

██████████,
STUDENT

v.

PRINCE GEORGE'S COUNTY
PUBLIC SCHOOLS

BEFORE ALECIA FRISBY TROUT,
AN ADMINISTRATIVE LAW JUDGE
OF THE MARYLAND OFFICE
OF ADMINISTRATIVE HEARINGS
OAH No.: MSDE-PGEO-OT-24-05097

DECISION

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

STATEMENT OF THE CASE

██████████ (Student) was previously identified in Maryland as a child with a disability under the Individuals with Disabilities Education Act (IDEA),¹ who needs specially designed instruction through an Individualized Education Program (IEP). On February 22, 2024, the Office of Administrative Hearings (OAH) received a Due Process Complaint (Complaint) filed by ██████████ (Mother), on behalf of the Student, requesting a hearing to show that the Prince George's County Public Schools' (PGCPS) denied the Student a free and appropriate education (FAPE) because the IEP was not appropriate to meet her unique needs in light of the circumstances, and the IEP that was developed was not implemented as written.

¹ 20 United States Code Annotated (U.S.C.A.) § 1415(f)(1)(A) (2017). All citations to the U.S.C.A. are to the 2017 volume.

On March 25, 2024, the parties attempted to resolve the Complaint through a resolution meeting but were unable to resolve the Complaint. On April 16, 2024, I conducted the first pre-hearing conference (first conference) via Webex. Code of Maryland Regulations (COMAR) 28.02.01.20B. Karen Smith, Esquire, represented the Parent and Student. The Mother also participated. Jeffrey A. Krew, Esquire, participated on behalf of the PGcps. [REDACTED], party representative for PGcps, was also present.

Amended Due Process Complaint

At the first conference, on behalf of the PGcps, Mr. Krew expressed that the Parent's issue(s) were not clearly stated in the twenty-four page Complaint. Mr. Krew objected to the Parent defining the issue(s) at the pre-hearing conference, as there were no issues clearly set out in the Complaint's description of the problem and relevant facts. *See* 20 U.S.C.A. § 1415(f)(3)(B) (2017) ("The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under [20 U.S.C.A. § 1415(b)(7)], unless the other party agrees otherwise"). On behalf of the Parent, Ms. Smith asked for leave to file an amended due process complaint and Mr. Krew agreed.²

Pursuant to my authority under the IDEA, I granted permission for the Parent to amend the Complaint as the contested issues were not contained within the description of the problem and relevant facts section of the Complaint. *Id.* Therefore, the Parent was given until April 23, 2024, to file an amended due process complaint with both the OAH as well as the PGcps.

² The PGcps did not file a Motion for Sufficiency prior to the Conference, but during the Conference, the parties agreed to allow the Parent leave to amend the complaint, specifically to provide greater clarity on the issues. 20 U.S.C.A. § 14159(c)(2)(A)(2017); 34 C.F.R. § 300.508(d)(1)(2021); COMAR 13A.05.01.15(c)(6). The parties also agreed on a timeline in which the Parent would file the amended complaint which was discussed in the Report and Order I issued on April 24, 2024.

On April 23, 2024,³ the OAH received an Amended Due Process Complaint from the Parent (Amended Complaint). In the Amended Complaint, the Parent set out the following Issues:

1. PGCPS has failed to evaluate [the Student] properly. Under both federal and state law (20 U.S.C. 1414, 34 CFR 300.301 et. Seq., COMAR 13A.05.01.06), PGCPS is obligated to “use a variety of assessment tools and strategies to gather relevant, functional, developmental, and academic information about the child, *including information provided by the parent.*” 34 CFR 300.304(b)(1). *See also* 20 U.S.C. 1414, 34 CFR 300.301 et seq., COMAR 13A.05.01.06.
2. PGCPS has failed to develop an appropriate Individualized Education Program (IEP), by repeatedly ignoring the input of multiple experts over many years who have stated that [the Student’s] in-school behaviors result primarily and directly from the failure to implement appropriate interventions for her in reading, writing, and math, and that she does not qualify as a student with an emotional disability under COMAR 13A.05.01.0.B(23).
3. PGCPS has failed to deliver appropriate services, resulting in little to no progress, both academically and emotionally. [The Student’s] academic skills in reading, math, and writing have been stagnant at best since 2019, and the actions of staff have repeatedly escalated her emotionally instead of helping her learn to cope with upsetting events, up to and including illegal seclusion.
4. PGCPS has failed to protect [the Student] from bullying and harassment from other students which has affected and continues to affect her ability to access educational services.
5. PGCPS has failed to protect [the Student] from bullying and harassment from teachers and other staff, which has affected and continues to affect her ability to access educational services.
6. PGCPS has failed to provide appropriate supports and accommodations for [the Student’s] [REDACTED] ([REDACTED]), which has affected her ability to access educational services (e.g., causing her mother to repeatedly keep her out of school out of concern for her physical/medical safety).
7. PGCPS owes compensatory educational services to [the Student] under the IDEA for this long-term and ongoing denial of FAPE.

³ The Amended Complaint was dated April 23, 2024, but was received by the OAH on April 24, 2024. The Parties agreed that the Amended Complaint would be considered filed on April 23, 2024.

PGCPS' Motion to Dismiss Amended Complaint

On May 10, 2024, the PGCPS filed a Motion to Dismiss Amended Complaint with the OAH (Motion to Dismiss).⁴ On May 28, 2024, the Parent filed a Response to the Motion to Dismiss.⁵ On June 21, 2024, I issued a Ruling denying the Motion to Dismiss. First, I held that the Amended Complaint, although a bit verbose and unwieldy, is adequate and denied the PGCPS Motion on that ground. Secondly, I held that the medical issues raised by the Parent in the Amended Complaint concern monitoring the Student's [REDACTED] and not administering medication. I concluded that the accommodations requested by the Student are “related services” and properly before the OAH in this case.⁶

In reference to the PGCPS' argument that the Parent's claims fall outside the statute of limitations, I held generally that the question becomes when and what triggered the various alleged denial(s) of a FAPE identified in the Parent's Amended Complaint. The IDEA and subsequent court rulings make clear that the “knew or should have known” standard applies to alleged actions that *make up the basis* of a claim, such as a denial of a FAPE. There is room for providing historical context in these cases, but the facts comprising historical context cannot provide the basis on which the Student bases a claim.⁷ Specifically, in relation to the Student's stated issues, I held the following:

- Any alleged harm that comes from the following disagreements over educational choices made for the Student, falls outside the statute of limitations:
- PGCPS finding the Student ineligible for special education services from Kindergarten through third grade;

⁴ See COMAR 28.02.01.12C.

⁵ See COMAR 28.02.01.12B(3).

⁶ See 20 U.S.C. §1415(b)(6); *John A. v. Bd. Of Education of Howard Co.*, 400 Md. 363 (2007).

⁷ See 20 U.S.C.A. § 1415(f)(3)(C); 34 Code of Federal Regulations (C.F.R.) §§ 300.507(a)(2) (2018), 300.511(e); Educ. § 8-413(d)(3); *G.L. v. Ligonier Valley Sch. Dist. Auth.*, 802 F.3d 601, 613 (3rd Cir. 2015); *R.R. ex rel. R. v. Fairfax Cnty. Sch. Bd.*, 338 F.3d 325, 332 (4th Cir. 2003); *Newell v. Richards*, 323 Md. 717, 725 (1991). All citations herein to the C.F.R. are to the 2022 bound volume.

- An evaluation from [REDACTED] in or about May 2017;
- A private neuropsychological examination from [REDACTED] in November 2017 that recommended that the Student be given an IEP for specific learning disorders in reading, writing, and math, [REDACTED] ([REDACTED]), reduced fine motor dexterity and [REDACTED] ([REDACTED]);
- A 2017 IEP based on the neuropsychological examination done at [REDACTED];
- The Student's January 8, 2018 complaint challenging PGCP's process and denial of special education services in the 2016-2017 school year for which the Student prevailed and received compensatory services;
- The 2019 classification of the Student as a Student with an emotional disability;
- Whether the teacher who first classified the Student as a student with an emotional disability was qualified to make such a determination;
- Whether [REDACTED], who evaluated the student in 2017 and 2019, utilized appropriate methodology;
- Whether the emotional disability coding was contradicted by a neuropsychological report conducted at [REDACTED] in May 2019;
- PGCP's removal of the reading intervention from the Student's IEP in January 2019;
- The therapeutic private day school options offered to the Student by PGCP for the 2019/2020 and 2020/2021 school years;
- The Mother's payment for private Orton Gillingham tutoring for the Student in November 2020;
- The Student's IEPs prior to April 2022;
- The Student's search for an alternative placement during the Spring 2021;
- A private evaluation completed by [REDACTED] in June 2021 concluded that the Student required full-time placement in a specialized, separate educational environment for children with learning disabilities and PGCP's failure to update the Student's IEP with information from [REDACTED] report;
- Alleged incidents of bullying and other allegations of student behavior prior to April 2022;
- Alleged incidences of PGCP's staff bullying the Student about the accommodations required for her [REDACTED] prior to April 2022; and
- Classroom lockdowns at [REDACTED] in the Fall 2021 that allegedly prevented the Student from accessing water and immediate bathroom access as specified in her IEP and required by her [REDACTED]; and other prior failure of PGCP to properly implement accommodations required due to the Student's [REDACTED] diagnosis that allegedly led to the Student's conditioning worsening in or about March 2022

- Any alleged harm that comes from the following disagreements over educational choices made for the Student falls within the statute of limitations:
- April 2022 private evaluation by ██████████ concluding that there was “no need for [the Student] to participate in a school program for students with emotional disabilities;
- April 2022 evaluation by ██████████, ██████████⁸ diagnosing the Student with mixed receptive/expressive language disorder, and the Student’s allegation that the PGCPs failed to accept ██████████ recommendations during the August and September 2022 and May 2023 IEP meetings;
- Whether *iReady* was an appropriate tool to use for the Student, who is a student with ██████████;
- The Student’s September 2023 IEP team’s decision against removing ██████████ ██████████ from the Student’s classification;
- August 29, 2023 incident of sexual harassment by an older student at ██████████ ██████████ (████████), and any resulting interventions by ██████████ staff;
- The implantation of the Student’s reading and math interventions while at ██████████ during the 2023-2024 school year;
- Whether the behavioral intervention implemented by ██████████ during the 2023-2024 school year was unapproved;
- Alleged incidences of PGCPs’ staff bullying the Student about the accommodations required for her ██████████ since April 2022; and
- Whether during the November 2023 IEP meeting, accommodations related to the Student’s ██████████ diagnosis were removed from the IEP without discussion, and continued to remain off of the IEP following the January 2024 IEP meeting.

Resolution Session

On May 22, 2024, the parties participated in a Resolution Session. On June 11, 2024, the parties jointly filed a statement that they had concluded the Resolution Session with no agreement. The parties also provided dates in June and July when the parties were available for a second pre-hearing conference.

⁸ ██████████ who also holds a certificate of clinical competence from the ██████████ ██████████

Second Pre-Hearing Conference

On July 31 and August 1, 2024,⁹ I conducted a second prehearing conference and issued a correlating Prehearing Conference Report and Order on August 6, 2024. In that Order, I set dates for a twelve-day hearing,¹⁰ provided guidelines moving forward to hearing, and included detailed information and instructions for hearing procedure.

PGCPS' Motion *In Limine*

On August 9, 2024, the PGCPS filed a Motion *In Limine* (Motion) seeking limitations of allowable evidence. The Student filed a response and on August 30, 2024, I issued an Order denying the Motion in so much as it asked that evidence beyond April 23, 2024, be excluded.

Specifically, I stated:

I agree in part with each party. While the basis of the Student's complaint, that there was a denial of a FAPE during the 2022-2023 and 2023-2024 school years, must be based on facts available to the parties during the creation of those IEPs and during the time those contested decisions were made, facts available to us now are certainly relevant to the question of what remedies are appropriate given my ultimate conclusions.

Student's Motion *In Limine*

On August 12, 2024, the Student filed a Motion *In Limine* Re Witnesses (Motion re Witnesses) addressing requests regarding the conduct of witnesses during the hearing. On August 19, 2024, the PGCPS filed its response. On August 30, 2024, I issued an Order granting the Motion re Witnesses to enforce the Rule on Witnesses as outlined by COMAR 28.02.01.21, and limit experts to be present only for the testimony on which they will comment or provide response.

⁹ The prehearing conference had to be held over two days due to a power outage.

¹⁰ This Report and Order set the remote hearing on the merits to be held via Webex on September 4, 5, 11, 16, 17, 19, 19, 23, 24, 25, 26 and 27, 2024.

Student's Motion to Compel Production of Documents

Also on August 12, 2024, the Student filed a Motion to Compel Production of Documents (Motion to Compel). The PGCPS filed a response in opposition to the Motion to Compel. On August 30, 2024, I issued an Order granting the Student's Motion to Compel. Specifically, I ordered that the PGCPS must permit the Student to inspect and review any education records, as defined under FERPA,¹¹ including copying such records, if necessary, related to the Student that were collected, maintained, or used by the PGCPS, or any school acting for the PGCPS including [REDACTED] and [REDACTED], and do so without unnecessary delay before any hearing under the IDEA. 34 C.F.R. § 300.613.

