

*This is a redacted version of the original decision. Select details have been removed from the decision to preserve anonymity of the student. The redactions do not affect the substance of the document.*

Pennsylvania

## Special Education Hearing Officer

### DECISION

Child's Name: L.L.

Date of Birth: [redacted]

Dates of Hearing:

November 18, 2013

November 19, 2013

November 20, 2013

February 20, 2014

### **CLOSED HEARING**

ODR Case #14096-1314KE

Parties to the Hearing:

Parent[s]

Pennsbury School District  
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Date Record Closed:

Date of Decision:

Hearing Officer:

Representative:

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March 10, 2014

March 25, 2014

Jake McElligott, Esquire

## **INTRODUCTION AND PROCEDURAL HISTORY**<sup>1</sup>

Student is an elementary school age student residing in the Pennsbury School District (“District”). The parties agree that the student qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEA”)<sup>2</sup>, specifically as a student with a health impairment.

Parents allege that the District denied the student a free appropriate public education (“FAPE”) as the result of inappropriate programming for the 2012-2013 school year and that the student’s proposed programming for the 2013-2014 was also inappropriate. As a result of these allegations, parents claim that compensatory education should be awarded for the 2012-2013 school year and that the parents are entitled to reimbursement for privately-financed homeschooling services for the student in the 2013-2014 school year.

The District counters that, in the 2012-2013 school year, it met its obligations under the IDEA and provided the student with FAPE.

Further, it asserts that the program proposed for the 2013-2014 school

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<sup>1</sup> By way of explanation given an extended break between the next-to-last and final hearing sessions, at the third hearing session on November 20<sup>th</sup>, the parties and hearing officer engaged in a collaborative discussion regarding scheduling. Given the winter holidays and school break, December did not provide mutually available dates. As the result of an intensive work project anticipated by the student’s mother in January, the parties and hearing officer looked to February. Two dates scheduled in mid-February had to be cancelled due to school closure and witness unavailability as the result of severe winter weather. Therefore, the fourth and concluding session was held February 20<sup>th</sup>.

<sup>2</sup> It is this hearing officer’s preference to cite to the pertinent federal implementing regulations of the IDEA at 34 C.F.R. §§300.1-300.818. *See also* 22 PA Code §§14.101-14.163 (“Chapter 14”).

year is appropriate. As such, the District argues that no remedy is owed to the student and family.

For the reasons set forth below, I find in favor of the District.

### **ISSUES**

Was the student provided with FAPE  
in the 2012-2013 school year?

Was the program proposed by the District  
for the 2013-2014 school year appropriate?

If the answers to either or both of these questions  
are in the negative,  
what remedies are available to the student?

### **FINDINGS OF FACT**

1. The student has been diagnosed with separation anxiety disorder, generalized anxiety disorder, and sensory processing disorder. (School District Exhibit ["S"]-3)<sup>3</sup>.
2. In the 2010-2011 school year, the student attended a non-District preschool program. The student experienced extreme separation anxiety when separated from a caregiver, either the student's mother or grandmother. As an accommodation, the student's mother or grandmother was present in the student's classroom, or nearby. (Joint Exhibit ["J"]-19; School District Exhibit ["S"]-5 at page 2; Notes of Testimony ["NT"] at 58-60, 62-71).
3. Over the course of the 2010-2011 school year, the student made progress in terms of having a caregiver in or near the class, with the caregiver slowly faded. In the spring of 2011 at the end of the

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<sup>3</sup> The parties, in a model of collaboration, stipulated to one set of exhibits for the hearing. These exhibits were pre-marked, however, so some exhibits are noted as school district exhibits and some as joint exhibits. During the hearing, reference was often made to "joint exhibit number X", even though it might be marked as a school district exhibit, or vice versa. The exhibit numbers, though, are consistent; therefore, reference to the exhibit number in the transcript is always accurate.

school year, however, the student's grandmother was tardy in picking up the student, causing a significant emotional reaction. (S-5 at page 2; NT at 62-69).

