

*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: C.R.

Date of Birth: [redacted]

Dates of Hearing:

February 25, 2016

April 28, 2016

May 3, 2016

May 11, 2016

June 28, 2016

June 29, 2016

July 18, 2016

August 4, 2016

August 5, 2016

### **CLOSED HEARING**

ODR Case #17158-1516AS

Parties to the Hearing:

Parent[s]

Montgomery County Intermediate Unit  
1605 West Main Street  
Norristown, PA 19403

Date of Decision:

Hearing Officer:

Representative:

Tanya Alvarado, Esquire  
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October 11, 2016

Michael J. McElligott, Esquire

## **INTRODUCTION**

The child<sup>1</sup> is a preschool/kindergarten age child residing within the boundaries of the Montgomery County Intermediate Unit (“IU”). The parties agree that the child qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEIA”)<sup>2</sup> for specially designed instruction/related services as a child with a health impairment. The child also has a hearing impairment, although the IU has not formally identified the child with hearing impairment under the IDEIA.

Parents claim, in their complaint, that the IU’s proposed early intervention services were inappropriate for the 2014-2015 and 2015-2016 school years and did not offer the child a free appropriate public education (“FAPE”) for those school years. As a result, parents claim, they undertook a unilateral private placement and seek tuition reimbursement remedy for that enrollment in the 2014-2015 and 2015-2016 school years.<sup>3</sup> Additionally, parents claim that the IU has violated

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<sup>1</sup> The generic use of “child”, rather than a name and gender-specific pronouns, is employed to protect the confidentiality of the child.

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

<sup>3</sup> Although it was not made part of a formal request for remedy in the parents’ complaint, during parents’ opening statement counsel for the parents requested compensatory education as a potential remedy. While recognizing the equitable nature of compensatory education where a record supports it, that is not the case here. Parents’ claim is founded solely in tuition reimbursement.

its obligations to provide FAPE to the child under Section 504 of the Rehabilitation Act of 1973 (“Section 504”).<sup>4</sup>

The IU counters that at all times it proposed educational programming reasonably calculated to provide FAPE to the child. As such, the IU argues that the parents are not entitled to a tuition reimbursement remedy.

A significant aspect of the dispute between the parties, and (as a surmise of this hearing officer) perhaps an impediment to potential resolution, is disagreement between the parties over the amount of tuition reimbursement due to parents.

For the reasons set forth below, I find in favor of the parents in part and the IU in part. Given the dispute over the material amount of reimbursement due to parents, the decision and order will address with specificity the amount of the tuition reimbursement.

### **ISSUES**

Is the IU’s proposed programming  
for the 2014-2015 and 2015-2016 school years  
reasonably calculated to yield meaningful education benefit?

If not, are parents entitled to tuition reimbursement  
for the unilateral private placement  
for the school years 2014-2015 and 2015-2016?

If so, in what amount?

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<sup>4</sup> 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 for services to “protected handicapped students”.

## **FINDINGS OF FACT**

1. In September 2013, the child began to attend the toddler program at the private placement which is the subject of the claim for tuition reimbursement in this matter. (Parents Exhibit ["P"]-10; Notes of Testimony at 1179-1182, 1255-1256, 1314-1315, 2905-2908).
2. In February 2014, the IU and the family began to coordinate the child's transition from infant/toddler services (birth to 3) to early intervention services. (Intermediate Unit Exhibit<sup>5</sup> ["S"]-7).
3. At that time, the child had been receiving infant/toddler services under an individualized family service plan. (P-10; S-8).
4. In April 2014, the family provided permission to the IU for an evaluation of the child. At the same time, the child underwent a hearing support evaluation conducted as part of infant/toddler services and a hearing aid check by a local children's hospital. (P-12, P-15; S-9, S-10, S-14).
5. The hearing aid check indicated that the child had a mild bilateral high frequency sensorineural hearing loss. (P-15; S-14).
6. In April 2014, the family applied for financial aid for attendance at the private placement, a private school dedicated to serving

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<sup>5</sup> The IU's exhibits are marked with "S".