I also ordered that if the PGCPS did not comply, the PGCPS would be barred from referring to, or producing any such documents or video that were not provided to the Student.

PGCPS Motion to Postpone

On August 22, 2024, PGCPs filed a Motion to Postpone the hearing due to a death in Mr. Krew's family. On behalf of the Parent, Ms. Smith agreed to the request and I granted the Motion to Postpone on that same day. The parties further agreed to cancel the first two dates of hearing, and shift the first day of hearing from September 4, 2024 to September 11, 2024.

Parent's Motion to Postpone

On September 3, 2024, on behalf of the Parent, Ms. Smith requested a postponement due to emergency medical needs. The PGCPs agreed to this postponement, and I granted it on the same day. The parties further agreed to continue the first day of hearing from September 11, 2024 to September 16, 2024.

¹¹ Family Educational Records and Privacy Act, 34 C.F.R. § 99.3.

PGCPS' Motion to Strike

On September 10, 2024, the PGCPS filed a Motion to Strike Parent's 5-Day Disclosures, Or, In the Alternative, To Bar The Introduction Of Evidence Not Timely Exchanged (Motion to Strike). In the Motion, Mr. Krew contends he received the Parent's disclosures an hour past the deadline and the delay "shuttled" his plans to review the disclosures on the evening the documents were due. Additionally, he argued that the documents were provided in a double-sided format and he argued:

While [the Order] did not state that the disclosures were to be made on single-sided pages, it also did not state the disclosures were not to be made on large red construction paper either. It is simply absurd to think that submitting double-sided pages would be acceptable...

On September 11, 2024, the Parent filed an Opposition to the Motion to Strike and on the same day, the PGCPS filed a Reply to the Opposition arguing that the Parent's submissions created a "chaotic situation." Subsequently on that same date, the parties emailed a proposed resolution to the disagreement over the disclosures. That proposal was to reschedule the hearing dates to begin on what was originally the seventh day of hearing, September 19, 2024, with single-sided, Bates stamped, exhibit tabbed binders due from the Parent by Tuesday, September 17, 2024, and all six hearing dates rescheduled consecutively.

On September 12, 2024, I issued an Order denying the Motion to Strike and the request for postponement. I also ordered the Parent to come into compliance with the Order regarding the submission of exhibits and disclosures by 1:00 p.m. on Friday, September 13, 2024.

Specifically, I stated:

Seven months have passed since the Student's filing. The Student has entered a new school year. Leave to amend has been granted once. The hearing has been rescheduled twice. The parties have filed at least five pre-hearing motions. The PGCPS identified twelve witnesses at the Conference, and then requested subpoenas for an additional fourteen. The parties are now asking that the hearing be rescheduled a third time to account for a one-hour delay in the filing of

exhibits. In the meantime, the Student's concerns have not been heard. I assume both parties agree that the ultimate goal is getting to the understanding of what the Student alleges is required to receive a FAPE. That is not going to be accomplished by continuing to bicker over minutia, attempting to thwart the other party from presenting their case, or further delay.

I agree in part with each party. Ms. Smith's failure to include exhibit numbers and sequential Bates stamp page numbering on her voluminous exhibits will make it confusing for everyone at the hearing, and was not in compliance with the Order. Additionally, the double-sided pages will make it time consuming and onerous for the PGCPS to provide those exhibits to its witnesses electronically. These were both things that I discussed with the parties at the Conference. I disagree that the one-hour delay in delivering the disclosures was of consequence, especially given the number of times *both parties* have caused delay and strayed from the plain language in the Order. I do not agree to the requested postponement.

Parent's Second Motion to Postpone

On September 13, 2024, on behalf of the Parent, Ms. Smith filed an Emergency Request for Continuance asking that the hearing be rescheduled to begin in October based on a medical complication. Ms. Smith provided a letter from her doctor documenting her recommendation that Ms. Smith be allowed to recover for 3-4 weeks following an August 23, 2024 fall and related emergency dental surgery. On September 13, 2024, I converted the first day of hearing, September 16, 2024, to a third prehearing conference. During the Conference, Mr. Krew expressed that the PGCPS did not oppose the Student's Motion. I granted the Parent's Motion for Continuance and rescheduled the hearing. The hearing was rescheduled as follows:

The Student shall have five-and-a-half days to present her case. The PGCPS shall have five-and-a-half days to present its case. A twelfth day shall be scheduled for closing arguments. Based upon the availability of the parties, it was mutually

agreed that the hearing on the merits shall be held remotely via Webex on October 25, 28, 29, 30, and 31; and November 12, 13, 14, 15, 18, 19, and 20, 2024.¹²

PGCPS' Second Motion to Dismiss

At the close of the Parent's case on November 13, 2024, the PGCPS raised its second Motion to Dismiss (Second Motion to Dismiss) supported by oral argument. In response, the Parent presented argument to oppose the Second Motion to Dismiss. To thoroughly consider the arguments, I postponed the hearing dates set for November 14 and 15, 2024. On November 18, 2024, I commenced the hearing and issued my ruling on the Second Motion to Dismiss, granting it in part and denying it in part. Specifically, I denied the Second Motion to Dismiss as to issues 1, 2 and 7 and ruled as follows on the remaining issues:

1. Issue 3: PGCPS has failed to deliver appropriate services, resulting in little to no progress, both academically and emotionally. [The Student's] academic skills in reading, math, and writing have been stagnant at best since 2019, and the actions of staff have repeatedly escalated her emotionally instead of helping her learn to cope with upsetting events, up to and including illegal seclusion.

I largely denied the Second Motion to Dismiss on this issue but granted the Motion only as it pertained to the language, "up to and including illegal seclusion."

2. Issue 4: PGCPS has failed to protect [the Student] from bullying and harassment from other students which has affected and continues to affect her ability to access educational services.

¹² The parties discussed all dates beginning with October 1, 2024, and chose the earliest possible dates for the hearing. I was unavailable on October 1, 2, 3 and 4 due to previously scheduled hearings, writing obligations, and a doctor's appointment. While the parties were available on October 7 and 9, we opted to not start the hearing then as the next available date was not until October 25, and if we started it later, we had the ability to make the hearing dates flow more consecutively. The Parent was unavailable on October 8 due to a specialist doctor's appointment for the Student. I was unavailable on October 10 and 11 due to previously scheduled hearings. October 14, 2024 was a State holiday, Indigenous Peoples' Day. Mr. Krew was unavailable on October 14 – 17 as he was out of town. Ms. Smith was unavailable on October 18 and 21 as she was out of town. I was unavailable on October 22, 23, and 24 due to previously scheduled hearings. The parties were available on October 25, 28, 29, 30, and 31. We originally scheduled the sixth through twelfth days of hearing for November 1, 4 through 8, and 11. After the Conference, we realized that November 5 and 11 were both State holidays, Election Day; and Veterans Day. Mr. Krew then alerted Ms. Smith and I that he learned his party representative, [REDACTED] was unavailable on November 1, 4, 6, 7, and 8. Ms. Smith and Mr. Krew endeavored to propose additional dates that they were available to reschedule those seven days and using that information, I created the final schedule contained in the Order above.

I granted the Second Motion to Dismiss on this issue.

3. Issue 5: PGCPS has failed to protect [the Student] from bullying and harassment from teachers and other staff, which has affected and continues to affect her ability to access educational services.

I granted the Second Motion to Dismiss on this issue.

4. Issue 6: PGCPS has failed to provide appropriate supports and accommodations for [the Student's] ██████, which has affected her ability to access educational services (e.g. causing her mother to repeatedly keep her out of school out of concern for her physical/medical safety.)

I largely denied the Second Motion to Dismiss on this issue but granted the Motion only as it pertained to the language, “(e.g. causing her mother to repeatedly keep her out of school out of concern for her physical/medical safety.)”

The cancelled hearing dates were rescheduled to occur remotely via Webex on November 21, and December 5, 12 and 23, 2024.

PGCPS’ Second Motion to Postpone

On December 19, 2024, on behalf of the PGCPS, Mr. Krew filed a Motion to Postpone the last day of hearing due to a second death in his family. Ms. Smith did not object to the postponement. I granted the request and rescheduled the last day of hearing for the parties next available day, January 6, 2025.

PGCPS’ Third Motion to Postpone

On January 3, 2025, on behalf of the PGCPS, Mr. Krew filed a Motion to Postpone the last day of hearing due to an illness. Ms. Smith did not object to the postponement. I granted the request and rescheduled the last day of hearing for the parties next available day, January 24, 2025.¹³

¹³ The hearing concluded on January 24, 2025. I held the record open until February 3, 2025 to receive the parties final filings of points and authorities and amended exhibit lists.

Procedure

Under the regulatory timeline, the decision in this case normally would be due on July 7, 2024, which was forty-five days from the day after the parties agreed in writing, on May 23, 2024, that they had not resolved the complaint during the resolution session. 34 C.F.R. §§ 300.510(c)(1), 300.515(a).¹⁴ 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, counsel and I discussed our schedules in detail, and the various other intervening postponements made it impossible to obtain dates that everyone was available prior to July 26, 2024. The parties jointly requested an extension of time to conduct the hearing and issue a decision, which I granted. At the request of the parties, I agreed to issue my decision within thirty days of the close of the record, which was February 3, 2025. A written decision to address the issues presented by the Parent and which remain after any prior rulings is due no later than Wednesday, March 5, 2025.

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

ISSUES

1. Whether the PGCPSS failed to provide the Student with a FAPE during the 2022-2023 and 2023-2024 school years by not:
 - a. Evaluating the Student properly; and

¹⁴ Unless otherwise noted, all citations herein to the C.F.R. are to the 2022 bound volume.

- b. Developing an appropriate IEP by not considering the input of some experts that the Student did not qualify as a student with an emotional disability (ED) under COMAR 13A.05.01.0.B(23); and
- c. Delivering, through the IEP, appropriate supports and services; and
- d. Providing, through the IEP, appropriate supports and accommodations for the Student's [REDACTED]?

2. If the PGCPS' actions denied the Student FAPE, is placement at the [REDACTED] [REDACTED] an appropriate placement for the Student?

SUMMARY OF THE EVIDENCE

Exhibits

A complete Exhibit list is provided as an Appendix to this Decision.

Testimony

The Parent presented the testimony of the following witnesses:

- A. [REDACTED], neuropsychologist, admitted as an expert in neuropsychology and psychology including differential diagnosis of dysfunction; course of treatment; and prognosis recommendations for educational and treatment planning including educational supports and services;
- B. The Parent;
- C. [REDACTED], admitted as an expert in evidence-based speech language evaluations and therapies including the evaluation and treatment of language based learning differences; literacy; social language and articulation disorders;
- D. [REDACTED], admitted as an expert in behavioral analysis; intervention; supports and services; positive behavior interventions and supports (PBIS System);
- E. [REDACTED], admitted as an expert in the IEP process including standards for drafting IEPs, progress monitoring, programming of special education services and fidelity of implementation of that programming from a general education perspective;

F. The Student; and

G. [REDACTED] i, Head of School at [REDACTED], Maryland.

The PGCPS presented the testimony of the following witnesses:

- A. [REDACTED], Principal at [REDACTED], Maryland, admitted as an expert in school administration;
- B. [REDACTED],¹⁵ was admitted as an expert in school psychology;
- C. [REDACTED], Head of School, [REDACTED], admitted as an expert in special education and school administration;
- D. [REDACTED], related services manager and speech language pathologist, [REDACTED], admitted as an expert in speech language pathology;
- E. [REDACTED],¹⁶ behavior specialist, [REDACTED], admitted as an expert in behavior analysis;
- F. [REDACTED], manager of educational services, [REDACTED], admitted as an expert in teaching children to read;
- G. [REDACTED],¹⁷ admitted as an expert in social work;
- H. [REDACTED], PGCPS special education teacher, admitted as an expert in special education; and
- I. [REDACTED], PGCPS non-public instructional specialist, admitted as an expert in special education and the educational placement of special needs students in Prince George's County.

STIPULATIONS¹⁸

1. The Student attended [REDACTED] ([REDACTED]) during the 2017-2018 school year for 4th grade, 2018-2019 school year for 5th grade, and 2019-2020 school year for 6th grade.

¹⁵ [REDACTED]

¹⁶ [REDACTED] and [REDACTED] were not defined

¹⁷ [REDACTED]

¹⁸ The Stipulations have been edited to redact names for confidentiality purposes. I have also edited for grammar and continuity. Any changes made were not substantive.

2. The Student attended [REDACTED] remotely (due to the COVID-19 pandemic) during the 2020-2021 school year for 7th grade.

3. The Student attended [REDACTED] in person during the 2021-2022 school year for 8th grade, and 2022-2023 school year for 9th grade.