4. In the 2011-2012 school year, the student repeated preschool, again outside the District. The student's caregiver was in the classroom, or nearby. Over the course of the school year, the caregiver again was faded, and the student ended the school year largely free of the caregiver in the school environment. (S-5 at pages 2-3; NT at 69-71).
5. In January 2012, the student's private occupational therapist issued an occupational therapy ("OT") report. The OT report indicated that the student had OT needs to assist with attention, transitions, and tolerance of sensory input. (S-2).
6. In January 2012, the student underwent a psychological evaluation. The student's results on the Wechsler Preschool and Primary Scale of Intelligence (3<sup>rd</sup> Edition) indicated that the student has a high-average cognitive ability (full-scale IQ 119), with generally average to high-average scores on various composites and sub-tests, although the student's processing speed was in the superior range. The student was diagnosed with separation anxiety disorder, generalized anxiety disorder, and sensory integration disorder. (S-3).
7. In March 2012, an OT educational assessment found that over the 2011-2012 school year, by teacher report, the student did not exhibit issues in the educational environment with sensory processing needs, classroom activities, recess/physical activities, or peer socialization. The report recommended consultative OT services to monitor the student in educational settings. (S-4).
8. In April 2012, in anticipation of the student entering District kindergarten in the 2012-2013 school year, the District issued a re-evaluation report ("RR"). (S-5).
9. In the April 2012 RR, the student's preschool behaviors were noted by parent report and the OT information was included in the RR. (S-5 at page 3).
10. The District evaluator observed the student in the preschool classroom and observed appropriate classroom and school behaviors throughout. (S-5 a page 5).

11. The District evaluator performed additional testing. On the Behavior Assessment System for Children (2<sup>nd</sup> Edition) ["BASC-2"], the parents rated the student as clinically significant on the internalizing problems composite (across all three sub-scales— anxiety, depression, and somatization), and the adaptability sub-scale. The parents rated the student as average in all remaining sub-scales and composites. On the BASC-2, the student's preschool teacher rated the student as average on all sub-scales and composites. (S-5 at page 11).
12. On the Adaptive Behavior Evaluation Scale (2<sup>nd</sup> Revision), both the student's mother and preschool teacher rated the student as average across all sub-scales and domains. The District evaluator noted, however, that the student's "affective/behavioral issues outlined within the previous psychological evaluation would nevertheless indicate significant issues that may need to be addressed within [Student's] future classroom." (S-5 at page 19).
13. The April 2012 RR recommended that the student be identified as a student with a health impairment due to the student's diagnoses. The RR recommended a number of accommodations to assist the student with transition to kindergarten and in the kindergarten classroom, including the presence of a caregiver who would be slowly faded from the educational environment. (S-5 at pages 13-15).
14. In May 2012, the student's individualized education plan ("IEP") team met to craft an IEP for the 2012-2013 school year, the student's kindergarten year. (S-6).
15. The May 2012 IEP indicated that the student had behaviors that impeded the student's learning or that of others. (S-6 at page 5).
16. The May 2012 IEP recognized the student's needs related to separation anxiety, generalized anxiety disorder, and sensory processing disorder. (S-6 at page 12).
17. The May 2012 IEP contained three goals: (1) increasing participation in the classroom without the presence of a caregiver, (2) increasing participation in activities outside the classroom (special classes, assemblies, and recess) without the presence of a caregiver, and (3) increase responses to open-ended questions when answers are uncertain. (S-6 at pages 19-22).

18. The May 2012 IEP contained extensive specially designed instructions and modifications, including a classroom calming station, encouragement of chance-taking, use of signaling needs to teacher, transition planning, focus on routines, use of social stories, practice/modeling of social interactions, home-school communication, strategies for gauging student's emotions and for student's response, OT consultation, noise-cancelling earphones as needed, removal to a quiet space for calming, pre-planning for fire drills (due to noise sensitivity), and monitoring for signs of overheating. A caregiver was also allowed to be present, with a plan for eventual fading from the educational environment. (S-6 at pages 23-27).
19. The student was included with regular education peers for the entire kindergarten day at the neighborhood school ("Roosevelt Elementary"). (S-6 at page 30-32).
20. The student enjoyed success on IEP goals in the 2012-2013 school year and in the kindergarten year generally.
21. By September 24<sup>th</sup>, the student's caregiver had been completely faded from the school environment and was participating 100% in classroom activities and out-of-classroom activities. (S-6 at page 19, 22; NT at 796-802, 1107-1110).
22. Throughout the school year, the student raised a hand 13-14 times on average during the school day. Each time, the student was "able to provide an answer on (the student's) own or with no more than one prompt from the teacher." (S-6 at page 21; NT at 1125).
23. The student was social and interacted appropriately with peers, used the in-class bathroom voluntarily and without incident, and did not exhibit sensory processing needs. Through April 2013, in almost every respect, the student engaged in a typical kindergarten experience. (NT at 1107-1117, 1124-1126).
24. In March 2013, the parents' interface with the District underwent a change. Prior to that time, the parents had communicated primarily with the student's regular education kindergarten teacher. As of March 2013, the parents began to communicate primarily with the student's special education teacher. The new communication structure changed the tone and nature of the interaction between the parties, especially after an incident in gym class on April 10, 2013. (NT at 1351-1354, 1356-1357).