- students with hearing and speech needs, for the 2014-2015 school year. (S-86).
7. The IU conducted its evaluation, including a functional behavior assessment and a functional hearing evaluation, and issued its evaluation report in June 2014. (P-13; S-11, S-12).
  8. The June 2014 evaluation report included identified needs/recommendations in speech and language, hearing support (including a formal identification of the child as deaf or hard of hearing), physical therapy, and occupational therapy. (P-17; S-15).
  9. In early July 2014, the child's IEP team met to design the child's individualized education program ("IEP"). (P-20, P-21; S-17, S-18).
  10. The July 2014 IEP contained data from the June 2014 evaluation report. As special considerations, the IEP noted that the child is deaf/hard of hearing and that the child required assistive technology in the form of a FM system. (P-21; S-18).
  11. The July 2014 IEP contained two physical therapy goals, two speech and language goals, one goal each in occupational therapy, direction-following, and hearing support. (P-21; S-18).
  12. The July 2014 IEP indicated that the child did not attend preschool at that time and that the child's instruction would take place in the home, with changes to the IEP thereafter should the child enroll in preschool. (P-21; S-18).

13. In July 2014, contemporaneously with the issuance of the July 2014 IEP, the IU issued a notice of recommended educational placement (“NOREP”) along with the July 2014 IEP. The IU recommended that the child receive educational services in the home since the child had not been enrolled by the parents in a preschool. (P-22; S-21).
14. In late August 2014, parents returned the NOREP, indicating that they did not approve the recommended placement/programming. Parents indicated on the NOREP: “The level of hearing support. Failure to provide (the private placement) as (the child) has been receiving! (The child) regressed over the summer period and needs to continue the intensive support (the child) was receiving” and “2 times a week of PT. Asking for 1 time on l and 1 time per week in aqua therapy.” (P-22; S-21).
15. The child was enrolled by the family in the private placement for preschool for the 2014-2015 school year. (NT at 1316-1318).
16. The private placement is a school specializing in teaching students with diagnosed hearing loss where the hearing loss impacts access to language. The child met this profile for admission to the private placement. (NT at 1159-1161, 1182-1193, 1207-1208).

17. At the private placement in the 2014-2015 school year, the child attended a half-day program, receiving individual auditory speech and language instruction 30 minutes per day. (P-35).
18. In the 2014-2015 school year, the private placement worked on transition skills, peer interaction, social skills, following directions, expressive speech, reading/writing/counting skills, and gross/fine motor skills. (P-35, P-38, P-43; NT at
19. Tuition at the private placement for the 2014-2015 school year was \$36,000. The family did not sign a contract for enrollment and, after applying for financial aid, were provided with a scholarship of \$32,000 by the private placement. Parents' out-of-pocket expense for the 2014-2015 school year, then, was \$4,000. (S-68, S-70, S-86; NT at 1022-1033, 1316-1317).
20. A private placement administrator testified that its scholarship awards are based on need. While a family is under no obligation to refund scholarship monies, the private placement would expect that these monies would be repaid by a family to the private placement if a family suddenly had the means to pay those monies. (S-68, S-86; NT at 1022-1033).
21. In September 2014, the private placement issued a letter with the child's present levels of performance and needs. It outlined the services that the child was receiving at the private placement—auditory and speech/ language services 30 minutes,

five times per week; group auditory and speech/language services 30 minutes once per week; use of a FM system in the classroom and during speech and language services; and “specialized instruction for children with hearing loss, taught by a Teacher of the Deaf.” (P-31; S-24).

22. In late September 2014, the child’s IEP team met again to consider the child’s IEP. A goal was added for social exchange during play activity (initiation, sharing, turn-taking) as well as additional specially designed instruction. (P-32; S-25).
23. In late September 2014, contemporaneously with the issuance of the September 2014 IEP, the IU issued a NOREP, again indicating that the child would receive all programming in the home. (P-33 at pages 1-4; S-26).
24. In late October 2014, parents rejected the NOREP, indicating that they did not want home-based therapy sessions. They requested special education due process. (P-33 at page 5; S-27).
25. Over the course of November 2014, the parents had not filed their special education due process complaint. The IU communicated that it was concerned it did not have an agreed-to NOREP and the child’s services were still designed for infant/toddler services and not early intervention. (S-59 at 129-132).



