to the 2017 bound volume.

² “C.F.R.” is an abbreviation for the Code of Federal Regulations. Unless otherwise noted, all citations herein to the C.F.R. are to the 2023 bound volume.

³ Unless otherwise noted, all citations herein to the Education Article are to the 2022 Volume of the Maryland Annotated Code.

On September 20, 2024, the parties attended a required resolution session, and on September 23, 2024, the AACPS notified the OAH, in writing, that the parties did not resolve their dispute. On October 18, 2024, I held a pre-hearing conference in this case.

I held the hearing on November 20, 21, and December 2, 2024.⁴ Kathy L. Stump, Esq., represented the School System. The Parent was self-represented.

Under the regulatory timeline, the decision in this case normally would be due on November 7, 2024, which is forty-five days after the triggering event. 34 C.F.R. §§ 300.510(c), 300.515(a). However, the regulations authorize me to grant a specific extension of time at the request of either party. *Id.* § 300.515(c). In this case, the parties jointly requested an extension. They requested that the hearing, and the resulting decision, be delayed because the earliest that the hearing could reasonably be scheduled to conclude was on December 2, 2024 -- a date after the forty-five-day period had ended -- based on their disclosures⁵ of the following: counsel's extensive litigation, mediation, and meeting schedule; the five-day disclosure rule; the fifteen-day subpoena rule; vacations and school staff breaks; other scheduled commitments; and availability of seven proposed witnesses. On November 21, 2024, when the multi-day hearing was originally scheduled to conclude as reflected in the Pre-hearing Order that I had previously issued, a crucial witness was unavailable to testify for medical reasons; the parties requested and agreed to extend the time of the hearing to allow the witness to testify. The final date of the hearing was then scheduled, by agreement and at the request of the parties, for December 2, 2024. Additionally, based on the need to properly adjudicate this matter by making detailed Findings of Fact, Conclusions of Law, and a decision, both parties agreed, and both have

⁴ On the planned final date of the hearing, November 21, 2024, a crucial witness could not appear. The matter was continued by request and agreement of the parties until the witness could be made available on December 2, 2024.

⁵ Counsel, as an officer of the court, is deemed to be truthful in representations to this tribunal. *Duvall v. State*, 399 Md. 210, 234 (2007) (regarding credibility of counsel's representations, the Court wrote, "Lawyers are officers of the court and should be treated as such.").

requested, that I should have seven business days⁶ after the close of the hearing to issue my decision.

For the reasons discussed above, and with agreement and at the request of the parties, I will issue a decision no later than Wednesday, December 11, 2024, which is seven business days after the scheduled last date of the hearing.⁷

Procedure is governed by the contested case provisions of Maryland's Administrative Procedure Act; the Education Article; the Maryland State Department of Education (MSDE) procedural regulations; and the Rules of Procedure of the OAH. Educ. § 8-413(e)(1); Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 13A.05.01.15C; COMAR 28.02.01.

ISSUES

The issues are:

1. Whether the School System has denied the Student a free, appropriate, public education (FAPE) by inappropriately implementing a "related service" found in the Student's individual education program (IEP) – that being transportation – by declining to move the Student's bus stop approximately [REDACTED] feet?
2. If so, what requested remedy is appropriate?

SUMMARY OF THE EVIDENCE

Exhibits

The Parent offered eight exhibits that I admitted. The School System offered twenty-four exhibits that I admitted. (Please refer to the attached Appendix.)

⁶ Often in such cases a thirty-day period is requested by the parties, as was done in the instant case. Because the Parent suggested at the pre-hearing conference on October 18, 2024, however, that the Student's safety is a concern in this case, I decided that a much shorter decision period would be appropriate.

⁷ That last day of the hearing was December 2, 2024.