25. On April 10, 2013, the temperature was excessively high for that time of year. Due to concerns for the student's body's ability to regulate internal temperature shared with the District that morning by the student's mother, the student did not participate in gym class. (J-11 at page 6, J-25; NT at 1058-1061, 1119-1121).
26. That same day, a fellow student—who was also restricted from activity—did not participate in gym. The student and this peer socialized on a bench in the gym. Three times, the gym teacher had to ask the students to settle themselves and not be too active. (NT at 567-568, 1062-1067).
27. Although the gym teacher did not perceive any adverse reaction by the student to the re-direction, and the student did not appear to be affected upon returning to class, parents reported that the student reacted adversely at home and began to exhibit emotionality and avoidance regarding school generally and gym class particularly. (NT at 1066-1067, 1121-1123).
28. To assuage these concerns, a caregiver returned to the school environment for gym class. On one occasion, a caregiver was in the gym for the class. On a second occasion, a caregiver was outside the gym but within sight. After these two occasions, the caregiver was not present with the student during gym. (NT at 574-577, 1082-1083).
29. Also on April 10<sup>th</sup>, the student was not participating in recess due to the same temperature concerns. The student was escorted to the nurse's office by the special education teacher for the recess period. When the special education teacher went to leave, the student reacted emotionally, to the extent that the building principal came to the nurse's office. After approximately three minutes, the student had calmed and continued with the school day. (J-11 at page 6; NT at 583-586, 1122-1123).
30. Prior to the April 10<sup>th</sup> incident, the student was absent for six school days. After the April 10<sup>th</sup> incident, the student was absent for six school days (April 18<sup>th</sup>, May 10<sup>th</sup>, May 13<sup>th</sup>, May 22<sup>nd</sup>, June 10<sup>th</sup>, and June 17<sup>th</sup>). (J-12).
31. One of those absences (June 17<sup>th</sup>) was excused, but its exact nature is not in the record. Two of the absences (May 10<sup>th</sup> and 13<sup>th</sup>) were excused, and notes indicate that the absences were illness-related. Three of the absences (April 18<sup>th</sup>, May 22<sup>nd</sup>, and

- June 10<sup>th</sup>) were excused, and notes indicated that the student was exhibiting school refusal. (J-12, J-13 at pages 65, 67, 86, 127).
32. After the April 10<sup>th</sup> incidents, the relationship between the parties became prickly. (*See generally*, J-11 at pages 1-44, J-13 at pages 1-137; NT at 107-128, 1355-1357, 1363-1367).
  33. In May 2013, the student's IEP team began planning to meet for the annual revision of the IEP. The parents were especially concerned with the student moving into 1<sup>st</sup> grade for the 2013-2014 school year, which would mean a full school day (as opposed to a half-day kindergarten). (S-7; NT at 146-148, 1368-1369).
  34. During the May 2013 IEP process, the student's special education teacher shared a view as to whether the student qualified for an IEP, or whether a Section 504 plan<sup>4</sup> might be more appropriate for the student. There was no movement away from an IEP toward a Section 504 service agreement. (J-13 at page 9; NT at 863-864, 893-895, 1126-1127).
  35. On May 22, 2013, the private occupational therapist issued an updated report for consideration by the IEP team regarding the student's needs in the upcoming 2013-2014 school year. (S-8).
  36. On May 23, 2013, the student's private psychologist issued an updated report for consideration by the IEP team. (S-9).
  37. Also on May 23, 2013, the student's pediatrician provided a letter recommending that, due to sensory needs, the student should be on a regular voiding schedule for bathroom use. (J-22).
  38. On May 30, 2013, a final version of the IEP was revised for consideration by the IEP team. (S-7).