26. In late November 2014, parents re-submitted the September 2014 NOREP, indicating partial agreement and partial disagreement, including the statement: “I agree that (the child) qualifies for and needs special education services. (The child) also needs a preschool program as part of (the) IEP. (The child) also requires more intensive programming and services than what is currently being offered. In the meantime, please implement the services being offered.” (P-34; S-29).
27. In mid-December 2014, the child’s IEP team met to consider the child’s IEP. (P-37; S-30).
28. The December 2014 IEP contained largely the same goals and specially designed instruction. (P-37; S-32).
29. In the days before the IEP team meeting, the child’s mother visited an IU language enrichment classroom. The child’s mother became emotional and left in tears. (S-59 at page 118; NT at 2954-2959).
30. In late December 2014, contemporaneously with the issuance of the December 2014 IEP, the IU issued a NOREP, again indicating that the child would receive all programming in the home. As part of the options considered and rejected by the IEP team, the NOREP indicated for the first time that, while it felt programming and services could and should continue to be provided in the home, given parent’s concerns, it was willing to

- consider placing the child in an IU language-enrichment classroom but parents were not interested in such a placement. (P-33 at pages 6-11; S-33).
31. Parents rejected the December 2014 NOREP, indicating: “I agree that (the child) requires special education services. But (the child) also needs a specialized preschool program that can address...speech and language needs, which we requested but was not offered. Please continue to implement the services that are in (the) IEP.” (P-33 at pages 6-11; S-33).
32. At the same time that parents returned the December 2014 NOREP, they provided the IU with a December 2014 progress report from the private placement. (P-35; S-31, S-59 at page 111-116).
33. In January 2015, the IU communicated with the parents about the apparent agreement to provide services to the child based on the parents’ indication in the December 2014 NOREP. (S-59 at page 110).
34. In January 2015, the family obtained a private speech and language evaluation. The private speech and language evaluator conducted extensive testing and observation of the child. (P-47).
35. The private speech and language evaluator made numerous recommendations as to programming and made classroom-based recommendations for a school environment. (P-47).

36. The private speech and language evaluation was never shared with the IU. (NT at 563-564, 1852-1854).
37. The IU attempted to arrange for an IEP meeting in early February 2015 but due a death in the family, that meeting was rescheduled. (S-35, S-59 at pages 105-106).
38. In early April 2015, an independent evaluator issued an independent educational evaluation (“IEE”). The evaluator, as related in her report, has experience and training in evaluating students who are deaf/hard of hearing, and their attendant needs. (P-39).
39. The private evaluator recommended that the child should be identified as a student with a hearing impairment and speech/language impairment. The private evaluator recommended a placement in “an intensive language rich environment for students with significant hearing and speech and language impairments under the instruction of a certified teacher of the deaf and hard of hearing”. The private evaluator made a number of other recommendations related to the child’s needs and programming. (P-39).
40. In May 2015, after the date of the report, the IU made arrangements for the private evaluator at her request to observe the IU’s language enrichment classroom. The private evaluator did not testify at the hearing and a verifiable opinion of the

- independent evaluator based on any such observation is not in the record. (S-59 at pages 89-100).
41. Despite multiple requests by the IU for a copy of the IEE, the April 2015 IEE was not provided to the IU by the family until October 2015. (S-59 at pages 1-21, 31; NT at 1843-1846, 1922-1925).
  42. In mid-June 2015, the child's IEP team met to consider the child's IEP. (S-39).
  43. The June 2015 IEP was considered to be the annual review of the IEP. Present levels of performance in all areas were updated. (P-41; S-40).
  44. The June 2015 IEP contained three goals in speech and language, two goals in occupational therapy, two goals in hearing support, one goal for social exchange during play activity, one goal in physical therapy, and one goal for focus/attention-to-task. (P-41; S-40).
  45. In June 2015, contemporaneously with the issuance of the June 2015 IEP, the IU issued a NOREP, again indicating that the child would receive all programming in the home. (P-42; S-41).
  46. Shortly after issuance of the June 2015 NOREP, parents returned it, indicating partial agreement and partial disagreement, including the statement: "We agree that (the child) needs special education services and therapies in the IEP. However, we disagree