Testimony

The Parent testified and presented the following witnesses:

- [REDACTED], mother of the Student
- [REDACTED], Transportation Manager for the School System (fact witness)
- [REDACTED], Case Manager in the AACPS non-public placement office (fact witness)

The School System, in its case, presented the following witnesses:

- [REDACTED], qualified to offer opinions in the field of “school psychology”
- [REDACTED], Transportation Manager, qualified to offer opinions in the field of “school transportation”
- [REDACTED], Case Manager in the AACPS non-public placement office, qualified to offer opinions in the field of “special education and non-public placements”

FINDINGS OF FACT

Having considered demeanor evidence, testimony, other evidence, and stipulated facts, I find the following facts by a preponderance of the evidence:

1. The Student was born in [REDACTED], and he is 12 years old.
2. The Student lives with his parents, on [REDACTED], very close to [REDACTED], in [REDACTED], Maryland.
3. The Student is eligible for special education and related services under the IDEA under the disability category of [REDACTED].
4. The Student has an average I.Q., and his relatively [REDACTED] is accurately described as “[REDACTED], level one.” He has difficulty [REDACTED]. He has been diagnosed with [REDACTED]. The Student has some difficulty with [REDACTED].

auditory processing and [REDACTED]. He also has difficulty with changes in routine.

5. The School System is the public agency responsible for ensuring that the Student is provided with a FAPE.
6. The Student currently has an IEP that requires him to receive his special education services in a Type II nonpublic program located inside a comprehensive public school.
7. The IEP provides special education in academic subjects and in behavioral skills. The goals and objectives are detailed. The IEP calls for specialized instruction in a small group setting to maintain attention to a task and to demonstrate appropriate school behaviors. Related services include counseling, speech/language therapy, and transportation. With regard to the related service of transportation, the IEP notes that because the Student attends a school other than his home school, he needs transportation. Other supports needed to assist the Student during transportation are: "Parent/parent designee is required at drop off." (SS Ex. 13.)
8. As of May 2, 2024, no one on the IEP team had concerns about the personal safety of the Student or a lack of educational progress or benefit with regard to the IEP. The Student was scheduled to leave the [REDACTED] at the end of the school year. The [REDACTED] in the [REDACTED], in [REDACTED], was the recommended location of the Student's learning environment in the 2024 – 2025 school year. In the IEP meeting of May 2, 2024, a parent suggested that the related service of transportation would be used by the Student because the recommended location at the middle school was farther from the Student's home than the [REDACTED] where the Parents had been driving the Student every day. Discussion at that IEP meeting about

transportation centered around the environment on the bus and not the location of the bus stop.

9. Once the non-public [REDACTED] program at [REDACTED] accepted the Student, the School System established the Student's bus stop at the corner of [REDACTED] [REDACTED] and [REDACTED], on the edge of the Student's neighborhood, about [REDACTED] blocks or [REDACTED] feet, or so, from the Student's house. (Parent Ex. 1, map scale.)
10. The AACPS has sole discretion regarding where bus stops are located.
11. The School System routinely provides transportation as a related service in IEPs if the students are not attending their home school.
12. The Student currently attends the [REDACTED] school in the [REDACTED] [REDACTED]. [REDACTED] staff act the same as AACPS staff within the school building and on school grounds.
13. At [REDACTED] at [REDACTED], the Student is picked up from [REDACTED] and escorted to the bus by [REDACTED] staff.
14. The School System assigns buses and bus stop locations for students with IEPs after considering many factors. The School System uses several software systems to accomplish the task. The students' unique needs are considered as well as efficiency of the route, need for "specialized transportation equipment" for students with mobility needs, the need for a bus aide in certain circumstances, traffic patterns, number of students on a stop or on a route, roadway access, and many other factors. The students' bus drivers look to the students' IEPs to understand what is required for each student. With regard to the use of private bus companies, as in the Student's case, the School System's Transportation Manager can assign bus stop locations but cannot determine the bus routes. Private bus companies compose the routes. In some cases, in order to

transport a student with an IEP so that the student can access curriculum, special education, and related services, a bus stop must be “door to door” or “curb to curb” at or near a student’s house. In some cases, a bus transportation related service requires specialized mobility equipment and a bus aide. There is a broad spectrum or continuum of types of transportation related services available for an IEP team to consider. Merely requiring bus transportation, without special equipment or aides, because a student is not attending the student’s home school, is the least complicated School-System-supplied transportation related service on the transportation-related-service continuum.