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<sup>4</sup> The reference is to Section 504 of the Rehabilitation Act of 1973 ("Section 504"). It is this hearing officer's preference to cite to the pertinent federal implementing regulations of Section 504 at 34 C.F.R. §§104.1-104.61. *See also* 22 PA Code §§15.1-15.11 wherein Pennsylvania education regulations explicitly adopt the provisions of 34 C.F.R. §§104.1-104.61. Under Section 504, a school district receiving federal funds must not discriminate against a student with disabilities and must provide those students with FAPE. Programming under Section 504, commonly referred to as a Section 504 plan (or, alternatively, a Chapter 15 service agreement). Speaking broadly, Section 504 plans generally address accommodations for students with disabilities who do not require any accommodation for academic instruction. The provision of FAPE under both Section 504 and IDEA, however, has been held to be an analogous standard. *See P.P. v. West Chester Area School District*, 585 F.3d 727 (3d Cir. 2009).



39. The May 2013 IEP indicated that the student did not exhibit behaviors that impeded the student's learning or the learning of others. Parents did not agree with this change from the May 2012 IEP and felt that the question presenting this issue should have been checked "yes". (S-7 at pages 5, 29).
40. The May 2013 IEP indicated that the student had excelled academically over the kindergarten year. (S-7 at page 6).
41. The May 2013 IEP included a transition plan to have a caregiver present with the student, with a plan to fade the caregiver over the first four weeks of the 2013-2014 school year, in a similar caregiver transition plan as that which unfolded in kindergarten. (S-7 at pages 18, 26).
42. The May 2013 IEP included a transition plan to allow the student to acclimate to a longer and more varied school day over the first four weeks of the 2013-2014 school year, aligned the fading of the caregiver, from an abbreviated school day to a full school day. (S-7 at pages 20, 26-27).
43. The May 2013 IEP included the input from the private OT report as well as information from the District's OT provider. The District's OT provider indicated that the student had not exhibited sensory integration needs and was able to self-regulate appropriately. The May 2013 IEP included a schedule for sensory breaks during the school day. (S-7 at pages 19, 27-28).
44. The May 2013 IEP contained one goal: "(The student) will demonstrate self advocacy skills by verbalizing...needs to an adult in 8 out of 10 situations or 80% of the time (ex: verbalizing to...teachers if it is too loud during an assembly)." (S-7 at page 17).
45. The May 2013 IEP contained extensive specially designed instruction and modifications, similar to the specially designed instruction and modifications in the May 2012 IEP. In addition to the caregiver transition, the abbreviated school day, and sensory breaks outlined above, the specially designed instruction and modifications also included strategies regarding school assemblies and plans for the student's activities when temperatures were forecasted for, or reached, 80 degrees or higher. (S-7 at pages 18-20).
46. The student was included with regular education peers for the entire kindergarten day at the Elementary school. (S-7 at page 23-25).

47. Parents provided extensive written feedback and suggested revisions for the May 2013 IEP. (S-7 at pages 29-36).
48. The May 2013 IEP did not include a voiding schedule for the student. The special education teacher and kindergarten teacher testified credibly that, at the time the May 2013 IEP was being revised, the student had exhibited no sensory needs in the kindergarten year related to voiding or bathroom use and did not feel that voiding needed to be addressed in the IEP. (NT at 811-815, 1127-1129).
49. In June 2013, the parents rejected the notice of recommended educational placement that accompanied the May 2013 IEP, providing extensive reasons for their disapproval. (J-10).
50. In July 2013, the parents filed the special education due process complaint which led to these proceedings. (S-1).
51. In August 2013, the District proposed a revised IEP. (J-21).
52. The August 2013 IEP contained revisions that were, for the most part, changes given parental input with the June 2013 NOREP and/or updates given data unavailable to the IEP team for consideration in the May 30, 2013 IEP. (S-7, J-21).
53. Most significantly, the August 2013 IEP included data collection on the student's voiding. Over four data points on May 23<sup>rd</sup>, May 29<sup>th</sup>, June 7<sup>th</sup> and June 12<sup>th</sup>, the student was observed to use the bathroom without asking, all at various times (before snack, after snack, during a class activity, and prior to dismissal). Still, the August 2013 IEP included a voiding schedule as a specific accommodation. (J-21 at pages 7, 24).
54. Additional data included updates to teacher observations regarding the student's sensory needs and peer interaction, and additional parental input. (J-21 at pages 7, 11-12).
55. The August 2013 IEP contained the same goal related to self-advocacy as appeared in the May 2013 IEP. (J-21 at page 20).
56. The August 2013 IEP contained significant changes to the specially designed instruction and modifications. Much of the specially designed instruction and modifications remained the same, but the modifications now included a more structured approach to transitions within the school day, all supported by a

paraprofessional (some scheduled or, as in the case of temperature-related excusals from gym and recess, ad hoc). (J-21 at pages 20-26).