4. The Student began attending [REDACTED] ([REDACTED]) in July 2023, during the 2023-2024 school year for 10th grade.

5. The Student remains at [REDACTED] during the 2024-2025 school year for 11th grade.

6. Both [REDACTED] and [REDACTED] are nonpublic day schools approved by the Maryland State Department of Education.

7. The PGCPS has funded the Student's tuition, transportation, and related service costs and expenses during her three years at [REDACTED], and more than one year at [REDACTED].

FINDINGS OF FACT

Background - Prior to the 2022-2023 School Year

1. The Student was born on [REDACTED]. At the time of the hearing, she was sixteen years old and attending 11th grade at [REDACTED].

2. The Student resides with the Parent in [REDACTED], Prince George's County, Maryland.

3. The Student received early intervention speech services for articulation in [REDACTED] prior to moving to Maryland and entering kindergarten.

4. The Student has attended school within the PGCPS since entering kindergarten in August 2013.

5. In 2015, when the Student was in 2nd grade, she was diagnosed with [REDACTED] and [REDACTED].

6. [REDACTED] is a permanent condition. It causes an increased need for [REDACTED], and can result in [REDACTED]. People with [REDACTED] are required to consume a low sodium diet. A [REDACTED] diagnosis can lead to low self-esteem due to these side effects.

7. In or about December 2015, the Student went through a period of marked [REDACTED]. The Student expressed feelings of [REDACTED] and acted out by throwing things. The Parent took the Student to the hospital after which the Student received out-patient counseling services that continued for about one year.

8. In October and November 2017, the Student underwent a neuropsychological evaluation at [REDACTED]. The Report of Neuropsychological Evaluation (2017 Neuropsych. Report) provided the following primary areas of weakness:

- Inattention and executive dysfunction, particularly with respect to working memory and planning/organization, consistent with [REDACTED] – **Predominantly Inattentive Presentation.**
- Weaknesses with **higher order language** consistent with executive functioning weaknesses.
- Reduced **fine motor** speed and dexterity and **visual-motor integration** skills
- **Specific Learning Disorder in Reading, Writing, and Math**
- **Generalized [REDACTED] and [REDACTED]**
- Social weaknesses that are related to [REDACTED], [REDACTED], and [REDACTED]

The 2017 Neuropsych. Report further stated, in part:

Overall, these areas of weakness interact to leave [the Student] susceptible to becoming overloaded, and to reduce the efficiency of her learning. These areas of weakness have a *significant functional and educational impact* and place her at-risk for continued difficulties in school and daily life.

...

On a related note, [the Student] may experience frustration and irritability as she struggles to comprehend social conversations and her difficulties with language organization will likely make it more challenging for her to artfully express herself in complex social situations. Also, [the Student's] [REDACTED] and cognitive processing style (i.e. slow processing speed, problems with attention, planning, and organization) make her vulnerable to overload. Once overloaded, [the

Student] is likely to show increased [REDACTED] and [REDACTED] (e.g., regulation problems, negative self-statements).

. . .

On a more positive note . . . [the Student] is an engaging and hard-working young girl with a supportive family who is invested in helping her be successful.

Student Ex. 1, pp. 6-7. (emphasis in original).

9. As part of the 2017 neuropsychological evaluation, the Student was given the Woodcock-Johnson test of Achievement, Fourth Edition. Those results were published in the 2017 Neuropsych. Report showing that the Student, who was in the fourth grade, had scores in math calculation, broad written language, written expression, academic skills, academic fluency, letter-word identification, calculation, writing samples, sentence reading fluency, math facts fluency and sentence writing fluency in the range equivalent with second grade. The Student's spelling score was equivalent with first grade. Student Ex. 1, p. 17.

10. The 2017 Neuropsych. Report included several pages of recommendations. Generally, the Report recommended the Student receive an IEP with the classification of [REDACTED] ([REDACTED]) and/or [REDACTED] ([REDACTED]). The specific recommendations included, in part: speech-language therapy; coping skills; Orton-Gillingham type instruction in reading decoding/accuracy; breaks;¹⁹ and teacher match.²⁰ Student Ex. 1, pp. 9-17.

11. In January 2018, when she was in the 4th grade, the Student first received an IEP from the PGCPSS. In that IEP, the Student had a primary disability code of [REDACTED] ([REDACTED]),

¹⁹ “[The Student] will benefit from breaks throughout the day to help her maintain alertness and attention. Movement breaks need only be a minute or two in duration. For example, [the Student] might be asked to complete a worksheet and then be allowed to sharpen her pencil or get a drink of water, or simply bring her work to the teacher for review.”

²⁰ “When considering future placement decision, teacher “match” will be particularly important; [the Student] will do best with a classroom setting that is structured and organized but a teacher who is flexible, warm, and responsive to her individual needs.”

██████████, ██████████). Per that IEP, the Student was given instruction outside of general education for five hours a week utilizing the ██████████ program.²¹ In January 2018, the PGCPs placed the Student on level one of the ██████████ program. The Student enjoyed those sessions. Student Ex. 2.

12. During the middle of her 5th grade year, in an IEP dated March 6, 2019, the Student was identified as having the primary disability code of ██████████ (██████████, ██████████, ██████████). The IEP listed three items under “social/behavioral support(s).” One referenced the use of an agenda book and the other two stated:

- Providing frequent changes and opportunities of movement, which includes unlimited access to the restroom and unlimited water breaks (including carrying a personal water bottle throughout the day) should be provided in the general education and special education classroom.
- [The Student] will receive counseling support individually, or in small group setting at the school.

Student Ex. 6.

13. The March 2019 IEP listed one goal under “social emotional/behavioral.” The IEP stated:

Goal: [The Student] will accurately identify her feelings, demonstrate appropriate coping strategies, and/or problem solving skills when presented with real or imagined social conflict situations, demonstrated by generating a solution appropriate to the situation in 2 out of 3 trials.

...

Progress Code: Making sufficient progress to meet goal

Description: [The Student] participated well in the small group counseling and was able to solve most of the statements and questions presented to her and find a positive solution. She only struggled to respond when she misunderstood the meaning of the question being asked.

Student Ex. 6.

²¹ ██████████ is an Orton Gillingham style of reading instruction.

14. In May 2019, the Student underwent a second neuropsychological evaluation at

████████████████████. The Report of Neuropsychological Evaluation (2019 Neuropsych.

Report) provided the following, in part:

- Compared to her 2017 performance, [the Student] demonstrates stable cognitive skills as demonstrated by either the same or higher standard score points for each cognitive index. Furthermore, compared to same-age peers, [the Student's] ability to reason about visual information, reason abstractly, and her ability to hold and manipulate information in her mind (visual and auditory) have developed at a more advanced rate. Progress is also demonstrated in her fine motor dexterity. She has also made noteworthy gains in her phonological processing likely due to her extensive reading interventions, although weaknesses are still present in her ability to isolate phonemes. However, relative to her 2017 performance, [the Student] demonstrated that she is falling behind, relative to same age peers, in her processing speed, academic fluencies, visual motor integration, reading skills (fluency, comprehension, single word decoding, and phonemic decoding).
...
- [The Student's] mood concerns, executive functioning difficulties, attentional concerns, and learning disorders have a significant functional impact and also place her at risk for future difficulty in social emotional, behavioral, and academic areas of functioning. While [the Student] is bright and capable, her learning disorder substantially limits her ability to access academic instruction. Furthermore, her executive functioning weaknesses may cause problems with following directions, attending to instruction, task completion, and social interactions with peers. [The Student] is currently showing a high level of ██████████, ██████████, and signs of being overwhelmed. These symptoms stem directly from her learning differences and awareness of her challenges. She needs greater resources and support, at home and school to simultaneously support her learning and give her tools to more effectively manage her mood. The symptoms are currently not well managed, and [the Student] needs medication, therapy, and intensive learning intervention services and supports.

Student Ex. 8. pp. 4, 6.

15. The 2019 Neuropsych. Report listed a number of school recommendations and prefaced all of them by stating: “**[The Student’s] learning differences are driving her current emotional and behavioral problems in the school setting. She needs a school placement that can provide a high level of academic support for learning, as well as a high level of behavioral and emotional intervention to manage the symbiotic relationship between [the Student’s] learning differences, that then cause ██████ which results in behavioral refusal.**” (Student Ex. 8, p. 7) (emphasis in original).

16. In June 2019, PGCPs school psychologist ██████, conducted a record review and student interview with the Student. He detailed his findings based on that re-evaluation in a Psychological Report (2019 PGCPs Psychological). ██████ concluded that the Student was exhibiting characteristics of ██████ stated:

[The Student] perceives the world and the actions and reactions of others through an egocentric filter. She misperceives and personalizes everything the teacher does and believes she is the target of an attack even when the teacher’s comments or actions are not about her at all. She reports that her classmates are also treating her poorly and rejecting her. This egocentric view of the environment likely developed from feelings of being inadequate academically and socially. In addition, the executive difficulties that have been reported result in [the Student] being rigid in her ability to find solutions to problems. The perceived inadequacy and ██████ result in increased ██████ about being successful academically and socially. The increased ██████ results in further inability to problem solve, leading to further distress.

Whether or not she initiates conflict with her teachers, [the Student] is unable to work her way out of that conflict. As the situation evolves and the teacher offers a solution, [the Student] appears to change her focus in such a manner as to perpetuate the conflict. Reasoning and explaining the situation or intentions of the teacher does not result in [the Student] calming down. She may even have a sense that she needs to hold the teacher accountable. She relates that the teacher is breaking the rules by putting her in the hallway unsupervised.

PGCPs Ex. 3.

17. In Summer 2019, the IEP team met and, against the wishes of the Parent, changed the Student's primary disability code to [REDACTED] which was reflected on the August 5, 2019 amendment to the IEP. This change removed [REDACTED] ([REDACTED], [REDACTED], [REDACTED]) from the Student's disability coding. The IEP states that beginning in January 2019, the Student's behaviors began to escalate. In support, the PGCPS provided that the Student refused to participate in her [REDACTED] interventions on twenty-six occasions between December 2018 and April 2019. The CIEP determined that the Student required a small therapeutic setting and the IEP could not be implemented in her home school. Student Ex. 12.

18. The Student's placement was changed to [REDACTED] for the 2019 – 2020 school year.

19. The Student attended [REDACTED] remotely during the 2020 – 2021 school year due to the COVID-19 pandemic.

20. In April 2021, the Student underwent a psychological evaluation conducted by [REDACTED] and a report was published on June 1, 2021 (2021 Psychological). That report listed diagnoses for the Student as: ([REDACTED]/disorder in Reading (consistent with mixed phonological and orthographical [REDACTED]); [REDACTED] in Written Expression ([REDACTED]; [REDACTED]/Disorder in Mathematics ([REDACTED] a); [REDACTED] [REDACTED], Predominantly Inattentive Presentation ([REDACTED]); and Generalized [REDACTED]. Student's Ex. 17, p. 3.

21. The 2021 Psychological stated, in part:

[The Student's] learning and attentional vulnerabilities place her at risk emotionally. Thus, in understanding [the Student's] emotional presentation, it is important to consider the impact of her underlying learning and attentional vulnerabilities on her self-esteem. [The Student] has strong verbal and social skills, and she is an excellent communicator, however, her severe learning challenges are likely to be a source of frustration for her, particularly as she observes her age-peers acquiring academic skills more rapidly and easily than she does. As such, she may feel different and less than her peers. This leads her to

feel poorly about herself and may cause her to push others away for fear that they will view her the same way. [The Student] has difficulty seeing her strengths and is often self-deprecating, evidencing low self-esteem. In addition to academically based anxiety, [the Student] also presents with specific fears, such as those related to illness, which results in [REDACTED] thoughts and [REDACTED] behaviors, as well as more generalized worries. Her tendency to process information in discrete chunks versus appreciating “the big picture” can lead her to becoming easily overwhelmed by information and in busy and complex environments, thus further increasing anxiety.

Student’s Ex. 17, p. 3.

22. The 2021 Psychological included a number of recommendations for educational placement, curriculum and academic supports. In part, the report stated that “[REDACTED] is the most appropriate coding, though the [REDACTED] [REDACTED] code would also be appropriate to include her [REDACTED], typically coded as [REDACTED].” Student’s Ex. 17, p. 3.

23. [REDACTED] has an eleven-month school year. The Parent voluntarily kept the Student out of classes at [REDACTED] during the two summer months following her 7th grade year.

2021-2022 School Year – 8th grade

24. The Student started attending [REDACTED] in person in the Fall 2021 for her 8th grade year.

25. In December 2021, the Student underwent a psychological re-evaluation by PGCPs school psychologist [REDACTED] who drafted a Psychological Report (2021 PGCPs Psychological). This evaluation was specifically prompted to address the Student’s disability coding which had caused a dispute between PGCPs and the Parent.

26. During her evaluation, ██████ administered the WIAT-4²² and reported those scores in the 2021 PGCPS Psychological. The percentile scores, as compared to the Student's same aged peers, were:

- Reading: 16th percentile
- Sentence Composition: 32nd percentile
- Mathematics: 8th percentile

Student Ex. 17, pg. 25.