15. On or before August 25, 2024, the Student’s parents were notified about the location of the Student’s bus stop at the intersection of [REDACTED] and [REDACTED].
16. On August 26, 2024, the Student’s school year began.
17. The Student is the only student at this bus stop.
18. On August 27, 2024, the Parent telephoned the Transportation Manager at the School System. The Parent requested a bus stop location change to the intersection of [REDACTED] [REDACTED] and [REDACTED] which is very close to his house. He asked how he could get the location of the bus stop moved. The conversation did not go well. He was told to use the IEP team meeting process. An IEP team meeting was then scheduled for September 24, 2024.
19. On August 27, 2024, one of the Student’s parents emailed the School System and asked for an “emergency IEP meeting” to be scheduled within a week. She suggested that the bus stop was in an unsafe location, with difficult parking in the mornings. She wrote, “It’s also too far from home for [the Student] to walk alone.” (Parent Ex. 6.)
20. On August 27, 2024, at 10:26 p.m., the Parent emailed the School System suggesting that the Student’s school bus should 1) pass down [REDACTED] and then take [REDACTED] to

██████████ and 2) that the School System should relocate the stop to in front of the Student's house. The Parent threatened to file a complaint under the IDEA. (Parent Ex. 6.)

21. A few hours later, on August 28, 2024, at 2:32 a.m., the Parent emailed the School System again writing that the School System should 1) relocate the bus stop so that the Student could board the bus within sight of his home, and 2) add an additional bus route so that the Student would not need to ride to ██████████. The Parent wrote about inconsistent or late drop off times occurring in the past two days, and he wrote about waiting for the bus in the afternoons, as follows: "We are currently doing this, but he is being dropped off between 4:45 and today 5:15 which is absurdly late. The stated time that he is supposed to arrive at the stop is 4:27. This is too variable a time for us to guarantee we can be at his stop every day to escort him home. We also have to work and cannot wait there for nearly an hour every day for the bus to show up whenever it gets here." He also wrote, "This is not a safe place for a 12 yr old boy with ██████████ to be walking around alone." He asked to have the bus stop moved to ██████████ and ██████████ ██████████ which is very close to his house. He attached a draft of an IDEA complaint that he threatened to file. (Parent Ex. 5.)

22. On August 29, 2024, the School System scheduled the IEP team meeting for September 5, 2024, at 8:15 a.m., as requested, and notified the Student's parents.

23. On September 4, 2024, at 10:22 p.m., the Parent emailed to the School System a packet of documents for review at the IEP team meeting.

24. On September 5, 2024, at 8:15 a.m., the IEP team meeting was held by video conference. The meeting was called because the School System "refused to change [the Student's] bus stop location as requested by the parent." (SS Ex 18, p. 4.) The IEP team reviewed

the documents and statements provided by the parents. At that point, the parents wanted to relocate the bus stop to the corner of [REDACTED] and [REDACTED]. (Parent Ex. 2.)

The IEP team also reviewed some in-school behavioral assessment data on the Student.

The IEP team considered information from the Transportation Manager of the School System, who, having spoken to the Student's bus driver, reported that the Student was a "model student" on the bus. The IEP team determined that there was no showing that the School System needed to change the bus stop location under the related services portion of the Student's IEP in order to cause the IEP to be reasonably calculated to allow the Student to gain meaningful educational benefit. The School System did not change the Student's bus stop. The Student's parents were not happy.