- because we believe that (the child) also requires a specialized preschool program to appropriately address...speech and language needs. We are obtaining an IEE which is not yet available, but will forward it to the IU once we receive it. In the meantime, please provide the services in the IEP.” (S-41 at page 3).
47. Throughout the 2014-2015 school year, whether under the terms of the infant/toddler individualized family services plan, or an IU IEP, the IU provided home-based physical therapy and occupational therapy services to the child. (S-49, S-52 at pages 15-45, S-53 at pages 12-26, S-65, S-67, S-81 at pages 1-29 ).
48. The child made progress at the private placement through the 2014-2015 school year. (P-35, P-38, P-43; S-31, S-42; NT at 1567-1699, 1976-2107).
49. At some point prior to the 2015-2016 school year, the child’s mother again visited the IU language enrichment classroom. (NT at 2959-2963).
50. In early September 2015, with the child’s IEP team having met in late August, the IU issued a revised IEP. (P-44, P-45; S-44, S-45, S-46).
51. The September 2015 IEP contained updates to the present levels of performance. (P-45; S-46).
52. In September 2015, approximately a week after the issuance of the September 2015 IEP, the IU issued a NOREP. The NOREP

- continued to recommend services and therapies in the home. With this NOREP, however, the IU additionally recommended instruction in the IU language enrichment classroom. (P-46; S-47).
53. The IU language enrichment classroom focuses on instruction of children with speech and language needs—expressive language, receptive language, and social skills. (NT at 1392-1442).
54. The IU language enrichment classroom runs two half-day programs, one in the morning and one in the afternoon. (NT at 1392-1442).
55. Students with mild-to-moderate hearing loss have been educated in the IU language enrichment classroom, and the child's September 2015 IEP could be implemented in the classroom. (P-45; S-46; NT at 1392-1442).
56. Shortly after issuance of the September 2015 NOREP, parents returned it, indicating partial agreement and partial disagreement, including the statement: "We agree the [sic] (the child) qualifies for special education and needs services from the I.U. We disagree that the IEP and placement are appropriate." (S-47 at pages 3-4).
57. The child was again enrolled by the family in the private placement for the preschool for the 2015-2016 school year. (S-59 at pages 64-66; NT at 1316-1318).

58. Tuition at the private placement for the 2015-2016 school year was \$36,000. The family again did not sign a contract for enrollment and, after applying for financial aid, were provided with a scholarship of \$31,000 by the private placement. Parents' out-of-pocket expense for the 2015-2016 school year, then, was \$5,000. (S-69, S-86; NT at 1022-1033, 1316-1317).
59. In December 2015, the parents filed the special education due process complaint that led to these proceedings. (Hearing Officer Exhibit ["HO"]-1).
60. Throughout the 2015-2016 school year the IU continued to provide home-based therapies. (S-52 at pages 1-14, S-53 at pages 1-11, S-54, S-56, S-65, S-67, S-79, S-80, S-81 at pages 30-44, S-82, S-83, S-84, S-85, S-87, S-88).
61. The child made progress at the private placement through the 2015-2016 school year. (P-57, P-58, P-60, P-61; S-74; NT at 1567-1699, 1976-2107, 2140-2253).

## **DISCUSSION AND CONCLUSIONS OF LAW**

To assure that an eligible child receives FAPE (34 C.F.R. §300.17), an IEP must be reasonably calculated to yield meaningful educational benefit to the child. Board of Education v. Rowley, 458 U.S. 176, 187-204 (1982). 'Meaningful benefit' means that a student's program affords

the student the opportunity for “significant learning” (Ridgewood Board of Education v. N.E., 172 F.3d 238 (3<sup>rd</sup> Cir. 1999)), not simply *de minimis* or minimal education progress. (M.C. v. Central Regional School District, 81 F.3d 389 (3<sup>rd</sup> Cir. 1996)).

Long-standing case law and the IDEIA provide for the potential for private school tuition reimbursement if a school district has failed in its obligation to provide FAPE to a child with a disability (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)). A substantive examination of the parents’ tuition reimbursement claim proceeds under the three-step Burlington-Carter analysis, which has been incorporated into IDEIA. (34 C.F.R. §§300.148(a),(c),(d)(3)).