27. The 2021 PGCPS Psychological stated:

[The Student] will continue to benefit from special education services focused on supporting her learning needs, executive functioning and attention weaknesses, and social-emotional needs. Academic needs continue to be present in regards to her reading, writing, and math skills. Results suggest that the disability category of ██████ may be most appropriate for [the Student] to encompass her unique educational needs in relation to learning, executive functioning, ██████, and social-emotional functioning.

Student Ex. 30, p. 11.

28. In or about the Fall 2021, the Parent hired ██████ to assist and support the Student's educational planning. ██████ conducted consultations with the Parent, Student and school team in addition to conducting in person classroom observations and participating in a number of IEP team meetings on behalf of the Student. ██████ concluded that the Student's disability coding should be ██████ and ██████ rather than ██████.

29. The December 2021 IEP team changed the Student's eligibility code from ██████ to ██████ including ██████, ██████ and ██████.

30. ██████ conducted a neuropsychological evaluation of the Student in April 2022 and later published her Neuropsychological Evaluation report (2022 ██████ Neuropsych.). During her evaluation, ██████ administered the WIAT-4 and reported

²² Weschler Individual Achievement Test, Fourth Edition.

those scores in the 2022 [REDACTED] Neuropsych. The percentile scores, as compared to the Student's same aged peers, were:

- Reading: 10th percentile
- Written Expression: 8th percentile
- Mathematics: 10th percentile

Student Ex. 39, pg. 8.

31. In April 2022, the Student underwent a speech-language evaluation conducted by [REDACTED]. [REDACTED] published a report of her findings (Speech Language Eval.). Based on her findings, [REDACTED] suggested a number of things but specifically speech language therapy and a 45-minute daily, one-on-one individualized, systematic, multisensory, evidence-based reading intervention such as Orton Gillingham. Student's Ex. 43, pp. 18, 19.

32. [REDACTED] has an eleven-month school year. The Parent voluntarily kept the Student out of classes at [REDACTED] during the two summer months following her 8th grade year.

2022-2023 School Year – 9th grade

33. The Student's IEP for the 2022-2023 school year used the primary disability code of [REDACTED] ([REDACTED], [REDACTED], [REDACTED]).

34. The Student's 2022-2023 IEP included the following supports and services, in part:

- Use of PGCPS [REDACTED] loaned Chromebook and mini [REDACTED] keyboard
- Evidenced-based reading intervention program – weekly for 43 weeks
- Wait time for understanding questions asked, recalling information or forming appropriate answers – applied across all classes daily
- Reduced distractions
- Use of agenda book and electronic calendar with monitoring
- Check in for understanding
- Alternative ways to demonstrate learning such as creating posters, use of technology, flip books, and videos
- Use of a word bank

- Receive frequent and immediate feedback, in all academic areas
- Use of positive and concrete reinforcers
- Frequent breaks
- Unlimited access to the bathroom and water
- Social skills training
- Preferential seating

PGCPS Ex. 33.

35. In reference to the Student's [REDACTED], the 2022-2023 IEP provided:

[The Student] has a diagnosis of [REDACTED]. Per the letter from [REDACTED] (dated 9/7/2022), "It is also important to check her [REDACTED] close to the same time each day. Have her sit and rest quietly for 5 minutes with her feet flat on the floor and her back against the chair before taking her [REDACTED]. If possible, use the same arm each time and document the [REDACTED] reading, date, and time. The [REDACTED] can be re-checked 1 minute apart. Her ideal [REDACTED] is between 107/64 and 124/79. If her [REDACTED] falls outside of this range, please notify her family."

The school nurse will check [the Student's] [REDACTED] as close to the same time each day as possible. [REDACTED] readings will be shared with the parent each day via email. Should a [REDACTED] reading fall outside of the normal range, the school nurse will also call the parent as soon as possible after the reading.

[The Student's] [REDACTED] should also be checked if she reports headache, dizziness, chest pain, etc. These symptoms and the [REDACTED] reading should also be reported to her parent via email and telephone.

PGCPS Ex. 33, p. 00296.

36. The Student's September 2022 IEP reflected that, at the start of the 2022-2023 school year, the Student's instructional levels were the following:

- reading fluency and reading comprehension and reading vocabulary was 7th grade;
- math calculation and math problem solving instructional grade level was 7th - 8th grade; and
- written language content was 6th grade.

37. The Student's May 2023 IEP reflected that, at the end of the 2022-2023 school year, the Student's instructional levels were the following:

- reading fluency, and reading vocabulary was 7th grade;
- reading comprehension 8th grade;
- math calculation was 8th grade;
- math problem solving was 7th - 8th grade;
- written language was 6th grade.

38. By the end of the 2022-2023 school year, the Student was making sufficient progress to meet eight of the ten given goals:

- Math calculation: Given guided notes and fading teacher support, [the Student] will apply the rules of integers to simplify and solve a multi-step equation with one variable. – 4 out of 5 trials achieved
- Reading vocabulary: Given grade level texts and explicit instruction, [the Student] will demonstrate vocabulary knowledge and skills with 90% accuracy – 88% accuracy achieved
- Reading comprehension: Given visuals and other supports, [the Student] will read and demonstrate comprehension of grade level literary texts and apply across all content areas – 100% accuracy achieved
- Math problem solving: Given the use of guided notes and faded teacher support, [the Student] will determine a plan to solve a multi-step, grade-level word problem – 3 out of 5 trials achieved
- Behavioral: [The Student] will explore and practice strategies to advocate for herself – 6 of 8 trials achieved
- Reading Decoding: [The Student] will apply phonics and word analysis skills to decode unfamiliar words with 90% accuracy – 96% accuracy achieved
- Reading Fluency: Given multi-leveled controlled passages, [the Student] will read with sufficient accuracy, appropriate rate, and expression as judged by a clinician over 3 sessions – The Student reached a reading fluency of 157 – 160 words per minute and the clinician reported that overall “she is showing significant progression.”
- Written Language Content: Given graphic organizers, scaffolding, direct instruction, editing checklist, and a writing prompt, [the Student] will write a clear, focused main idea and supporting details on a topic – 80% accuracy achieved.

39. By the end of the 2022-2023 school year, the Student's progress was lacking to meet two of the ten given Behavioral goals, including:

- Given training in and visual reminders of self-regulatory scripts, [the Student] will manage new or challenging situations without disrupting classroom activities – 2 out of 6 trials achieved
- Given adult modeling and opportunities for guided practice, [the Student] will demonstrate awareness of her anxiety and frustration – 2 out of 4 trials achieved

2023-2024 School Year – 10th grade

40. The IEP Team changed the Student's placement to [REDACTED] for the 2023-2024 school year.

41. The Student attended a summer school reading intervention program at [REDACTED] prior to the 2023-2024 school year.

42. The Student's IEP for the 2023-2024 school year used the primary disability code of [REDACTED] ([REDACTED], [REDACTED], [REDACTED]).

43. The Student's 2023-2024 IEP included the following supports and services, in part:

- Use of PGCPS [REDACTED] loaned Chromebook and mini [REDACTED] keyboard
- Evidenced-based reading intervention program – weekly for 36 weeks
- Wait time for understanding questions asked, recalling information or forming appropriate answers – applied across all classes daily
- Reduced distractions
- Check in for understanding
- Alternative ways to demonstrate learning such as creating posters, use of technology, flip books, and videos
- Use of a word bank
- Class size with a low student to teacher ratio
- Use of positive and concrete reinforcers
- Frequent breaks

- Unlimited access to the bathroom and water
- Preferential seating

PGCPS Ex. 62.

44. The Student’s September 2023 IEP reflected that, at the start of the 2023-2024 school year, the Student’s instructional levels were the following:

- reading fluency and phonics was 6th grade;
- reading vocabulary was 8th grade;
- reading comprehension was 9th grade;
- math calculation and problem solving was 8th grade; and
- written language content was 6th grade

45. The Student’s May 2024 IEP reflected that, at the end of the 2023-2024 school year, the Student’s instructional levels were the following:

- reading fluency and phonics was 6th grade;
- reading vocabulary was 9th grade;
- reading comprehension was 9th grade;
- math calculation was 9th grade;
- problem solving was 8th grade; and
- written language content was 6th grade

46. The Student was referred to attend Extended School Year for the summer 2024.

DISCUSSION

Burden of Proof

The standard of proof in this case is a preponderance of the evidence. COMAR 28.02.01.21K(1). To prove an assertion or a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all the evidence is considered. *Coleman v. Anne Arundel Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002). The burden of proof rests on the party seeking relief. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005). The Parent is seeking relief and bears the burden of proof to show that the challenged actions by the PGCPS did not meet the requirements of the law.

Applicable Law and Legal Standard

The identification, evaluation, and placement of students in special education are governed by the IDEA. 20 U.S.C.A. §§ 1400-1482; 34 C.F.R. pt. 300; Educ. §§ 8-401 through 8-417; and COMAR 13A.05.01. The IDEA requires “that all children with disabilities have available to them a 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); *see also* Educ. § 8-403.

Forty-two years ago, the Supreme Court addressed the FAPE requirement in *Board of Education v. Rowley*, 458 U.S. 176 (1982). In *Rowley*, the Supreme Court held that FAPE is satisfied if a school district provides “specialized instruction and related services which are individually designed to provide educational benefit to the handicapped child.” *Rowley*, 458 U.S. at 201 (footnote omitted). To this end, the Supreme Court set out a two-part inquiry to determine if a local education agency satisfied its obligation to provide FAPE: first, whether there has been compliance with the procedures set forth in the IDEA; and second, whether the IEP, as developed through the required procedures, is reasonably calculated to enable the child to receive some educational benefit. *Id.* at 206-07; *see also A.B. ex rel. D.B. v. Lawson*, 354 F. 3d 315, 319 (4th Cir. 2004) (“A FAPE requires the school district to provide instruction that suits the child’s needs as well as related services to ensure that the child receives some educational benefit from instruction”).

An IEP is the “primary vehicle” through which a public agency provides a student with a FAPE. *M.S. ex rel Simchick v. Fairfax Cty. Sch. Bd.*, 553 F. 3d 315, 319 (4th Cir. 2009).

COMAR 13A.05.01.09 defines an IEP and outlines the required content of an IEP as a written

description of the special education needs of the student and the special education and related services to be provided to meet those needs. The IEP must take into account:

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

20 U.S.C.A. § 1414(d)(3). Among other things, the IEP depicts a student's current educational performance, explains how the student's disability affects the student's involvement and progress in the general curriculum, sets forth annual goals and short-term objectives for improvements in that performance, describes the specifically-designed instruction and services that will assist the student in meeting those objectives, describes program modifications and supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals, and indicates the extent to which the child will be able to participate in regular educational programs. 20 U.S.C.A. § 1414(d)(1)(A)(i)(I)-(V); COMAR 13A.05.01.09A. IEP teams must consider the students' evolving needs when developing their educational programs.

To comply with the IDEA, an IEP must, among other things, allow a disabled child to advance toward measurable annual academic and functional goals that meet the needs resulting from the child's disability or disabilities, by providing appropriate special education and related services, supplementary aids, program modifications, supports, and accommodations. 20 U.S.C.A. § 1414(d)(1)(A)(i)(II), (IV), (VI).

In *Rowley*, the United States Supreme Court first addressed the FAPE requirement as follows:

Implicit in the congressional purpose of providing access to a [FAPE] is the requirement that the education to which access is provided be sufficient to confer some educational benefit upon the handicapped child. It would do little good for Congress to spend millions of dollars in providing access to a public

education only to have the handicapped child receive no benefit from that education. The statutory definition of [FAPE], in addition to requiring that States provide each child with “specially designed instruction,” expressly requires the provision of “such . . . supportive services . . . as may be required to assist a handicapped child *to benefit* from special education.” § 1401(17) (emphasis added). 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 provide educational benefit to the handicapped child.

458 U.S. at 200-01 (footnote omitted). The Court explained that FAPE entitles a student to an IEP that is “reasonably calculated to enable the child to receive educational benefits” and that this requires that “the education to which access is provided be sufficient to confer some educational benefit upon the handicapped child.” *Id.* at 200, 207.

Absent more definitive direction regarding the standard to be employed to determine “when handicapped children are receiving sufficient educational benefits to satisfy the requirements of the Act,” courts applied various interpretations of the level of benefit that is required. *Id.* at 202. The Fourth Circuit, taking its lead from the Tenth Circuit, formulated the test as whether the school system adopted an IEP calculated to confer “some” educational benefit on the student, “meaning a benefit that is more than minimal or trivial, from special instruction and services.” *O.S. ex rel. Michael S. v. Fairfax Cty. Sch. Bd.*, 804 F.3d 354, 360 (4th Cir. 2015) (“In this circuit, the standard remains the same as it has been for decades: a school provides a FAPE so long as a child receives some educational benefit, meaning a benefit that is more than minimal or trivial, from special instruction and services.”).

After *Rowley*, thirty-five years later, in *Endrew F. v. Douglas County School District RE-1*, 580 U.S. 386 (2017), the Supreme Court set forth a test for measuring whether a disabled student had attained sufficient educational benefit. Prior to the Supreme Court’s decision in *Endrew F.*, the federal Tenth Circuit interpreted the meaning of “some educational benefit,” and

construed the level of benefit as “merely . . . ‘more than *de minimis*.’” See *Andrew F. v. Douglas Cty. Sch. Dist. RE-1*, 798 F.3d 1329, 1338 (10th Cir. 2015).