57. In late August 2013, the parents filed a homeschooling affidavit with the District to provide a homeschool program for the student. The homeschool program includes a curriculum from an outside provider, a private tutor, home-based services, and activities. (S-15; NT at 192-207).
58. On September 4, 2013, parents amended their complaint to include their disagreement with the August 2013 IEP. (S-1).
59. At the hearing, the student's private psychologist opined credibly that the student would need detailed transition planning for any return to school but that, in her opinion, the student would be unable to return to the Elementary school. (NT at 698-701, 762-766).
60. All witnesses were all found to be credible and to have provided testimony that was probative. (NT at 45-213, 217-285, 293-623, 633-947, 960-1022, 1025-1427).

## **DISCUSSION AND CONCLUSIONS OF LAW**

Pursuant to the requirements of IDEA and Chapter 14, to assure that an eligible child receives a FAPE,<sup>5</sup> an IEP must be reasonably calculated to yield meaningful educational benefit to the student.<sup>6</sup> 'Meaningful benefit' means that a student's program affords the student the opportunity for "significant learning",<sup>7</sup> not simply *de minimis* or minimal education progress.<sup>8</sup>

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<sup>5</sup> 34 C.F.R. §300.17

<sup>6</sup> Board of Education v. Rowley, 458 U.S. 176, 187-204 (1982).

<sup>7</sup> Ridgewood Board of Education v. N.E., 172 F.3d 238 (3<sup>rd</sup> Cir. 1999).

<sup>8</sup> M.C. v. Central Regional School District, 81 F.3d 389 (3<sup>rd</sup> Cir. 1996).

Additionally, the appropriateness of an IEP must be judged at the time of its creation. While implementation is a critical issue for any program that is delivered to a student, the design of any IEP is judged at the time it is created, based upon the information available to the IEP team at that time.<sup>9</sup>

Here, the parents have alleged that the IEPs governing the 2012-2013 and 2013-2014 school years are prejudicially flawed and, as for the 2012-2013 programming, there are implementation issues as well. Each of these school years will be taken up in turn.

#### 2012-2013

The May 2012 IEP, which was in place for the student's entire kindergarten year, was reasonably calculated to yield meaningful education benefit. The IEP addressed the student's needs to transition to a kindergarten environment and met the student's two most prevalent needs in a school setting: addressing the anxieties the student might feel (separation and otherwise) and addressing the sensory integration needs the student might exhibit. By the end of September 2012, the student did not require a caregiver to be present, and the record clearly supports a finding that the student, academically, socially, and developmentally, made outstanding progress in kindergarten.

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<sup>9</sup> Susan N. v. Wilson Sch. Dist., 70 F.3d 751 (3d Cir. 1995); Carlisle Area Sch. Dist. v. Scott P., 62 F.3d 520 (3d Cir. 1995); Fuhrmann v. East Hanover Bd. of Educ., 993 F.2d 1031 (3d Cir. 1993).

Clearly, after the April 10<sup>th</sup> incident in gym class, two things changed— (1) the student’s comfort in the educational environment and (2) the stance between the parties. While there were changes in the student’s engagement with school, such as the brief re-introduction of a caregiver and three absences related to anxiety, the student’s kindergarten year was not derailed. And the record, taken as a whole, strongly supports the notion that the District continued to provide the student with FAPE and, indeed, that the student finished kindergarten with a strong academic and developmental base for 1<sup>st</sup> grade. As for the relationship between the parents and the District, there was a marked deterioration beginning in March 2013, a deterioration which accelerated after the April 10<sup>th</sup> incident. But even as the parties found more and more to disagree about, the student continued to make progress; the District met its obligation to provide FAPE.

Accordingly, there will be no award of compensatory education.

#### 2013-2014

Long-standing case law and the IDEA provide for the potential for parents to recover privately funded education services if a school district has failed in its obligation to provide FAPE to a child with a disability.<sup>10</sup> A substantive examination of the parents’ claim for reimbursement of the

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<sup>10</sup> Florence County District Four v. Carter, 510 U.S. 7 (1993); School Committee of Burlington v. Department of Education, 471 U.S. 359 (1985); *see also*, 34 C.F.R. §300.148; 22 PA Code §14.102(a)(2)(xvi).

private expenditures undertaken in the student's homeschooling program in this case proceeds under the three-step Burlington-Carter analysis, which has been incorporated into IDEA.<sup>11</sup>

In the three-step analysis, the first step is an examination of the school district's proposed program and whether it was reasonably calculated to yield meaningful education benefit.<sup>12</sup> In this case, both the May 2013 and August 2013 IEPs are reasonably calculated to yield meaningful education benefit to the student.