25. As of September 5, 2024, the Student was making progress on the goals and objectives in his IEP. The Student is gaining academic and behavioral benefit under the current IEP, as written and implemented.

26. On September 5, 2024, at 12:24 p.m., after the IEP team meeting, the Parent emailed several people at the School System writing, among other things, "We don't deny [the Student] is always our responsibility However, as going to and from the bus stop is a necessary part of the school day, I believe that the school system does, at a minimum, have a shared interest in student safety from door to door when a student uses district transportation." In addition, the Parent wrote, "I believe the school system has a duty to make any reasonable requested accommodation in pursuit of making students as safe as possible." Finally, the Parent wrote, "Lastly, when you eventually retire from the school system and look back over the achievements and challenges of your career, and you look back on this moment, when you refused to make a minor change to a bus stop to help keep my son safe, I wonder what you will feel. Will it be pride because 'we followed a

process’ and you were ‘just doing your job?’ Or will it be shame, because with so little effort you could have made life easier and safer for a 12yr old [REDACTED], but instead chose to fight us all the way to court to avoid a little bit of paperwork and a phone call?” (Parent Ex. 6.)

27. Thereafter, the School System declined to mediate with the Student’s parents.
28. On September 6, 2024, the Parent filed a complaint with the OAH under the IDEA. In the complaint, he suggests that the School System’s refusal to relocate the bus stop was arbitrary and capricious.
29. On several occasions after September 6, 2024, an aide who sometimes rode on the bus telephoned the Student’s parents to say that the bus was running late, and on those occasions the Student was dropped off after 5:00 p.m. (Parent Ex. 8.) On several unspecified occasions, the Student was dropped off by the bus driver when no parent was waiting at the bus stop. The Student’s parents did not contact the school about those incidents.
30. At some point, the School System adjusted the Student’s scheduled drop off time based upon feedback by the bus driver about slow traffic conditions at that time of day.
31. The Student’s parents currently have concerns that, if left alone in the evening at the current stop, the Student will be vulnerable to strangers, animals, and moving vehicles. The parents are concerned that the Student, if left alone, will become distracted and will impulsively walk into the street. The parents are concerned with the Student’s personal safety if left alone at the bus stop. The parents also have concerns about the inconvenience and the “completely unnecessary burden on our family.” (Parent Ex. 6.)
32. At all times relevant, the School System applied a policy found in its Parent Handbook. The section on transportation of students addresses bus schedules, supervision, safety,

failing to meet the bus at afternoon drop off, student conduct, and supervision of students, among other things. The policy applies to students “who reside within the school’s attendance area.” The policy provides, “The bus driver is in charge of the bus and the students while they are on the bus.” Under the section entitled “Student Supervision” the policy provides, “Parents/guardians are responsible for the supervision and safety of their children receiving bus transportation from the time that children leave home in the morning until the time of boarding the bus. The same rule applies at the time of discharge from the bus on the way home from school.” (SS Ex. 28, p. 8.)

33. At all times relevant, the MSDE had an assistance guideline publication, Assistance Bulletin # 16-01 (rev. April 2023), that offered school systems in Maryland some guidance on the MSDE’s view of best practices in transportation of children with disabilities. That publication provides, “It is the responsibility of the IEP team, including the parent, to discuss and determine eligibility for transportation services to assist a child with a disability to benefit from special education and related services.” (Parent 9, p. 2.) In the section concerning bus stop location, the publication provides, “It is appropriate at the time of the IEP meeting to discuss and determine appropriate pickup and drop-off location needs of an individual child such as curb-to-curb service. [The] IDEA does not specifically address whether transportation should be from a designated location or from the curbside in front of a child’s home. The decision is left to the IEP team, including parent input, and is based upon an individual child’s needs.”

34. At all times relevant, the School System applied various transportation policies and rules that recognized the School System’s responsibility to supply the related service of transportation to children with disabilities to the extent that “it is required to assist the

student with a disability in accessing and benefiting from his/her education program.”
(SS Ex. 23.)