In *Andrew F.*, the Supreme Court set forth the following “general approach” to determining whether a school has met its obligation under the IDEA:

While *Rowley* declined to articulate an overarching standard to evaluate the adequacy of the education provided under the Act, the decision and the statutory language point to a general approach: 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.

The “reasonably calculated” qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials. The Act contemplates that this fact-intensive exercise will be informed not only by the expertise of school officials, but also by the input of the child’s parents or guardians. Any review of an IEP must appreciate that the question is whether the IEP is *reasonable*, not whether the court regards it as ideal.

The IEP must aim to enable the child to make progress. After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement. This reflects the broad purpose of the IDEA, an “ambitious” piece of legislation enacted in response to Congress’ perception that a majority of handicapped children in the United States were either totally excluded from schools or [were] sitting idly in regular classrooms awaiting the time when they were old enough to “drop out.” A substantive standard not focused on student progress would do little to remedy the pervasive and tragic academic stagnation that prompted Congress to act.

That the progress contemplated by the IEP must be appropriate in light of the child’s circumstances should come as no surprise. A focus on the particular child is at the core of the IDEA. The instruction offered must be “*pecially designed*” to meet a child’s “*unique needs*” through an “[*i*]ndividualized education program.”

Andrew F., 580 U.S. 386, 399-400 (2017) (internal quotations and citations omitted”. The Court expressly rejected the Tenth Circuit’s interpretation of what constitutes “some benefit”:

When all is said and done, a student offered an educational program providing “merely more than *de minimis*” progress from year to year can hardly be said to

have been offered an education at all. For children with disabilities, receiving instruction that aims so low would be tantamount to “sitting idly . . . awaiting the time when they were old enough to drop out.” The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.

580 U.S. 386, 402-403 (internal citations omitted).

Directly adopting language from *Rowley*, and expressly stating that it was not making any “attempt to elaborate on what ‘appropriate’ progress will look like from case to case,” the *Endrew F.* court instructs that the “absence of a bright-line rule . . . should not be mistaken for ‘an invitation to the courts to substitute their own notions of sound educational policy for those of the school authorities which they review.’” *Endrew F.*, 580 U.S. 386, 404 (citing *Rowley*, 458 U.S. at 206). At the same time, the *Endrew F.* court wrote that in determining the extent to which deference should be accorded to educational programming decisions made by public school authorities, “a reviewing court may fairly expect [school] authorities to be able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances.” *Endrew F.*, 580 U.S. 386, 404.

Notwithstanding the new language in *Endrew F.*, providing a student with access to specialized instruction and related services does not mean that a student is 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. of Md.*, 700 F.2d 134, 139 (4th Cir. 1983) (citing *Rowley*, 458 U.S. at 176). FAPE does not require “the best possible education that a school system could provide if given access to unlimited funds.” *Barnett v. Fairfax County Sch. Bd.*, 927 F.2d 146, 154 (4th Cir. 1991).

It does, however, require the State to provide personalized instruction with sufficient support services to permit the child to benefit educationally.

In addition to the IDEA's requirement that a disabled child receive educational benefit, the child must be placed in the "least restrictive environment" to achieve FAPE, meaning that, ordinarily, disabled and non-disabled students should, when feasible, be educated in the same classroom. 20 U.S.C.A. § 1412(a)(5) (2017); 34 C.F.R. §§ 300.114(a)(2)(i), 300.117. Indeed, mainstreaming children with disabilities with nondisabled peers is generally preferred, if the disabled student can achieve educational benefit in the mainstreamed program. *DeVries v. Fairfax County Sch. Bd.*, 882 F.2d 876 (4th Cir. 1989). At a minimum, the statute calls for school systems to place children in the "least restrictive environment" consistent with their educational needs. 20 U.S.C.A. § 1412(a)(5)(A). Placing disabled children into regular school programs may not be appropriate for every disabled child and removal of a child from a regular educational environment may be necessary when the nature or severity of a child's disability is such that education in a regular classroom cannot be achieved.

Because including children with disabilities in regular school programs may not be appropriate for every child with a disability, the IDEA requires public agencies like the PGCPs to offer a continuum of alternative placements that meet the needs of children with disabilities. 34 C.F.R. § 300.115. The continuum must include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, and make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. 34 C.F.R. § 300.115(b); COMAR 13A.05.01.10B(1).

Consequently, removal of a child from a regular educational environment may be necessary when the nature or severity of a child's disability is such that education in a regular classroom cannot be achieved. COMAR 13A.05.01.10A(2). In such a case, a FAPE might require placement of a child in a private school setting that would be fully funded by the child's public school district.

At the crux of this matter is the Student's contention that the PGCPs failed to provide her with a FAPE from April 2022 to April 2024. As a result, the Parent is asking that the Student be placed at the ██████████ in ██████████ Maryland.²³ The ultimate issue is not whether the ██████████ is better, or even as appropriate as the program offered by the PGCPs, but whether the school district has offered a FAPE.

Analysis

In this case, the parties agreed on very little. During much of the hearing, the parties focused more on proving one another wrong, and disparaging one another, than on presenting facts and evidence upon which I could rely. The tone of the hearing was indicative of an environment that undermines the Student's educational experience, giving her more hurdles to surpass than she has already been dealt. The conflict between the PGCPs and the Parent was apparent throughout the hearing and guided almost all of the witness presentations making them supportive of their "team" rather than instructive on the facts. The PGCPs treated the Student's witnesses with vitriol and there was testimony that the Student's witnesses treated school staff in a similar manner at IEP meetings. It was clear this conflict, and this behavior distracted from the main focus, the Student, and what everyone could do together to best support her.

²³ The Parent also had the burden of proof to demonstrate that the ██████████ was the appropriate remedy. As is discussed below, I do not reach that issue.

Based on those observation, I weighed much of the witness presentation with the lens that the evidence was aimed at confirming a certain bias rather than providing neutral, evidence-supported testimony. For this reason, I found more reliable, and weighed more heavily, the ample documentary evidence provided by the parties. Based on all of the evidence, I concluded that the Parent did not meet her burden to show that the PGCPS failed to provide the Student a FAPE between April 2022 and April 2024.

Both parties presented witnesses and evidence about the Student's years at [REDACTED] [REDACTED] from 2013 through 2019. While the general history was instructive to understand the Student's educational journey, the bulk of the information presented was far outside of the statute of limitations, and was not directly relevant to the issues before me. As I am also not getting to the issue of remedy, I will not discuss that information here.

The PGCPS did not fail to provide the Student with a FAPE during the 2022-2023 and 2023-2024 school years by failing to evaluate the Student properly

The Parent argued that the PGCPS failed to evaluate the Student properly by not using information about the child provided by the Parent and outside experts. Each of those experts evaluated the Student and their respective reports were provided to the PGCPS, and were admitted into evidence by the PGCPS. The PGCPS also presented the testimony of several staff who were regular participants in the IEP team meetings at [REDACTED] and [REDACTED]. The 2022-2023 and 2023-2024 IEPs include those reports amongst the various sources considered and utilized in drawing their conclusions. At times, the advice and guidance of those experts was accepted, and at times it was not. For example, the student's disability code was changed from [REDACTED] to [REDACTED] ([REDACTED], [REDACTED], [REDACTED]) soon after [REDACTED] joined the team and supported that change. Later, the staff at [REDACTED] worked with [REDACTED] to create and implement an FBA.

Finally, the team met several times for the purpose of addressing concerns specifically raised by the Parent. ██████ testified that the IEP Team’s decision to change the Student’s placement from ██████ to ██████ was due to the Parent’s continued disagreement with the ██████ placement.

In each of those examples, the Parent testified that she disagreed with the ultimate decisions of the IEP Team, despite references to the expert reports and opinions that she presented. The Parent contends that disagreement with those decisions equated to a failure to consider those expert opinions, and I disagree.

In determining whether the PGCPs denied the Student a FAPE, I am not required to compare the programs at the ██████ and ██████ to determine which best serves the needs of the Student. *See Hessler*, 700 F.2d at 139 (citing *Rowley*, 458 U.S. at 176) (stating that providing a student with access to specialized instruction and related services does not mean that a student is entitled to “[t]he best education, public or non-public, that money can buy”). I am likewise not asked to compare the various suggestions of the many experts and determine which presents the most ideal option for the Student. Even if I were to find that the Student’s various recommendations are superior to those offered by the PGCPs, I could not order that the placement be changed on that basis. The question is whether placement at ██████ provides the Student a FAPE in the least restrictive environment.

Not only am I not required to compare the two positions to determine which is “better,” I am also not required to determine what would be the “ideal” for the Student. *Andrew F.*, 137 S. Ct. at 999 (citing *Rowley*, 458 U.S. at 206-207). The Student is entitled to an IEP that is reasonably calculated to ensure she makes progress in light of her unique circumstances. I am aware that *Andrew F.* rejected the standard of “merely more than *de minimis*.”

Even allowing that the standard is significantly higher than “merely more than *de minimis*,” and encompasses the ideas of appropriate progress, significant progress, and reasonable progress, the law does not guarantee the Student an IEP that gives the very “best.”

It is clear that the Parent cares deeply for the Student and wants nothing but the best for her. It is abundantly clear that she is an incredibly involved parent, and a strong ally and advocate for the Student, and likely knows the Student better than anyone else. The Parent’s suggestions and positions may be representative of the best options, but the PGCPS is able to modify those options, or choose different options, and still provide a FAPE to the Student. I do not find that the PGCPS failed to consider the opinions and suggestions offered by the Parent. The documentary evidence indicates that the PGCPS considered the expert reports provided by the Parent, discussed those reports during IEP meetings and incorporated some, but not all of those recommendations. For this reason, I find that the Parent failed to establish by a preponderance of the evidence that the PGCPS failed to properly evaluate the Student when developing the IEPs for the 2022-2023 and 2023-2024 school years.

The PGCPS did not fail to provide the Student with a FAPE during the 2022-2023 and 2023-2024 school years by failing to develop an appropriate IEP by failing to consider the input of some experts that the Student did not qualify as a student with an ED under COMAR 13A.05.01.0.B(23).

The Parent spent a great deal of time presenting evidence and argument that the Student did not qualify as a student with an [REDACTED]. The Parent did not agree with the PGCPS’ change to the Student’s disability code in 2019. [REDACTED], the Parent’s expert in neuropsychology and psychology opined that in the Fall 2021 the Student’s disability code should be changed, and at the December 2021 IEP meeting, the team changed the disability code to [REDACTED] ([REDACTED], [REDACTED], [REDACTED]), consistent with [REDACTED] recommendation. The Student’s code remained [REDACTED] ([REDACTED], [REDACTED], [REDACTED]) through the 2022-2023 and 2023-2024 school years.

The Parent argued that the change to an ED code in 2019 led to the Student's placement at [REDACTED], and caused her to be turned away from the [REDACTED]. [REDACTED] testified that despite the fact that the Student did not originally qualify as a student with ED, the code is a self-fulfilling prophecy. She explained that once she had that code, any of the Student's unwanted behaviors were attributed to an underlying behavioral problem rather than frustration stemming from struggling with [REDACTED], [REDACTED] and [REDACTED].

I agree with the Parent that the Student's disability code likely should not have been changed to [REDACTED]. There is ample evidence in the record citing a variety of expert opinions that the code should be [REDACTED] or [REDACTED], and not [REDACTED]. The IEP Team seemingly based the change on the outlying opinion of one expert, a PGCPs school psychologist, [REDACTED], who did a record review and interview with the Student in contrast to the thorough evaluations done by the other experts. While I agree that this change was in error, I also find that the PGCPs cured the error in December 2021, based largely on the advice of the Parent's expert, [REDACTED]. As a result, the Student's disability coding was changed to reflect what was largely opined to be the correct disability code by a variety of experts over the years.

I disagree with the Parent's position that the Student should not have any [REDACTED] component in her disability code. All of the experts expressed the need for supports surrounding social/emotional growth and behavior within the school environment. The experts agreed that the behavior issues stem from [REDACTED], otherness and [REDACTED] created by the Student's learning differences. I do not find that the impetus for the problems is of import at this stage.

Whether the Student's disability code was an error for a time was and is unfortunate, and the Mother's reaction to it was reasonable. However, that fact is no longer of consequence to the necessary interventions required to address the Student's current behavioral issues, and the

provision of FAPE during the 2022-2023 and 2023-2024 school years. The IEPs that are before me, created during the 2022-2023 and 2023-2024 school years, reflect the correct disability code. They include supports, services and goals for the Student's learning differences and her behavior needs as is recommended by all of the expert reports and testimony, and are therefore crafted to provide the Student with a FAPE based on her specific, individualized circumstances.

The PGCPS did not fail to provide the Student with a FAPE during the 2022-2023 and 2023-2024 school years by failing to deliver appropriate supports and services.