In the three-step Burlington-Carter analysis, the first step is an examination of the proposed program, or controlling program, at the time the family made the decision to seek a private placement and whether it was reasonably calculated to yield meaningful education benefit. If the proposed program is found to be inappropriate, the analysis moves to the second step: Is the unilateral private program selected by parents appropriate, in other words, is the private program reasonably calculated to yield meaningful education benefit? If the proposed private program is found to be appropriate, the third step of the analysis is a consideration of the equities between the parties to see if those equities weigh for or



against one party or the other, and how that weighing may play a role in an award of tuition reimbursement. (34 C.F.R. §300.17; Rowley; Ridgewood; M.C.)

#### Denial of FAPE/IDEIA

*2014-2015.* At the first step of the Burlington-Carter analysis, the IU failed in its obligation to propose an appropriate placement for the child. The record is compelling that the child requires a highly structured classroom environment where the child could receive special education, including hearing support and speech/language support. Indeed, even in its initial evaluation of the child, the IU recognized that specially designed instruction to address the child's needs as a child who is deaf/hard of hearing.

Granted, the IU consistently held to the view throughout the 2014-2015 school year that the child did not require classroom-based services. But, ultimately, in the 2015-2016 school year, the IU abandoned its view and proposed such a placement. The critical finding is that the July 2014 and September 2015 IEPs—each the last-proposed IEP for the respective school years—are remarkably similar, if not identical. So this is not a matter of 'Monday morning quarterbacking', or an apples-oranges comparison where a student's program has substantially changed. In effect, the IU came to view its language enrichment classroom as appropriate. That supports the conclusion that its offer in the July 2014

IEP (and the follow-up September 2014 and December 2014 IEPs)—solely home-based programming— were inappropriate.

Indeed, in the December 2014 NOREP, the District explicitly rejected the notion that its language enrichment classroom was appropriate; parents in the December 2014 NOREP indicated specifically that they sought “a specialized preschool program that can address...speech and language needs”. Therefore, as of December 2014 at the latest, the IU knew or should have known that its language enrichment classroom was—as it later acknowledged—the appropriate placement for the child, yet it explicitly discounted that placement.

Having found that the 2014-2015 IEP, as offered through the December 2014 NOREP, was inappropriate, the next step in the analysis requires an examination of the private placement. Here, the record clearly supports a finding that the programming implemented by the private placement was appropriate, and the child made significant, measurable progress as a result of that programming.

The third step of the analysis requires a balancing of the equities between the parties. Here, in the 2014-2015 school year, the equities weigh against the parents in one particular regard. In January 2015, just after the December 2014 IEP meeting which, as seen above, was pivotal in making concrete the IU’s position regarding its language enrichment classroom, parents received a private speech and language report. This report was never shared with the IU. In the same vein, only a few months

later, an IEE dated April 1, 2015 was issued to the parents. Over the ensuing months, the IU made arrangements for the evaluator to observe the language enrichment classroom and requested, multiple times, a copy of the IEE. It was not provided to the IU until October 2015.

It is speculative and unknowable to ask whether having these reports might have changed the IU's position on offering a placement at its language enrichment classroom. But it is undeniable that these reports contain comprehensive and rich information about understanding the child and the child's needs in educational settings. Not sharing these reports, in one instance at all and in the other instance six months after the fact, are definitive acts of information-shielding that weigh against the parents. This issue will be addressed below in the section entitled *Tuition Reimbursement Remedy*.

Accordingly, parents will be awarded tuition reimbursement for the 2014-2015 school year.

*2015-2016.* By September 2015, the IU had changed its position regarding the appropriateness of the child's placement, recommending that, in addition to home-based services, the child's programming be delivered in its language enrichment classroom. This placement is appropriate. In light of the record as a whole, including the independent reports and the child's success at the private placement, this highly structured placement with a focus on the child's speech and language

needs, and with accommodations for the child's need for hearing support, it is clear that this placement is reasonably calculated to yield meaningful education benefit.

The record is equally clear that the private placement is excellent and, in some ways, may be judged to be superior to the IU language enrichment placement. But the standard at step one of the Burlington-Carter analysis is not one of judging between an educational agency placement and a private placement; it is solely a question of the appropriateness of the program/placement of the educational agency. And, here, the September 2015 IEP delivered, in part, in the IU language enrichment classroom is appropriate.