DISCUSSION

Burdens

The standard of proof in this case is a preponderance of the evidence. COMAR 28.02.01.21K(1). To prove an assertion or a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all the evidence is considered. *Coleman v. Anne Arundel Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002).

The Parent bears the burdens of production and persuasion by a preponderance of the evidence. *Schaffer v. Weast*, 546 U.S. 49 (2005). The Parent is seeking relief and bears the burden of proof to show that the challenged action or determination by the School System did not meet the requirements of the law.

With regard to weighing and evaluating the evidence, a trier of fact can accept some, all, or none of the evidence offered. *Sifrit v. State*, 383 Md. 116, 135 (2004); *Edsall v. Huffaker*, 159 Md. App. 337, 341-43 (2004), *cert. den.*, 387 Md. 122 (2005). Demeanor evidence played an important role in this matter. *See Bragunier Masonry Contractors, Inc. v. Maryland Comm’r of Labor and Indus.*, 111 Md. App. 698, 717, n.7 (1996); *N.L.R.B. v. Dinion Coil Co.*, 201 F.2d 484, 487 (2d Cir. 1952).

Special Education Law Overview

The identification, evaluation, and placement of students in special education are governed by the IDEA, state statutes, and state and federal agency regulations. 20 U.S.C. §§ 1400-1482 (2017 & Supp. 2024); 34 C.F.R. Part 300; Md. Code Ann., Educ. §§ 8-401 through 8-417 and COMAR 13A.05.01. The IDEA requires “that all children with disabilities have available to them a free appropriate public education [FAPE] that emphasizes special

education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.” 20 U.S.C.A. § 1400(d)(1)(A) (2017); *see also* Md. Code Ann., Educ. § 8-403.

Title 20, Section 1401(9) of the United States Code defines FAPE:

(9) Free appropriate public education -- The term “free appropriate public education” means special education and related services that—

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

Similarly, an agency rule, 34 C.F.R. § 300.17, defines FAPE:

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 SEA, including 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.

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

Implicit in the congressional purpose of providing access to a “free appropriate public education” is the requirement that the education to which access is provided be sufficient to confer some educational benefit upon the handicapped child....We therefore conclude that the basic “floor of opportunity” provided by

the Act consists of access to specialized instruction and related services which are individually designed to give educational benefit to the handicapped child.

Rowley, 458 U.S. at 200, 201.

A student is not entitled to “[t]he best education, public or non-public, that money can buy” or “all the services necessary” to maximize educational benefits. *Hessler v. State Bd. of Educ.*, 700 F.2d 134, 139 (4th Cir. 1983), citing *Rowley*, 458 U.S. 176. The *Rowley* Court further stated that with regard to challenges to an IEP, the issue is whether the IEP is “reasonably calculated to enable the child to” benefit educationally. *Id.* at 203-04. The issue is not whether the IEP will enable the student to maximize his or her potential.

The Court in *Endrew F. v. Douglas County School District*, 137 S. Ct. 988, 999 (2017), further clarified the notion that a FAPE does not promise an “ideal” education. Nor does it promise that a student with a disability will be provided with “opportunities to achieve academic success, attain self-sufficiency, and contribute to society that are substantially equal to the opportunities afforded children without disabilities.” *Id.* at 1001.

The IDEA requires that an IEP provide a “basic floor of opportunity that access to special education and related services provides.” *Tice v. Botetourt County Sch. Bd.*, 908 F.2d 1200, 1207 (4th Cir. 1990) (citing *Rowley*, 458 U.S. at 201). The act does not establish a “requirement to guarantee any particular outcome for the child.” *King v. Bd. of Educ.*, 999 F. Supp. 750, 767 (D. Md. 1998). The IEP, however, must be “appropriately ambitious,” *Endrew F.*, 137 S. Ct. at 1000, and it must provide for “specially designed instruction” that is “reasonably calculated to enable the child to receive educational benefits” and to “make progress appropriate in light of the child’s circumstances.” *Id.* at 999 through 1001.