Each of the experts testified to the Student's need for supports and services and all of these opinions were rather similar. The IEPs for the 2022-2023 and 2023-2024 school year reflect the various supports and services provided and these correlate with the advice of the experts. The supports and services, listed in part, as findings of facts above, include things to: assist the Student with her learning differences such as a reading intervention, and wait times; assist the Student with executive functioning needs such as agendas and calendars as well as regular breaks; and to assist the Student with her behavior needs such as counseling and positive reinforcement.

The Parent argued that the PGCPS failed to provide a FAPE because it did not adequately implement these supports and services, as evidenced by the fact that her progress has remained somewhat stagnant.

The PGCPS presented evidence that the Student made academic progress, but that her progression was hampered by the Student's unwillingness to actively participate in some of the interventions, and due to excessive absenteeism. To begin, the Parent kept the Student out of school for two of eleven months in each of the three years she attended [REDACTED]. The Student did attend a brief ESY program prior to starting [REDACTED] in 2023, but that brief program was not sufficient to replace the four to six months of regular instruction she missed while at [REDACTED]. ESY

is designed to supplement and extend a student's education, and to reduce academic regression during the summer, while the grade level curriculum at [REDACTED] is designed to be disseminated over eleven months. Because the Student did not attend ESY, the Student missed 18% of regular grade level instruction during each of those years.

Additionally, the Parent regularly kept the Student out of school. The Student did not demonstrate sufficient progress in two of ten Behavioral goals included in her 2022-2023 IEP. In each of those goals, the Student's instructors noted that the Student's excessive absenteeism caused her to miss much of the instruction in those areas. In reference to both of those goals, the IEP stated that "[The Student] missed 3 sessions in March due to absences." PGCPS Ex. 33, pp. 00311, 00314.

More significantly, [REDACTED] testified that the Student had twenty-six unexcused absences at [REDACTED] during the 2021-2022 school year and fifty unexcused absences during the 2022-2023 school year. (PGCPS Exs. 18, 33). On February 6, 2024, [REDACTED] mailed a letter to the Parent alerting her that the Student had seven unexcused absences during the first five months of the 2023-2024 school year. The letter stated, in part:

...

It is important for [the Student] to receive all the instruction and transition opportunities that are available every day. Additionally, we also know that when students miss too much school – excused or unexcused – they can fall behind academically and create larger issues for themselves (i.e. jeopardizing course grades, promotion, graduation or placement). Your student is less likely to succeed if he or she is chronically absent.

PGCPS Ex. 53.

On February 9, 2024, [REDACTED] mailed a letter to the Parent alerting her that the Student continued to be absent, and now had ten unexcused absences during the first five months of the 2023-2024 school year. PGCPS Ex. 53. On February 27, 2024, the PGCPS mailed a third letter

to the Parent alerting her that the Student now had twenty unexcused absences during the first six months of the 2023-204 school year. The letter stated, “State law requires every student under the age of 18 must attend school every day that school is in session unless unable to do so because of illness or some other legitimate reason.... Despite letters and phone calls home, [the Student] is still not regularly attending school...” The letter also lists examples that the PGCPS has declared are examples of lawful/excused absences:

- Death in the immediate family
- Illness of the student: The principal or a pupil personnel worker shall require a physician’s certificate from the parent or guardians of a student reported continuously absent for illness
- Court summons
- Hazardous weather conditions
- Work
- Observance of a religious holiday
- State emergency
- Suspension
- Lack of authorized transportation
- Other emergency or set of circumstances which, in the judgment of the superintendent or designee, constitutes a good and sufficient cause for absence from school.

PGCPS Ex. 53, p. 00452.

The Parent did not present any evidence of a lawful or excused reason for these absences. She testified that she did not send the Student to school during the summer months at [REDACTED] because, at the time of enrollment, she was not aware that it was an eleven month program. She vaguely testified that the absences at [REDACTED] were due to an incident that occurred at the beginning of 2024, but did not elaborate or provide any evidence that it constituted a good and sufficient cause for such an extended absence from school.

As the PGCPS argues, the Student's unexcused absenteeism impacted her academic progress, and I found the evidence on this issue compelling. The Fourth Circuit has found no denial of FAPE when an expert witness testified that a child's extensive absences, rather than anything the school district did, caused her regression. *O.S.*, 804 F.3d at 361; *Lee v. Bd. of Educ. for Prince George's Cnty.*, No. CV 22-957, 2024 WL 361330, at *24 (D. Md. Jan. 31, 2024).

The Student did make some progress during the 2022-2023 and 2023-2024 school years. Specifically, the Student progressed in most of her IEP goals and showed improvement in the areas of reading comprehension, reading vocabulary and math calculation. The goals that the Student did not progress sufficiently on were directly attributed to her absences. The absences also caused the Student to miss the correlating interventions. I find that the Student did make progress, despite the absences, and cannot conclude that any perceived stagnation in progress is due to a faulty IEP because of the effects the excessive absenteeism had on the PGCPS' ability to implement the IEP.

The PGCPS did not fail to provide the Student with a FAPE during the 2022-2023 and 2023-2024 school years by failing to provide appropriate supports and accommodations for the Student's [REDACTED]

The Student's IEP for the 2022-2023 school year explicitly set out instructions, supports and accommodations for the Student's [REDACTED]. That language is not included in the 2023-2024 IEP. [REDACTED] testified that [REDACTED] provided for the Student to have frequent breaks and regular access to water, but did not have a proper doctor's order in order to implement any additional supports. She provided that on April 10, 2024, [REDACTED] provided the school with a letter detailing the Student's specific needs, and in response, [REDACTED] created an Emergency Action Plan including those instructions. PGCPS Exs. 57 and 58. Whether or not the supports and services for the Student's [REDACTED] were contained in an IEP, the Parent did not establish that the PGCPS failed to provide appropriate supports and accommodations for her

█ nor did she demonstrate that she was denied a FAPE by having those supports and services documented in an Emergency Action Plan.

Notwithstanding my determination that the Parent has failed to meet her burden to prove the PGCPS denied the Student a FAPE, I would be remiss if I did not acknowledge that the Parent is a strong advocate for her daughter. I sympathize with her frustration with this process. It is reasonable that she has found navigating the system daunting and disappointing. During the hearing there were many mentions to the close bond between the Parent and Student as a point of concern, or as proof of some sort of collusion. I strongly disagree with that line of reasoning and find the fact that the Parent and Student are close, share many common interests, and enjoy spending time together one of the Student's greatest strengths. It is a shame that it was weaponized rather than celebrated and utilized. Hopefully, moving forward, the parties can find a way to work better together for the Student, with an understanding that the Parent reasonably wants what is best, but because PGCPS is not required to necessarily provide that, the parties will have to work towards finding common ground.

The fact that the PGCPS repeatedly referred to the Parent and the experts she had hired as her "team" or "hired guns" and implied that the Parent bringing experts along with her to IEP meetings somehow hampered the process underscored what I am sure is a very difficult position to be in for the Parent. She is the sole person at the IEP meetings that comes from a perspective different than PGCPS, and certainly has the right to advocate for the Student as she sees fit. I hope that the PGCPS and the Parent can move forward with a bit more respect for one another as the high conflict nature of the past relationship can only act to harm the Student.

The PGCPS could endeavor to ensure that the Parent understands the programming, can review the Student’s classroom work, and is privy to the tools utilized in the Student’s classroom so she could reinforce the same concepts at home. Open lines of communication may also help in the Parent to trust that the PGCPS’ is adequately addressing the Student’s needs. However, although the lack of communication, clarity or consistency was not ideal, these circumstances do not amount to a denial of FAPE.²⁴

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Prince George’s County Public Schools developed an appropriate IEP that is reasonably calculated and appropriately ambitious to enable the Student to make progress in light of her unique circumstances for the 2022-2023 and 2023-2024 school years, including appropriate accommodations, modifications, supplementary aids and services, necessary to confer a meaningful educational benefit for the Student; and a self-contained program with functional and academic learning support for the Student to receive a FAPE.²⁵

²⁴ “What the statute guarantees is an appropriate education, not one that provides everything that might be thought desirable by loving parents.” *MN on behalf of EN v. Katonah Lewisboro Sch. Dist.*, No. 19-CV-6793 (CS), 2020 WL 7496435, at *11 (S.D.N.Y. Dec. 21, 2020) (internal citations omitted).

²⁵ 20 U.S.C.A. § § 1401(33); § 1414(d)(1)(A)(i)(IV), (VI)(aa), 1414(d)(4)(A); 34 C.F.R. §§ 300.42, 300.43, 300.116(e), 300.320(b); 300.323(d); Md. Code Ann., State Gov’t § 10-217 (2021); COMAR 13A.05.01.03B(43); COMAR 13A.05.01.03B(1); COMAR 13A.05.01.09A(3); COMAR 28.02.01.21K(1); *Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 398 (2017); *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005); *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 187-204 (1982); *D.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 565 (3d Cir. 2010); *T.S. v. Bd. of Educ. of Town of Ridgefield*, 10 F.3d 87, 89–90 (2d Cir. 1993).

I further conclude as a matter of law that Prince George’s Public County Schools developed an appropriate IEP that is reasonably calculated and appropriately ambitious to enable the Student to make progress in light of her unique circumstances for the 2022-2023 and 2023-2024 school years, when it properly considered the recommendations from the private neuropsychological reports, the speech-language report and from the Parent.²⁶

ORDER

I **ORDER** that:

The Parent’s April 23, 2024 Amended Due Process Complaint be and the same hereby is **DISMISSED AND DENIED.**

March 4, 2025
Date Decision Issued

Alecia Frisby Trout
Administrative Law Judge

AFT/sh
#216664

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.

²⁶ 34 C.F.R. §§ 300.502(c)(1), 300.503; Md. Code Ann., State Gov’t § 10-217 (2021); COMAR 28.02.01.21K(1); *Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 398 (2017); *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 56-58 (2005); *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 187-204 (1982); *Coleman v. Anne Arundel Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002).

Copies Mailed To:

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██████████,
STUDENT

v.

PRINCE GEORGE'S COUNTY
PUBLIC SCHOOLS

BEFORE ALECIA FRISBY TROUT,
AN ADMINISTRATIVE LAW JUDGE
OF THE MARYLAND OFFICE
OF ADMINISTRATIVE HEARINGS
OAH No.: MSDE-PGEO-OT-24-05097

APPENDIX

Except as otherwise noted below in bold, the following exhibits offered by the Student were admitted as evidence as follows:¹

- Student Ex. 1 ██████ Neuropsychological Evaluation, ██████, 11.08.2017
- Student Ex. 2 Approved Amended IEP, 1.29.2018
- Student Ex. 3 Letters and email chain re ██████ roles & qualifications,
9.7.2018
- Student Ex. 4 Letter from ██████ re positive experience at ██████,
9.14.2018
- Student Ex. 5 Prior Written Notice (PWN) for IEP meeting on 1-16-19, with attached
student work and records of intervention sessions, 1.29.2019
- Student Ex. 6 Approved Amended IEP, 3.6.2019
- Student Ex. 7 Petition for Peace Order, Denial, and Shield Hearing, 4.11.2019
- Student Ex. 8 ██████ Neuropsychological Evaluation, ██████ & ██████
██████████, 5.6.2019
- Student Ex. 9 PWN for 5-9-19 IEP meeting, 5.9.2019 [**Not Offered**]
- Student Ex. 10 Emails re ██████ behavior in 2018-2019, 6.5.2019
- Student Ex. 11 PWN for 6-19-19 IEP meeting, 6.19.2019
- Student Ex. 12 Approved Amended IEP, 8.5.2019

¹ Except for the bracketed language and removal of subheadings in the document description, this list is taken verbatim from the Student's filed exhibit list.

