

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

**Pennsylvania Special Education Due Process Hearing Officer
Final Decision and Order**

Closed Hearing

ODR No. 29666-23-24

Child's Name:

J.H.

Date of Birth:

[redacted]

Parents:

[redacted]

Counsel for Parent:

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Hearing Officer:

Joy Waters Fleming, Esq.

Date of Decision:

August 30, 2024

INTRODUCTION AND PROCEDURAL HISTORY

The student (Student)¹ is [redacted] years old and recently completed the [redacted] grade in a Charter School (Charter). The Student is eligible for special education pursuant to the Individuals with Disabilities Education Act (IDEA) as a child with a Traumatic Brain Injury (TBI), Other Health Impairment (OHI)(ADHD/ODD) and Emotional Disturbance (ED)².

The Parent filed a due process complaint and disputed the Charter's recommendation to change the Student's placement from supplemental to full-time emotional support at a therapeutic school, (Proposed Placement). The Parents contend that FAPE is available for the Student at the Charter School, and it is the least restrictive environment. The Charter School maintains the Student's needs are significant, it cannot provide FAPE, and the recommended placement is the least restrictive environment.

Following review of the record and for all of the reasons set forth below, the claims of the Parents are denied.

ISSUE

¹ In the interest of confidentiality and privacy, Student's name and gender, and other potentially identifiable information, are not used in the body of this decision, and will be redacted from the cover page prior to posting on the website of the Office for Dispute Resolution.

² 20 U.S.C. §§ 1400 – 1482. The implementing federal regulations are found at 34 C.F.R. §§ 300.1 – 300.818, and the state regulations are found at 22 Pa. Code §§ 14.101 – 14.163 (Chapter 14).

- 1) Is the full-time emotional support placement proposed by the Charter School appropriate? ³

FINDINGS OF FACT⁴

1. The Student is eligible for special education as a child with TBI, OHI (ADHD/ODD), and ED. (S-19; N.T. 132)
2. Before the 2023-2024 school year, the Student attended an [redacted] school in the District of residence and a charter school. (N.T. 33-34, 42-43)

2023-2024 School Year

3. In July 2023, the Parent enrolled the Student in the [redacted] grade at the current Charter School as a new student. The Student's pendent IEP provided a supplemental level of emotional support, a social emotional learning class, counseling, occupational therapy (OT) and a positive behavior support plan (PBSP). (S-3, S-19; N.T. 115-117)
4. In August 2023, the Charter and Parent discussed the pendent IEP and expected support at the Charter School. The Charter offered a one-to-one aide and a behavioral support classroom, which the Parent declined. (S-3; N.T.117-119)

³ Counsel agreed that this sole issue for resolution would be addressed through the hearing. All other claims were resolved before the due process hearing. (N.T. 8-9)

⁴ References to the record throughout this decision are to Notes of Testimony (N.T.), The parties elected to utilize the Charter's exhibits, preceded by an "S" as joint exhibits. (N.T. 10)

5. Through a September NOREP, the IEP team agreed to place Student at an itinerant level of emotional support with a PBSP, computer-based reading and math interventions with access to weekly small group support, individual counseling and OT. (S-7; N.T. 118-119)

6. On September 19, 2023, the IEP team met to develop educational programming. The IEP offered ten goals for reading, math, following directions, aggression, and occupational therapy (OT). SDI included extended time, graphic organizers, visual aids, modified assignments, preferential seating, positive feedback, and implementation of the PBSP. Related services included group counseling and OT, each for 960 minutes per IEP term. The team determined the Student was eligible for ESY. (S-6, S-7, S-8; N.T. 123-125)

7. The PBSP was intended to address verbal and non-verbal disruption, off-task behaviors and verbal aggression. Antecedent strategies included counseling sessions, teacher encouragement, a daily behavior tracker, and a plan that allowed the Student to transition five minutes before the rest of the class. Consequences included one-on-one restorative conferences, a dean call, warning and negative dojo points, access to a preferred adult and a calm space. (S-10)

8. On September 20, 2023, the Charter received the Student's May 2022 RR from the previous school attended. The RR concluded that the Student's FSIQ was 69. Administered achievement assessments determined the Student's math abilities were below average. The evaluator noted that selected subtests of the Wechsler Individual