Arguments of the Parties

The Parent argues that the School System is inappropriately implementing a related service in the Student’s IEP, and therefore the School System is denying the Student a FAPE.

Focusing on the IEP team meeting in early September 2024 when the Parent's bus-stop-location amendment to the related service portion of the IEP was rejected by the School System, the Parent argues that the IEP team disregarded information provided by the Student's parents including the information about the environment of the current bus stop location. He argues that the team improperly relied on behavioral data taken only from within a school building. He also suggests that the standard set forth in the Parents Handbook is unrealistic, and there is an unreasonable burden during the workday for the Student's parents to be at the bus stop location at drop off time. He argues, without reference to relevant legal authority, that a negligence standard might apply, a fair-and-reasonableness standard might apply, and a best-interests-of-the-student standard might apply. He suggests that the amount of time that the Student rides on the bus might also violate an unspecified rule.

The School System argues that the Parent has not met his burden to show that the current IEP, including the current transportation related service, is denying a FAPE. It argues that the IEP, as currently implemented, is reasonably calculated to provide FAPE. It argues that there has been no showing that without the addition of door-to-door or curb-to-curb service, the Student's IEP, as implemented, would remain not reasonably calculated to provide FAPE. It argues that much of the motivation of the Parent's litigation, as borne out by email messages and other evidence, is mere convenience.

Analysis

In order to be granted the relief requested under the IDEA, the Parent must demonstrate that the current IEP, as it is being currently implemented, is not providing a FAPE, or is not reasonably calculated to provide a FAPE, and that the requested remedy – moving the Student's bus stop location – is necessary to provide a FAPE. The Parent has not shown a denial of FAPE or that the relief request is necessary to provide a FAPE.

To provide a FAPE, a school system must provide sufficient “related services” to allow a student to obtain meaningful educational benefit from the IEP. 20 U.S.C.A.

§1414(d)(1)(A)(i)(IV); 34 C.F.R. §300.34(a). Transportation is a “related service.” 34 C.F.R. §300.34(a); *Oceanside Unified School District*, 58 IDELR 266 (2012) (issue was whether the manner of providing bus transportation to a twelve-year-old autistic student, including a two-hour commute, denied a FAPE). Disputes over transportation as a related service can be a proper basis for requesting a hearing under the IDEA. *Letter to Anonymous*, 20 IDELR 1155 (1993). In the instant case, bus transportation was a related service included in the Student’s IEP. (Finding of Fact 7.)

The Parent has not shown that the current transportation related service, with its current bus stop location, causes the IEP not to be reasonably calculated to offer meaningful educational benefit and progress in light of the Student’s unique circumstances. *Andrew F. v. Douglas County School District*, 137 S. Ct. 988, 999 (2017). Evidence showed that the Student is making educational progress on his IEP with the transportation related service as it is currently being implemented. (Findings of Fact 8 and 25.)

The Parent did not explicitly argue that the definition of FAPE found in the statute, 20 U.S.C.A. § 1401(9), explains that related services must “meet the standards of the State educational agency,” but that the related services in issue in the instant case did not. The Parent touched on, however, an MSDE assistance guideline, #16-01, that addressed best practices for supplying transportation related services. The MSDE assistance bulletin makes it clear that transportation services are “to assist a child with a disability to benefit from special education and related services.” It also makes it clear that the IEP team, which includes parents, is to make the transportation determinations. (Finding of Fact 33.) In this case, that is exactly what the IEP

team did. (Finding of Fact 24.) It correctly followed a process. The Parent has not shown that related services failed to meet State education agency standards.