With a finding at step one of the analysis that the program/placement offered by the educational agency is appropriate, there is no need to continue to the second and third steps of the analysis. Accordingly, finding that the September 2015 IEP and NOREP propose an appropriate program/placement, the parents are not entitled to tuition reimbursement for the 2015-2016 school year.

#### Denial of FAPE/Section 504

Section 504 also require that children with disabilities in Pennsylvania schools be provided with FAPE. (34 C.F.R. §104.33; 22 PA

Code §15.1).<sup>6</sup> The provisions of IDEIA and related case law, in regard to providing FAPE, are more voluminous than those under Section 504 and Chapter 15, but the standards to judge the provision of FAPE are broadly analogous; in fact, the standards may even, in most cases, be considered to be identical for claims of denial-of-FAPE. (*See generally P.P. v. West Chester Area School District*, 585 F.3d 727 (3d Cir. 2009)).

Here, based on the findings related to denial of FAPE in the foregoing “Denial of FAPE/IDEIA” section, those findings and that reasoning is adopted here. Therefore, analogously as found for claims under IDEIA, the IU met its provision-of-FAPE obligations under Section 504 for the 2015-2016 school year but did not for the prior school year, 2014-2015.

#### Tuition Reimbursement Remedy

As set forth above, parents are entitled to tuition reimbursement for the unilateral private placement in the 2014-2015 school year. They claim, as they have throughout the proceedings, that this amounts to the full charges for one year of 2014-2015 tuition at the private placement, or \$36,000.<sup>7</sup> But it is clear that the parents’ out-of-pocket expenses for

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<sup>6</sup> Pennsylvania’s Chapter 14, at 22 PA Code §14.101, utilizes the term “student with a disability” for a student who qualifies under IDEIA/Chapter 14. Chapter 15, at 22 PA Code §15.2, utilizes the term “protected handicapped student” for a student who qualifies under Section 504/Chapter 15. For clarity and consistency in the decision, the term “student with a disability” will be used in the discussion of both statutory/regulatory frameworks.

<sup>7</sup> The parents received a \$1,500 award from a local charity, made payable to the private placement, so that amount was applied to the \$36,000 tuition. Therefore, more

the unilateral 2014-2015 enrollment which they undertook is \$4,000. This, then, is the figure to be used to “reimburse the parents for the cost of that enrollment” (34 C.F.R. §300.148(c)).

As indicated above, however, in considering the award of tuition reimbursement, the equities weigh against the parents for their lack of information-sharing related to the January 2015 and April 2015 private reports. Frankly, it is not excusable at any time, let alone when later parents claims that the educational agency should pay parents’ out-of-pocket expenses for private tuition, to have such valuable information related to a child’s educational programming and to shield it from the educational agency.<sup>8</sup>

But this information-shielding did not entirely de-rail the child’s educational programming and, in the end, the IU came to the same conclusions in those reports even not having had them in hand. Therefore, on balance, it is not equitable to deny entirely the parents’ claim for tuition reimbursement. Accordingly, based on these equitable considerations, the parents’ award for tuition reimbursement for the 2014-2015 school year will be reduced 25%, to \$3,000.

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precisely, parents have requested \$34,500 in tuition reimbursement for the 2014-2015 school year. Ultimately, though, whether the amount of their claim is \$36,000 or \$34,500, the amount of their actual out-of-pocket tuition charges for the private placement in 2014-2015 is \$4,000.

<sup>8</sup> For this reason, parents’ claim for reimbursement for the costs of these reports is summarily denied.

## **CONCLUSION**

Parents' claim for tuition reimbursement for the unilateral private placement for the 2014-2015 school year is granted. The award shall be for the documented out-of-pocket expenses paid by parents reduced, through a weighing of the equities, by 25%. Parents' claim for tuition reimbursement for the unilateral placement for the 2015-2016 school year is denied.

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## **ORDER**

In accord with the findings of fact and conclusions of law as set forth above, parents are entitled to tuition reimbursement for their out-of-pocket tuition expenses for the 2014-2015 school year, reduced by 25%. Parents are not entitled to tuition reimbursement for the 2015-2016 school year.

Parents' request for reimbursement for the January 2015 and April 2015 private evaluation reports is denied.

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

*Michael J. McElligott, Esquire*

Michael J. McElligott, Esquire  
Special Education Hearing Officer

October 11, 2016