Student Ex. 13 PWN for CIEP Meeting, 8.5.2019

Student Ex. 14 Letter from ██████████ re CEIP placement meeting, 8.14.2019

Student Ex. 15 Email chain between ██████████ & ██████████ re admission to ██████████, 11.4.2019

Student Ex. 16 Letter from ██████████, ██████████, 5.5.2021

Student Ex. 17 ██████████ Psychological Evaluation, ██████████, 6.1.2021

Student Ex. 18 Letter correcting record re evaluations, 6.4.2021 **[Not Offered]**

Student Ex. 19 Email chain between ██████████ and ██████████ re diagnosis, 6.11.2021

Student Ex. 20 ██████████ Note & Follow-up letters, ██████████, ██████████, 9.21.2021

Student Ex. 21 Social Emotional Update, ██████████, 10.27.2021

Student Ex. 22 ██████████ Academic Progress Reports, ██████████, 10.27.2021

Student Ex. 23 iReady Diagnostic Results for Math & Reading, 11.9.2021**[Not Offered]**

Student Ex. 24 Transcript for 11-10-21 IEP meeting, 10.11.2021 **[Not Offered]**

Student Ex. 25 PWN for 11.10.21 IEP meeting, 11.17.2021

Student Ex. 26 Notice and Consent for Assessment, 11.20.2021

Student Ex. 27 ██████████ Report Card, 8th grade, Q1, 11.xx.2021

Student Ex. 28 ██████████ Letter from ██████████ re diagnosis of ED, 12.6.2021 **[Not Offered]**

Student Ex. 29 Letter from ██████████ re ██████████ BP, 12.7.2021 **[Not Offered]**

Student Ex. 30 PGCPs Psychological Report, ██████████ NCSP, 12.7.2021

Student Ex. 31 Transcript for 12.16.21 IEP meeting, 12.6.2021 **[Not Offered]**

Student Ex. 32 Approved IEP, Grade 8, 12.16.2021

Student Ex. 33 PWN for 12-16-21 IEP meeting, 12.23.2021

Student Ex. 34 Letter from ██████████ re ██████████ susceptibility to COVID, 1.5.2022 **[Not Offered]**

- Student Ex. 35 Letter from [REDACTED] ([REDACTED] rejection), 1.7.2022
- Student Ex. 36 iReady Diagnostic Results (reading & math), 2.24.2022 [**Not Offered**]
- Student Ex. 37 [REDACTED] Clinic Note, [REDACTED], 3.29.2022
[**Not Offered**]
- Student Ex. 38 Emails from [REDACTED] re [REDACTED] classroom behaviors, 4.7.2022
[**Not Offered**]
- Student Ex. 39 [REDACTED] Neuropsychological Evaluation, [REDACTED],
4.12.2022
- Student Ex. 40 Email chain between [REDACTED] and [REDACTED] re lockdowns, FBAs, and
restroom access, 5.4.2022 [**Not Offered**]
- Student Ex. 41 Log of [REDACTED] readings notifications from [REDACTED], 6.17.2022 [**Not Offered**]
- Student Ex. 42 Email to [REDACTED] re ESY, 6.29.2022
- Student Ex. 43 Speech Language Evaluation, [REDACTED], 6.29.2022
- Student Ex. 44 Estimate of [REDACTED] reading fluency rate, [REDACTED],
7.23.2022
- Student Ex. 45 Suggested Revisions for the 8-3-22 meeting, 7.24.2022 – *admitted for
limited purposes of [REDACTED] contribution only*
- Student Ex. 46 [REDACTED] Nephrology Clinic Notes, [REDACTED], 7.26.2022
[**Not Admitted**]
- Student Ex. 47 [REDACTED] class schedule, as per the school (with note from [REDACTED]
[REDACTED]), 8.23.2022 [**Not Offered**]
- Student Ex. 48 Email chain between [REDACTED] & [REDACTED] re HS program,
8.24.2022 [**Not Offered**]
- Student Ex. 49 [REDACTED] Letter from [REDACTED] re [REDACTED] medical needs,
8.25.2022 [**Not Admitted**]
- Student Ex. 50 Data requested & information supplied for reading PLs & intervention,
8.26.2022 [**Not Offered**]
- Student Ex. 51 PGCPS Nonpublic Office Service Hours Calendar - Enduring Life Skills,
received 12.8.22, 9.0.2022 [**Not Offered**]

Student Ex. 52 PGCPS Student Service Learning (SSL), 9.2022 **[Not Offered]**

Student Ex. 53 Letter from ██████████ re Reading Intervention, 9.1.2022

Student Ex. 54 ██████ Reading Assessments, ██████████, 9.8.2022

Student Ex. 55 ██████████ Weekly Schedule at ██████ from various sources and dates, 9.13.2022 **[Not Offered]**

Student Ex. 56 Letter from ██████████ re ██████ program behavior, 9.13.2022 **[Not Offered]**

Student Ex. 57 ██████ Graduation Plan, 9.13.2022 **[Not Offered]**

Student Ex. 58 9th grade log at ██████, 9.13.2022 **[Not Offered]**

Student Ex. 59 Email from ██████████ re ██████ readings, 9.14.2022 **[Not Offered]**

Student Ex. 60 Approved IEP, Grade 9, received 11-11-22, 9.15.2022

Student Ex. 61 PGCPS Bullying form & addendum, 9.20.2022 **[Not Offered]**

Student Ex. 62 iReady Diagnostic Results for Reading, 9.30.2022 **[Not Offered]**

Student Ex. 63 Calendar of Reading Sessions Delivered, ██████████, 10.21.2022 **[Not Offered]**

Student Ex. 64 Letter from Amy Poirier re iReady testing, 10.24.2022 **[Not Offered]**

Student Ex. 65 Classwork from US Government, 11.1.2022

Student Ex. 66 PWN for 8.3.22, 8.16.22, & 9.15.22 IEP meetings, received 11.11.22, 11.7.2022

Student Ex. 67 iReady Diagnostic Results (math), 11.10.2022 **[Not Offered]**

Student Ex. 68 Supports needed for completion of Life Skills Assignments, ██████████, ██████████, 12.14.2022 **[Not Offered]**

Student Ex. 69 Behavioral Observation, ██████████, 12.17.2022

Student Ex. 70 Consent for FBA, signed, 12.22.2022 **[Not Admitted]**

Student Ex. 71 Class agenda notes for Algebra, 1.3.2023

Student Ex. 72 Class schedule at ██████, 1.30.2023 **[Not Offered]**

- Student Ex. 73 Email chain between [REDACTED] & [REDACTED] staff re lockdowns, 2.9.2023
- Student Ex. 74 Email from [REDACTED] re lack of health plan, 2.21.2023
[Not Offered]
- Student Ex. 75 Behavioral observation, [REDACTED], 2.23.2023
- Student Ex. 76 Suggested Revisions for the 2.24.23 meeting, health only², 2.24.2023
[Not Offered]
- Student Ex. 77 [REDACTED] readings, 2.28.2023 **[Not Admitted]**
- Student Ex. 78 Email chain between [REDACTED] & [REDACTED], 3.1.2023
[Not Offered]
- Student Ex. 79 Approved Amended IEP, received 3.28.23, 3.6.2023
[Not Offered]
- Student Ex. 80 Parent Statement, sent 3.14.23, 3.6.2023
- Student Ex. 81 Decoding Analysis & Follow Up Testing, [REDACTED]
[REDACTED], 3.9.2023
- Student Ex. 82 Student Observation, [REDACTED], 3.10.2023
- Student Ex. 83 Email chain between [REDACTED], [REDACTED], [REDACTED], & [REDACTED]
[REDACTED] re restroom access & staff commentary, 3.17.2023
- Student Ex. 84 IEP Progress Reports for grade 9, Q1-Q3, received 4.16.23, 3.17.2023
- Student Ex. 85 Email chain between [REDACTED] & [REDACTED] re [REDACTED] in [REDACTED] group,
3.21.2023 **[Not Offered]**
- Student Ex. 86 Emails from [REDACTED] re lockdowns, [REDACTED], and inappropriate comments from
teacher, 3.23.2023 **[Not Offered]**
- Student Ex. 87 Algebra Class Observation, [REDACTED], [REDACTED], 3.24.2023
- Student Ex. 88 Email from [REDACTED] re incident at [REDACTED], 3.27.2023 **[Not Offered]**
- Student Ex. 89 PWN for 3.6.23 IEP meeting, 3.28.2023
- Student Ex. 90 [REDACTED] FBA data sheets, 3.28.2023 **[Not Offered]**

² [REDACTED]-stamped out of order.

- Student Ex. 91 [REDACTED] readings taken at [REDACTED] for March, 3.31.2023
[Not Offered]
- Student Ex. 92 [REDACTED] Nephrology Clinic Note, [REDACTED], 4.3.2023
[Not Offered]
- Student Ex. 93 Decoding Analysis – Follow Up Testing, [REDACTED]
[REDACTED], 4.10.2023
- Student Ex. 94 [REDACTED] Report Card, 9th grade, Q1-Q3, 4.16.2023
- Student Ex. 95 [REDACTED] Neuropsychological Consultation, [REDACTED],
4.17.2023
- Student Ex. 96 [REDACTED] FBA, [REDACTED], 4.21.2023
- Student Ex. 97 [REDACTED] BIP, [REDACTED], 4.21.2023
- Student Ex. 98 FBA and [REDACTED] Guideline analysis for mtg 4.24.23, [REDACTED]
[REDACTED] 4.23.2024 [Not Offered]
- Student Ex. 99 Approved Amended IEP, received 5.3.23, 4.24.2023 [Not Offered]
- Student Ex. 100 Statement, 4.24.2023 [Not Offered]
- Student Ex. 101 Analysis of FBA and [REDACTED] Guidelines, [REDACTED],
4.24.2023
- Student Ex. 102 PWN for 4.24.23 meeting, 5.3.2023
- Student Ex. 103 Approved Amended IEP, Grade 9, received 5.17.23, 5.10.2023
- Student Ex. 104 [REDACTED] Acceptance letter, 5.10.2023
- Student Ex. 105 PWN for IEP team meeting, received 7.28.23, 5.10.2023
- Student Ex. 106 iReady reading & math scores, 6.9.2023 [Not Offered]
- Student Ex. 107 Interim teacher reports, grade 9, Q4, 6.17.2023
- Student Ex. 108 CORE Phonics Survey, 7.5.2023 [Not Offered]
- Student Ex. 109 [REDACTED] Parent Teacher Progress Notes, 7.14.2023 [Not Offered]
- Student Ex. 110 IEP progress reports, grade 9, Q2-Q4, 7.28.2023 [Not Offered]
- Student Ex. 111 Suggested Revisions for the 8.3.23 meeting, 7.31.2023 [Not Offered]

Student Ex. 112 Parent Statement, 8.23.2023 [**Not Offered**]

Student Ex. 113 ██████ Class Schedule, 8.28.2023 [**Not Offered**]

Student Ex. 114 Bullying Report Form and addendum, 8.30.2023

Student Ex. 115 Email from ██████ re rough patch with iReady, 8.30.2023

Student Ex. 116 KeyMath, ██████, 8.30.2023 [**Not Offered**]

Student Ex. 117 iReady Reading & Math Diagnostics, 9.5.2023

Student Ex. 118 Draft IEP - irregular form, 9.7.2023 [**Not Offered**]

Student Ex. 119 Draft IEP - regular form, tiny present levels, 9.7.2023 [**Not Offered**]

Student Ex. 120 Email from ██████ re ““holding it together,” 9.7.2023

Student Ex. 121 ██████ Sheets Aug 28 - Sept 8, 9.8.2023

Student Ex. 122 Core 4 Assessments, ██████, 9.8.2023 [**Not Offered**]

Student Ex. 123 Email from ██████ re behavior³, 9.8.2023

Student Ex. 124 ██████ ██████ PowerPoint Presentation, 9.11.2023

Student Ex. 125 Email chain with ██████, ██████, ██████, and ██████
██████ re quiet room and trauma, 09.12.2023

Student Ex. 126 IEP Meeting Agenda, 9.13.2023 [**Not Offered**]

Student Ex. 127 Introducing Yourself - forced, limited speech⁴, 9.14.2023

Student Ex. 128 Transcript of IEP Meeting⁵, 9.14.2023 [**Not Offered**]

Student Ex. 129 Approved IEP, 9.14.2023

Student Ex. 130 Notice and Consent for Assessment, 9.20.2023 [**Not Offered**]

Student Ex. 131 Consent for assessment, signed, 9.27.2023

Student Ex. 132 PWN for 9-14-23 IEP meeting, 9.27.2023

Student Ex. 133 Student Observation, ██████, ██████, 9.28.2023

³ ██████ -stamped out of order.
⁴ ██████ -stamped out of order.
⁵ ██████ -stamped out of order.

- Student Ex. 134 PGCPS Psychological Report, [REDACTED], 10.4.2023
- Student Ex. 135 Classroom Observation on 10-5-23, [REDACTED], 10.6.2023
- Student Ex. 136 Emails between [REDACTED] & [REDACTED] re reading interventions, 10.10.2023
- Student Ex. 137 [REDACTED] Sheet Oct 12, 10.12.2023
- Student Ex. 138 Approved Amended IEP, 10.23.2023
- Student Ex. 139 Classroom Observation, [REDACTED], [REDACTED], 10.27.2023
- Student Ex. 140 PWN for changes made without a meeting, agreement 10-23-23, 10.27.2023 **[Not Offered]**
- Student Ex. 141 Decoding Analysis - Follow-up Testing, E [REDACTED]
[REDACTED]
- Student Ex. 142 Case Sheets Oct 19 - Nov 6, 11.6.2023
- Student Ex. 143 Notice of IEP meeting for 11.20.23, 11.14.2023 **[Not Offered]**
- Student Ex. 144 [REDACTED] Letter re [REDACTED] needs from [REDACTED], 11.17.2023
- Student Ex. 145 Parent Statement, 11.20.2023 **[Not Offered]**
- Student Ex. 146 Transcript of IEP Meeting⁶, 11.20.2023 **[Not Offered]**
- Student Ex. 147 PWN for 11.20.23 IEP meeting, 11.27.2023
- Student Ex. 148 Suggested Revisions for the 1.9.24 meeting, 12.20.2023
- Student Ex. 149 Notice of IEP meeting for 1.9.24, 12.21.2023 **[Not Offered]**
- Student Ex. 150 Notice of IEP meeting for 2-15-24, 1.25.2024 **[Not Offered]**
- Student Ex. 151 Email from [REDACTED] to [REDACTED] re mental health day, 1.26.2024 **[Not Offered]**
- Student Ex. 152 IEP progress reports, grade 10, Q1-Q2, 1.26.2024
- Student Ex. 153 Notice of IEP meeting for 1.31.24, 1.26.2024 **[Not Offered]**

⁶ [REDACTED]-stamped out of order.