Although procedural defects were not the focus of this case, the Parent suggests that because on September 5, 2024, the IEP Team did not consider the parents' information, the IEP team's determination not to amend the related service portion of the IEP was defective. Credible evidence, however, showed that the team considered all of the information provided by the parents. The team decided that the Student was not being denied a FAPE and that the IEP was reasonably calculated to provide a FAPE, as is. (Finding of Fact 24.)

The Parent did not show that relying on behavior data on the Student which was gathered in the supervised indoor environment of the school building somehow tainted or caused a fatal flaw in the IEP team's determination. The team relied on many more data sources. There was no data offered to the IEP team that caused it to conclude that the current bus stop location would interfere with a FAPE, or would deny a FAPE, or would cause the Student not to be available for learning. There was no solid data showing that the Student might harm himself if the bus stop location remained in its current location. Data of possible harm from outside sources, such as traffic or animals in the neighborhood, was not so relevant or weighty to the IEP team's inquiry, in light of 1) the IEP requirement that a parent be at the bus stop location to supervise, 2) the School System's general policy that parents must supervise students until students step on the bus in the morning and after the students step off of the bus in the afternoon, and 3) Maryland's child neglect laws, *See* Md. Code Ann., Fam. § 5-701(s) (proper care and attention to mitigate substantial risk of harm), that require a supervising adult to provide appropriate care and attention to a child based on a child's maturity and unique circumstances. Moreover, there was no nexus shown between speculative outside sources of harm and a denial of FAPE.

The Parent has not shown that the supervision standard set forth in the School System's Parents Handbook was unrealistic or unreasonable under the facts and circumstance of this case. It appears that the supervision standard in the handbook conforms with Maryland law on parental rights and responsibilities.

The Parent has not shown that negligence standards of care are contemplated in the application of the IDEA. Likewise, no fair-and-reasonableness standard has been shown to apply in attempting to demonstrate a denial of FAPE under the IDEA. In addition, no best-interest-of-the-student standard has been shown to apply.

With regard to the Parent's suggestion that the School System might be violating a rule about the amount of time that the Student spends on the bus, the Parent offers no such rule. More importantly, the Parent has not shown any nexus between the amount of time the Student spends on the bus in the afternoon and a denial of FAPE. The Parent has not shown, factually, that the Student consistently spends what might be considered too much time on the bus in the afternoons. The Parent's argument is not persuasive.

The School System, on the other hand, has shown that the current IEP, as written and currently implemented is providing the Student a FAPE, and is otherwise reasonably calculated to provide the Student a FAPE. Under the facts and circumstances of this case, the School System has demonstrated that the Student is benefiting educationally and making educational progress in light of the Student's unique circumstances. *Endrew F.*, 137 S. Ct. 999. (Finding of Fact 25.) The School System offered factual evidence and opinion evidence on that point. ■■■■■ testimony and explanations were clear and well supported in that regard, and ■■■■■ testimony highlighted the Student's past progress and how there was no goal or objective included or needed on the IEP that addressed personal safety, in school or outside of school.

In summary, I conclude that the Parent has not demonstrated a denial of FAPE. The School System has shown that the Student is making educational progress.

Having concluded that the Parent has not met the burdens to show a denial of FAPE, I need not address the appropriateness of the proposed remedy. *M.C. v. Central Regional Sch. Dist.*, 81 F.3d 389, 395(3d Cir. 1996) (remedies, such as compensatory education, are available under the act if a school system denies a FAPE).

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Parent has not met his burdens to show that the current IEP is not reasonably calculated to provide the Student a FAPE. *Schaffer v. Weast*, 546 U.S. 49 (2005). *Bd. of Educ. v. Rowley*, 458 U.S. 176 (1982). *Endrew F. v. Douglas County School District*, 137 S. Ct. 988 (2017).

ORDER

I **ORDER** that the Parent's complaint be, and is hereby, **DISMISSED**.