Achievement Test-Third Edition (WIAT-III) were attempted three times; however, the Student's behaviors of noncompliance, refusal, and attacking students and adults precluded the completion of the assessment. (S-1, S-19, p. 9; N.T. 129-131)

9. The May 2022 RR concluded the Student was eligible for special education services as a student with a Traumatic Brain Injury, Emotional Disturbance, and Other Health Impairment associated with ADHD. (S-1)

10. By October 2023, at the Charter School, the Student demonstrated frequent episodes of physical and verbal aggression toward peers and staff, off-task behaviors and bullying. The Charter received permission from the Parent to conduct a functional behavioral assessment (FBA.) (S-11, S-23; N.T. 56-57, 134, 138, 223)

11. Throughout October and November, the Student's behavior remained unstable, with incidents that included throwing chairs and desks across the room, cursing at the case manager, hitting other students, throwing a computer, destroying the classroom, hitting peers, and threatening to slap a teacher. (S-23)

12. On October 30, 2023, the Charter revised the Student's PBSP. (S-8, p. 46-48)

13. On December 13, 2023, the Charter completed a functional behavior assessment (FBA) of the Student. The behaviors of concern included difficulty following directions, disruptive off-task behaviors, inappropriate language, threats, name-calling, and physical

aggression. The FBA identified antecedent factors, a hypothesis, and recommended strategies (seating away from conflict, teacher proximity, transition reminders, PBSP implementation, and a reward/point system). (S-12, p. 10)

14. After the FBA, the Student's case manager reviewed the interventional strategies with teachers and the Charter School and met with the Parent to discuss the development of a PBSP. (S-13; N.T. 139)

15. On December 20, 2023, the IEP team met to revise the Student's programming, review the FBA and updated PBSP. The IEP noted the Student had 38 infractions (22 for physical aggression or inappropriate behavior toward staff or students). To address the Student's behavioral needs, the team recommended preferential seating, coping strategies, transition reminders, a classroom job, restorative conversations, small group instruction and assignment of a one-to-one.⁵ (S-13, S-15; N.T. 141)

16. The December 20, 2023, PBSP identified prevention strategies (counseling, breaks, behavior tracker, clear rules, check-ins), replacement behaviors (self-regulation strategies, school support, verbalization), consequences (positive reinforcement, increased dojo points, restorative conferences, a Dean call, warnings, access to a preferred adult). (S-13; N.T. 140)

⁵ No NOREP was introduced to reflect these December recommendations however, the Assistant Principal testified that, at that time, the Parent declined the assignment of a one to one, because during a trial, it was unsuccessful. (N.T. S-15, p. 7; N.T. 142, 144)

17. To avoid disrupting the Parent during the workday, all communication and concern regarding the Student flowed to the Assistant Principal (AP). The AP telephoned the Parent at 6:00, a couple of times a week, with updates regarding the Student. (N.T. 145)
18. During December and January, the Student engaged in twenty-six behavioral incidents, many regarded as significant and resulting in suspension from school. (S-23)
19. On February 1, 2024, the Charter issued a NOREP that proposed to change the Student's placement to full-time emotional support at a therapeutic academy. The NOREP also recommended the assignment of an interim 1:1 paraprofessional to the Student. The Parent disapproved the NOREP and requested mediation. (S-14, S-19; N.T. 146, 207)
20. The Proposed Placement is a therapeutic learning environment with social-emotional learning embedded into daily instruction, school counselors providing support in the classroom, and a small group learning setting. (S-14, p. 2)
21. By March 2024, the Student incurred seventy-seven (77) behavior incident referrals for insubordination, refusals to comply with staff directions, inappropriate behavior toward students or staff, physical aggression, classroom disruption, elopement, disorderly conduct, provocation, cheating, threats, and inciting violence. (S-19, p. 9, S-23; N.T. 220)

22. In March, because of expressions of physical and verbal aggression and concerns for the safety of a pregnant math teacher, the Student's classroom was changed. (N.T. 219-220)