As of May 2013, the student had made excellent progress under the terms of the May 2012 IEP. Progress was so marked, in fact, that the special education teacher who had worked with the student throughout the kindergarten year felt that the student might require a far less extensive, but still effective, Section 504 service plan. While the student's IEP team, more particularly parents, felt that this was not appropriate—and other IEP team members agreed not to cross swords on the issue—the teacher's views were shared in good faith after seeing the student's remarkable academic progress in kindergarten and, largely, the student's success in managing the anxiety issues and sensory integration issues in the student's life.

The May 2013 IEP appropriately addressed the student's needs for a structured transition to 1<sup>st</sup> grade, along the lines of the successful transition that had taken place from preschool to kindergarten. The

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<sup>11</sup> 34 C.F.R. §§300.148(a),(c),(d)(3); 22 PA Code §14.102(a)(2)(xvi).

<sup>12</sup> 34 C.F.R. §300.17; Rowley; Ridgewood; M.C. v. Central Regional School District.

student's potential needs to have anxieties or emotionality in school were addressed, the student's potential sensory integration needs were addressed, the student's temperature-regulation and activities needs were addressed, the student's need for structure and, alternatively, being prepared for disruptions or transitions were addressed. The lone goal was, in actuality, wholly appropriate; in effect, it recognized that the student could, and would, flourish in 1<sup>st</sup> grade, and that the only goal would be for the student to develop skill in relating wants and needs should anxieties or sensory needs surface. In short, the May 2013 IEP was reasonably calculated to yield meaningful education benefit.

The August 2013 contained more data and parental input than the May 2013 IEP. But the program contained in the August 2013 IEP was by and large the same, appropriate program. One significant difference, though, was the addition of an explicit approach to voiding. While this was not unnecessary, the record taken as a whole supports the conclusion that the student never exhibited issues with voiding or bathroom use; in this regard, the testimony of the student's kindergarten teacher and 2012-2013 special education teacher was persuasive that, while not belittling the medical opinion of the student's pediatrician, the issue of voiding was a non-factor in the student's educational experience.

In fact, it is the considered opinion of this hearing officer that had the District not proposed the August 2013 IEP, the May 2013 IEP was reasonably calculated to yield meaningful education benefit as of May 30,

2013 as well as late August 2013. Therefore, as of May 2013, the District had put itself in a position to provide FAPE to the student; nothing added to, removed from, or changed in the August 2013 IEP changes that calculus.

When the school district's program and placement are found to be appropriate, as here, examinations at the second step (whether the private program is appropriate) and the third step (a weighing of the equities between the parties) of the Burlington-Carter analysis are unnecessary. Therefore, the Burlington-Carter analysis ends at this point.

The District's proposed program and placement for the 2013-2014 school year, as outlined in the May 2013 and August 2013 IEPs, are appropriate. Accordingly, the parents are not entitled to reimbursement.

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### **ORDER**

In accord with the findings of fact and conclusions of law as set forth above, the School District provided the student with a free appropriate public education in the 2012-2013 school year. Additionally, the individualized education program proposed for the 2013-2014 school year (in both the May 2013 and August



2013 iterations) was reasonably calculated to yield meaningful education benefit. As such, the student and family are not entitled to reimbursement for privately-funded homeschooling services.

Given the credible opinion of the student's private psychologist, however, the IEP team is explicitly instructed in two regards:

First, any revision of the student's IEP for the 2014-2015 school year must include an explicit and detailed transition plan for the student to return to a District placement. The IEP team shall explicitly consider in its deliberations whether the transition plan should include, as the IEP team deems it to be appropriate, acclimating the student to a school/classroom/teacher/activities in the spring and/or summer of 2014 in anticipation of the 2014-2015 school year. The IEP team shall also explicitly consider in its deliberations whether the transition plan should include, as the IEP team deems it appropriate, a caregiver present in the early stages of the 2014-2015 school year with a scheduled phase-out (the approach which has proven successful for the student in prior educational settings).

Second, given the student's seeming aversion to [redacted] Elementary school, the District-based elementary school where the student will receive educational programming shall not be [that particular] Elementary school.

Any claim not specifically addressed in this decision and order  
is denied.

*Jake McElligott, Esquire*

Jake McElligott, Esquire  
Special Education Hearing Officer

March 25, 2014