December 11, 2024
Date Order Mailed

William J.D. Somerville III
Administrative Law Judge

WS/emh
#215216

REVIEW RIGHTS

A party aggrieved by this final decision may file an appeal within 120 days of the issuance of this decision with the Circuit Court for Baltimore City, if the Student resides in Baltimore City; with the circuit court for the county where the Student resides; or with the United States District Court for the District of Maryland. Md. Code Ann., Educ. § 8-413(j) (Supp. 2024). A petition may be filed with the appropriate court to waive filing fees and costs on the ground of indigence.

A party appealing this decision must notify the Assistant State Superintendent for Special Education, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, in writing of the filing of the appeal. The written notification must include the case name, docket number, and date of this decision, and the court case name and docket number of the appeal.

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

Copies Mailed to:

[REDACTED]
[REDACTED]
[REDACTED]

Kathy L. Stump, Esquire

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

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[REDACTED]
[REDACTED]

██████████,
PARENT,
ON BEHALF OF ██████████,
STUDENT,

BEFORE WILLIAM SOMERVILLE,
AN ADMINISTRATIVE LAW JUDGE
OF THE MARYLAND OFFICE
OF ADMINISTRATIVE HEARINGS

v.

ANNE ARUNDEL COUNTY PUBLIC
SCHOOLS

OAH No.: MSDE-AARU-OT-24-23859

APPENDIX EXHIBIT LIST

I admitted the following exhibits offered by the Parent, unless otherwise noted:

Parent Ex. 1 – Map of portion of current bus route, 8/29/2024
Parent Ex. 2 -- Map of Parent proposed bus route, 8/29/2024
Parent Ex. 3 -- not admitted
Parent Ex. 4 -- Sunset times for ██████████
Parent Ex. 5 -- Email message, 8/28/2024
Parent Ex. 6 -- Email message, 8/27/2024
Parent Ex. 7 -- not admitted
Parent Ex. 8 -- Chart of drop off times, various dates
Parent Ex. 9 -- MSDE Assistance Bulletin #16-01 (April 2023)

I admitted the following exhibits offered by the School System, unless otherwise noted:

SS Ex. 1 – Assessment report, 1/10/2020
SS Ex. 2 -- Assessment report, 1/30/2020
SS Ex. 3 -- IEP progress report, 2020 – 2023
SS Ex. 4 -- Assessment report, 1/3/2023
SS Ex. 5 -- not admitted

SS Ex. 6 --	IEP team meeting documents, 2/1/2023
SS Ex. 7 --	not admitted
SS Ex. 8 --	not admitted
SS Ex. 9 --	Assessment report, 11/13/2023
SS Ex. 10 --	IEP team meeting documents, 12/14/2023
SS Ex. 11 --	IEP document, 12/14/2023
SS Ex. 12 --	Revised assessment report, 12/18/2023
SS Ex. 13 --	Amended IEP document, 1/23/2024
SS Ex. 14 --	IEP team meeting documents, 5/2/2024
SS Ex. 15 --	Tally sheets, 2023 – 2024
SS Ex. 16 --	not admitted
SS Ex. 17 --	not admitted
SS Ex. 18 --	not admitted
SS Ex. 19 --	SS Policy EA-700
SS Ex. 20 --	SS Regulation EA-RA
SS Ex. 21 --	SS Policy EAA
SS Ex. 22 --	SS Regulation EAA-RA
SS Ex. 23 --	SS Policy EAC-700.03
SS Ex. 24 --	SS Regulation EAC-RA-700.03
SS Ex. 25 --	SS Policy EAD-700.04
SS Ex. 26 --	SS Regulation EAD-RD-700.04
SS Ex. 27 --	not admitted
SS Ex. 28 --	SS Parent Handbook, 2023-24
SS Ex. 29 --	Resume, [REDACTED]

SS Ex. 30 -- Resume, [REDACTED]

SS Ex. 31 -- Resume, [REDACTED]