23. On March 8, 2024, the Charter issued a NOREP that proposed the Student receive supplemental emotional support until the mediation concluded and the development of a plan to provide a higher level of emotional support. The NOREP recommended the Student receive a school day, one-to-one paraprofessional, a change in cohort to separate from peers with a history of recurring incidents, and curb-to-curb transportation. Except for curb transportation, the Parent agreed to the recommendations as outlined in the NOREP. (S-16; N.T. 147, 211)

24. On March 19, 2024, the Charter issued a NOREP with unchanged programmatic recommendations but sought permission to release the Student's records to approved private placements. The Parent signed the NOREP indicating agreement but consented to the application to only two schools.⁶ (S-18; N.T. 149-150)

25. On April 16, 2024, the Charter arranged for a Board Certified Behavior Analyst (BCBA) from a local University to conduct an FBA regarding the Student. The FBA summarized the Student may engage in off-task behavior to access attention from teachers when not receiving direct attention and in verbal aggression to access attention through peer reactions. (S-19, S-20, S-21; N.T. 152)

⁶ Both schools denied the Student's application. (N.T. 150)

26. On April 16, 2024, the IEP team met to develop educational programming. Through a NOREP, the team recommended changing the Student's placement to a full-time emotional support placement at a therapeutic academy. The NOREP indicated that the Parent previously rejected this option. (S-19, S-21, S-22; N.T. 152)
27. On April 25, 2024, the Charter offered a PBSP based on the last conducted FBA. (S-20; N.T. 152)
28. During April 2024, the Student was involved in nearly daily behavioral incidents that ranged from insubordination (refusal to comply, ignoring directives, taking peers' items, elopement), disruption (cursing, interfering with other students) and physical aggression (hitting a peer). (S-23)
29. On May 3, 2024, the Parent requested a due process hearing. (N.T. 154)
30. During the 2023-2024 school year, the Charter communicated with the Parent through text messages as the preferred method to receive updates. The Charter also maintains a portal with class-specific information for parental access. (N.T. 127-128)
31. During the 2023-2024 school year, the Student received more than eighty disciplinary referrals for behaviors that included insubordination, class disruption, bullying, aggression, and inappropriate behavior toward students and staff.⁷ The Parent believed

⁷The disciplinary incidents were not numbered; however, the exhibit listing the Student's behaviors was thirty-four (34) pages. (S-23)

bullying was responsible for some of the Student's negative behaviors. (S-23; N.T. 74, 157-158)

32. The Charter School consists of an elementary school through the sixth grade and a high school of grades seventh through twelfth. The elementary school does not have a self-contained emotional support classroom. (N.T. 204-206)

33. The Student earned year-end grades that ranged from A- to C+, with an overall grade point average of 3.0. (S-24)

34. The proposed full-time emotional support program would provide the Student with a high level of support, including a full spectrum of academic instruction. (N.T. 164)

DISCUSSION AND CONCLUSIONS OF LAW

General Legal Principles

In order to evaluate the claims in a dispute such as this, it is necessary to consider the burden of proof, a principle that is viewed as consisting of two elements: the burden of production and the burden of persuasion. The burden of persuasion lies with the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006). Accordingly, the burden of persuasion in this case must rest with the Parent who filed the Complaint seeking this administrative hearing. Nevertheless, the application of this principle determines which party prevails only in those rare cases where the evidence is evenly balanced or in "equipoise." *Schaffer, supra*, 546 U.S. at 58.

Hearing officers, as factfinders, are charged with the responsibility of determining the credibility of the witnesses who testify. *See J. P. v. County School Board*, 516 F.3d 254, 261 (4th Cir. Va. 2008); *see also T.E. v. Cumberland Valley School District*, 2014 U.S. Dist. LEXIS 1471 *11-12 (M.D. Pa. 2014); *A.S. v. Office for Dispute Resolution (Quakertown Community School District)*, 88 A.3d 256, 266 (Pa. Commw. 2014). The Parent presented testimony only from the Parent. After that testimony, the Charter School requested a directed verdict on the grounds that the Parent failed to meet their burden of proof. I denied that request, and the Charter School witnesses testified, including the Assistant Principal of Specialized Services and a senior associate teacher.