- Student Ex. 154 Non-behavior event report, 1.29.2024 [**Not Offered**]
- Student Ex. 155 Parent statement of what happened at [REDACTED] today, 1.29.2024
- Student Ex. 156 Email chain between [REDACTED] & [REDACTED] & [REDACTED] re removals from class, 1.30.2024
- Student Ex. 157 Transcript of IEP Meeting⁷, 1.31.2024 [**Not Offered**]
- Student Ex. 158 [REDACTED] Incident Report for 1.29.24, 2.2.2024
- Student Ex. 159 Parent Statement re [REDACTED] treatment at school, 2.5.2024 [**Not Offered**]
- Student Ex. 160 IEP progress reports, grade 10, Q1-Q2, 2.6.2024 [**Not Offered**]
- Student Ex. 161 Notice of IEP meeting for 2.28.24, 2.13.2024 [**Not Offered**]
- Student Ex. 162 Updated Notice of IEP meeting for 2.28.24, 2.23.2024 [**Not Offered**]
- Student Ex. 163 Transcript of IEP Meeting, 2.28.2024 [**Not Offered**]
- Student Ex. 164 Notice of IEP Meeting for 3.20.24, 3.6.2024 [**Not Offered**]
- Student Ex. 165 PWN for 2.28.24 IEP meeting, 3.7.2024
- Student Ex. 166 PWN for 3.20.24 IEP meeting, 3.25.2024
- Student Ex. 167 [REDACTED] system information, 4.3.2024
- Student Ex. 168 Email from Anne McHugh re update on CASE system bx plan at school, 4.3.2024 [**Not Admitted**]
- Student Ex. 169 05.01.2024 FBA Parent Interview Form, 5.1.2024 [**Not Offered**]
- Student Ex. 170 FBA, 5.10.2024 [*admitted for limited purpose – remedy*]
- Student Ex. 171 BIP, 5.10.2024 [*admitted for limited purpose – remedy*]
- Student Ex. 172 [REDACTED] Student Script for IEP meeting, 5.14.2024 [**Not Offered**]
- Student Ex. 173 FBA & goal feedback, [REDACTED], 5.15.2024 [**Not Offered**]
- Student Ex. 174 Parent Statement⁸, 5.16.2024 [**Not Offered**]

⁷ [REDACTED] -stamped out of order.

⁸ [REDACTED] -stamped out of order.

Student Ex. 175 2024.05.16 Transcript of IEP Meeting, 5.16.2024 [**Not Offered**]

Student Ex. 176 █████ Intensive Reading Report, █████, 5.19.2024 [**Not Offered**]

Student Ex. 177 Email chain between █████ & █████ re Health Plan, 5.31.2024 [**Not Offered**]

Student Ex. 178 █████ Health Plan, 5.32.2024 [**Not Offered**]

Student Ex. 179 FBA, 6.5.2024 [**Not Offered**]

Student Ex. 180 BIP, 6.5.2024 [**Not Offered**]

Student Ex. 181 Letter from █████ re admission, 6.5.2024 [**Not Offered**]

Student Ex. 182 █████ Sheets 6.3.24 through 6.7.24, 6.7.2024

Student Ex. 183 Follow-up testing, Language and Literacy, with TILLS Scoring Chart, █████, 8.23.2024
[admitted for limited purpose – remedy]

Student Ex. 184 Email chain between █████ & █████ re █████ sheets & classroom behaviors, 8.30.2024 [**Not Offered**]

Student Ex. 185 █████ sheets for 1st week of school, 8.30.2024 [**Not Admitted**]

Student Ex. 186 Email chain between █████ & █████ re water denial today, 8.30.2024 [**Not Offered**]

Student Ex. 187 █████ sheets for 2nd week of school, 8.30.2024

Student Ex. 188 Email from █████ re health plan and █████, 9.9.2024 [**Not Offered**]

Student Ex. 189 School journal, █████, 9.9.2024 [**Not Offered**]

Student Ex. 190 IEP Analysis, █████, 9.9.2024

Student Ex. 191 IEP Analysis resource: █████, 9.9.2024 [**Not Admitted**]

Student Ex. 192 IEP Analysis resource: CORE Reading Maze Comprehension Test, 9.9.2024 [**Not Offered**]

Student Ex. 193 IEP Analysis resource: MSDE Technical Assistance Bulletin on Specific Learning Disability & Supplement, x.x.2024 [**Not Offered**]

- Student Ex. 194 IEP Analysis resource: Considerations for Effective Implementation, American Institutes for Research (AIR), 1.21.2011 **[Not Offered]**
- Student Ex. 195 IEP Analysis resource: DOE OSERS Dear Colleague Letter, 11.16.2015 **[Not Offered]**
- Student Ex. 196 IEP Analysis resource: DOE OSEP Memorandum re RTI, 1.21.2011 **[Not Offered]**
- Student Ex. 197 IEP Analysis resource: Orton Gillingham Teacher Manual x.x.2019 **[Not Offered]**
- Student Ex. 198 Curriculum Vitae, [REDACTED], 9.9.2024
- Student Ex. 199 Curriculum Vitae, [REDACTED], 9.9.2024
- Student Ex. 200 Curriculum Vitae, [REDACTED], 9.9.2024
- Student Ex. 201 Curriculum Vitae, [REDACTED], 9.9.2024
[Not Offered]
- Student Ex. 202 Qualifications, [REDACTED], 9.9.2024
[Not Offered]
- Student Ex. 203 Thumb drive containing the following audio files: **[Not Offered]**
- a. Audiorecording of the 11.10.21 IEP meeting, 11.10.2021
 - b. Audiorecording of the 12.16.21 IEP meeting, 12.16.2021
 - c. Audiorecording of the 2.24.23 IEP meeting (no transcript), 2.24.2023
 - d. Audiorecording of the 3.6.23 IEP meeting (no transcript), 3.6.2023
 - e. Audiorecording of the 4.24.23 IEP meeting (no transcript), 4.24.2023
 - f. Audiorecording of the 5.10.23 IEP meeting (no transcript), 5.10.2023
 - g. Audiorecording of the 8.3.23 IEP meeting (no transcript), 8.3.2023
 - h. Audiorecording of the 9.14.23 IEP meeting, 9.14.2023
 - i. Audiorecording of the 11.20.23 IEP meeting, 11.20.2023
 - j. Audiorecording of the 1.31.23 IEP meeting, 1.31.2024

- k. Audiorecording of the 2.28.23 IEP meeting, 2.28.2024
- l. Audiorecording of the 3.20.23 IEP meeting (no transcript), 3.20.2024
- m. Audiorecording of the 5.16.23 IEP meeting, 5.16.2024
- n. Audiorecording of Fluency Benchmark of [REDACTED] (no transcript) , 9.5.2024

- Student Ex. 204 CASE sheets, 11.07.2024 *[admitted for limited purpose – remedy]*
- Student Ex. 205 MSDE Letter of Findings, 03.01.2018
- Student Ex. 206 MSDE Letter of Findings, 10.19.2018 **[Not Offered]**
- Student Ex. 207 MSDE Letter of Findings, 11.26.2013 **[Not Offered]**
- Student Ex. 208 Letter from [REDACTED] amending [REDACTED] 2019 evaluation, 10.30.2019
- Student Ex. 209 PGCPs Psychological Report (original), [REDACTED], 06.12.2019
- Student Ex. 210 [REDACTED] website description of [REDACTED], 11.19.2024 **[Not Offered]**

Except as otherwise noted below in bold, the following exhibits offered by the PGCPs were admitted as evidence as follows:⁹

Board Ex. No.	Date	Description
1	1/19/18	Speech language eval.
2	4/11/19	Petition for Peace Order [Not Offered]
3	6/12/19	Psychological report ([REDACTED])
4	10/18/19	Letter from MSDE
5	12/23/19	MSDE letter of findings
6	1/6/20	Letter from MSDE
7	12/7/21	Psychological report [Not Offered]

⁹ Except for the bracketed language and removal of subheadings in the document description, this list is taken verbatim from the PGCPs’ filed exhibit list.

8	12/16/21	IEP [Not Offered]
9	2020-2021 school year	Attendance record [Not Offered]
10	2020-2021 school year	Quarterly Distance Learning Reports [Not Offered]
11	2020-2021 school year	Progress Report [Not Offered]
12	1/7/22	Letter from ██████████ [Not Offered]
13	1/26/22	Email from HHT [Not Offered]
14	3/15/22	Email from ██████████
15	4/19/22	PWN
16	8/25/22	Letter from ██████████ [Not Offered]
17	2021-2022 school year	Class schedule [Not Offered]
18	2021-2022 school year	Attendance record
19	2021-2022 school year	Progress report
20	2021-2022 school year	Quarter interim report
21	9/15/22	Consent for assessment [Not Offered]
22	9/15/22	PWN [Not Offered]
23	9/15/22	IEP and amendment changes [Not Offered]
24	2/6/23	Assistive technology assessment (██████████) [Not Offered]
25	3/6/23	PWN
26	3/6/23	Appx. B [Not Offered]
27	3/31/23	Letter from MSDE [Not Offered]
28	4/19/23	FBA
29	4/24/23	PWN [Not Offered]
30	5/10/23	PWN

31	7/14/23	Parent teacher progress notes [Not Offered]
32	7/27/23	PWN [Not Offered]
33	7/27/23	9/16/22 IEP, as amended [Not Offered]
34	8/3/23	PWN and sign-in sheet
35	2022-2023 school year	Class schedule [Not Offered]
36	2022-2023 school year	Attendance record
37	2022-2023 school year	Progress report
38	9/14/23	Consent for assessment [Not Offered]
39	9/14/23	PWN and sign-in [Not Offered]
40	9/14/23	IEP and amendment changes
41	10/4/23	Psychological evaluation (████████)
42	10/12/23	Email from ██████████
43	10/23/23	PWN [Not Offered]
44	11/17/23	Letter from ████████████████████ [Not Offered]
45	11/20/23	PWN and sign-in
46	12/19/23	Addendum to Psych. Rpt.
47	1/28/24	Incident report [Not Offered]
48	1/30/24	Preventing truancy checklist [Not Offered]
49	1/30/24	Letter to parent
50	1/31/24	PWN and sign-in sheet [Not Offered]
51	2/1/24	Email from ██████████ to parent [Not Offered]
52	2/5/24	Email from ██████████ to parent
53	2/6/24, 2/9/24, 2/27/24	Truancy letters
54	2/28/24	PWN and sign-in [Not Offered]

55	3/1/24	Letter from ██████ [Not Offered]
56	3/20/24	PWN and sign-in [Not Offered]
57	4/10/24	Order from ██████████
58	Undated	Emergency Action Plan
59	4/18/24	Bullying and harassment investigation
60	4/23/24	Amended hearing complaint
61	5/16/24	PWN and sign-in
62	5/16/24	IEP
63	Undated	Transition questionnaire [Not Offered]
64		COMAR 10.27.11- Delegation of Nursing Functions [Not Offered]
65	2023-2024 school year	Nurse ██████ notes
66	2023-2024 school year	Attendance summary/ report card
67	2023-2024 school year	Student schedule [Not Offered]
68	2023-2024 school year	Report card
69	2023-2024 school year	Quarterly progress report [Not Offered]
70	2023-2024 school year	Transcript [Not Offered]
71	2023-2024 school year	Core 4 assessments
72	2023-2024 school year	iReady instructional reports- math and reading
73	2023-2024 school year	Math apex lessons
74	2023-2024 school year	Service logs- SLP
75	2023-2024 school year	Service logs- Counseling
76	2023-2024 school year	Contact logs
77	2023-2024 school year	Emails with ██████ on variety of topics [Not Offered]

78	2023-2024 school year	List of IEP meeting recordings [Not Offered]
79		TACT2 Certifications ⁷
80 (as indicated)		Resumes- ██████████; ██████████; ██████████ ██████████; ██████████; ██████████; ██████████ ██████████; ██████████; ██████████
81		██████████ Behavior Management Policies and Procedures
82	7/14/23-10/10/23	Emails from ██████████ [Not Offered]
83	1/11/23	Letter from MSDE and certifications
84	2023-2024 school year	Quarterly IEP progress reports [Not Offered]
85		Core 4 and other ██████████ assessment materials [Not Offered]
86		██████████ Transcript
87	March 2023	██████████ baseline data [Not Offered]
88 (01027-01035)		██████████ staff certifications
89		██████████ reading instruction materials
90		██████████ miscellaneous instructional materials [Not Offered]
91		██████████ billing records
92	12/22/16	PGCPS psychological report (██████████)
93	5/17/17	PGCPS psychological report (██████████)
94	11/15/24	Email from ██████████, with attachment [Not Offered]
95		Emails between ██████████ (██████████s) and ██████████