Overall, I find that the witnesses were credible and reliable, and the testimony from the Charter's Assistant Principal was the most helpful. Overall, the testimony was quite consistent where it overlapped, and any differences are attributed to a lapse in memory or recall or to differing perspectives rather than any intention by a witness to mislead. The corroborative documentary evidence was crucial to understanding this dispute. In reviewing the record, the testimony of all witnesses and the content of each admitted exhibit were thoroughly considered, as were the parties' closing statements.

General IDEA Principles

The IDEA requires each of the states to provide a "free appropriate public education" (FAPE) to children who are eligible for special education services. 20 U.S.C. § 1412. FAPE consists of both special education and related services. 20 U.S.C. § 1401(9); 34 C.F.R. § 300.17. In *Board of Education v. Rowley*, 458 U.S. 176 (1982), the U.S. Supreme Court

addressed these statutory requirements, holding that the FAPE mandates are met by providing personalized instruction and support services that are designed to permit the child to benefit educationally from the program and also comply with the procedural obligations in the Act. The various states, through local educational agencies (LEAs), meet the obligation of providing FAPE to an eligible student through the development and implementation of an IEP which is "'reasonably calculated' to enable the child to receive 'meaningful educational benefits' in light of the student's 'intellectual potential.'" *P.P. v. West Chester Area School District*, 585 F.3d 727, 729-30 (3d Cir. 2009)(citations omitted). As the U.S. Supreme Court has confirmed, an IEP "is constructed only after careful consideration of the child's present levels of achievement, disability, and potential for growth." *Endrew F. v. Douglas County School District RE-1*, ___ U.S. ___, ___, 137 S. Ct. 988, 999, 197 L.Ed.2d 335, 350 (2017)

Individualization is, accordingly, the fundamental consideration for purposes of the IDEA. Nevertheless, an LEA is not obligated to "provide 'the optimal level of services,' or incorporate every program requested by the child's parents." *Ridley School District v. M.R.*, 680 F.3d 260, 269 (3d Cir. 2012). Additionally, a proper assessment of whether a proposed IEP meets the above standard must be based on information "as of the time it was made." *D.S. v. Bayonne Board of Education*, 602 F.3d 553, 564-65 (3d Cir. 2010); *see also Fuhrmann v. East Hanover Board of Education*, 993 F.2d 1031, 1040 (3d Cir. 1993)(same). "The IEP must aim to enable the child to make progress." *Dunn v. Downingtown Area School District*, 904 F.3d 248, 255 (3d Cir. 2018)(emphasis in original). IEP development, of course, must follow and be based on an evaluation as monitored and updated by changes in the interim. 20 U.S.C. § 1414(d); 34 C.F.R. §§ 300.320-300.324.

General IDEA Principles: Least Restrictive Environment

The IDEA contains a crucial mandate that eligible students are to be educated in the "least restrictive environment" (LRE) that also satisfies meaningful educational benefit standards. The IDEA requires states to ensure that children with disabilities will be educated with children who are not disabled, "to the maximum extent appropriate" 20 U.S.C. § 1412(a)(5)(A). The Third Circuit has construed this language to prohibit local educational agencies from placing a child with disabilities outside of a regular classroom, if educating the child in the regular education classroom, with supplementary aids and support services, can be achieved "satisfactorily." *Oberti v. Board of Ed. of Board of Education*, 995 F.2d 1204, 1207 (3d Cir. 1993). Each public agency must ensure that a continuum of alternative placements is available, including special classes, resource rooms, supplementary services and special schools. 34 C.F.R. § 300.115. The Court noted a "tension" within the IDEA between the strong congressional policy in favor of inclusion, and the law's mandate that educational services be tailored to meet the unique educational needs of the child. *Oberti*, 995 F.2d above at 1214

Children with disabilities may not be removed from the regular educational environment unless "the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." 20 U.S.C. § 1412(a)(5)(A). In determining placement, consideration must be given to any potential harmful effect on the child or on the quality of services that he or she needs" 34 C.F.R. § 300.116(d). Removal is not permitted if the sole reason is "needed modifications in the general education curriculum." 34 C.F.R. § 300.116(e).

The U.S. Supreme Court's *Endrew* decision further recognized that educational benefit for a child with a disability is wholly dependent on the individual child, who should be challenged by his or her educational program. *Endrew, supra*, 137 S. Ct. at 999. Also crucial to the LRE analysis is a recognition that its principles "do not contemplate an all-or-nothing educational system" of regular education versus special education. *Oberti, supra*, 995 F.2d at 1218 (quoting *Daniel R.R. v. State Board of Education*, 874 F.2d 1036, 1050 (5th Cir. 1989)). Rather, LEAs are required to have available a "continuum of alternative placements" in order to meet the educational and related service needs of IDEA-eligible children. 34 C.F.R. § 300.115(a); 22 Pa. Code § 14.145. Furthermore, the "continuum" of placements in the law enumerates settings that grow progressively more restrictive, beginning with regular education classes before moving first toward special classes and then toward special schools and beyond. 34 C.F.R. § 300.115.

General IDEA Principles: Procedural FAPE

From a procedural standpoint, the family plays "a significant role in the IEP process." Schaffer, *supra*, at 53. This critical concept extends to placement decisions. 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.116(b), 300.501(b); see also *Letter to Veazey*, 37 IDELR 10 OSEP 2001 (confirming the position of OSEP that LEAs cannot unilaterally make placement decisions about eligible children to the exclusion of their parents). Consistent with these principles, a denial of FAPE may be found to exist if there has been a significant impediment to meaningful decision-making by parents. 20 U.S.C. § 1415(f)(3)(E); 34 C.F.R. § 300.513(a)(2).

Full participation in the IEP process does not mean, however, that LEAs must defer to parents' wishes. *See, e.g., Blackmon v. Springfield R-XII School District*, 198 F.3d 648, 657-58 (8th Cir.1999)(noting that IDEA "does not require school districts simply to accede to parents' demands without considering any suitable alternatives," and that failure to agree on placement does not constitute a procedural violation of the IDEA). As has previously been explained by the U.S. Department of Education:

The IEP team should work towards a general agreement, but the public agency is ultimately responsible for ensuring the IEP includes the services that the child needs in order to receive a free appropriate public education (FAPE). If the team cannot reach an agreement, the public agency must determine the appropriate services and provide the parents with prior written notice of the agency's determinations regarding the child's educational program and of the parents' right to seek resolution of any disagreements by initiating an impartial due process hearing or filing a State complaint. *Letter to Richards*, 55 IDELR 107 (OSEP 2010); *see also* 64 Fed. Reg. 12406, 12597 (1999).

The Parent's Claims

This [redacted] school Student has an array of disabilities and, during the school day, presented with aggressive, distracting and disruptive behaviors that are challenging to manage. The central issue is whether the Student's program and placement should remain the same or change as the Charter School proposes. The Parent contends the Student should remain in the current Charter School placement and continue to receive a supplemental level of support, or options other than full-time emotional support should be offered. In the complaint, the Parent contends that the

Student has made progress since placement at a supplemental level of support and that a change to full-time emotional support contradicts the least restrictive environment standards of *Oberti*. Based on this hearing record, the Parent has failed to sustain their burden of proof concerning the claims.

As a matter involving the appropriateness of a change in this Student's placement to a more restrictive educational environment, an analysis under *Oberti v. Board of Ed. of Board of Education*, 995 F.2d 1204, 1207 (3d Cir. 1993) is needed. The *Oberti* court articulated a two-part test for assessing compliance with the least restrictive environment requirement. First, the Court must determine whether education in the regular classroom, with supplementary aids and services, can be achieved satisfactorily *Id.* at 1216. Factors the Court should consider in applying this prong are the steps the school district has taken to accommodate the child in a regular classroom; the educational benefits available to the child in a regular class, with appropriate supplementary aids and services, as compared to the benefits provided in a special class; and the effect the disabled child's presence has on the regular classroom. *See id.* At 1215-17. Under the second prong, if the Court finds that placement outside of a regular classroom is necessary for the child's educational benefit, it must evaluate whether the school has made efforts to include the child in school programs with nondisabled children whenever possible. *Id.* at 1215.

Addressing the first prong of the *Oberti* analysis, the Charter School seriously considered the full continuum of placements and supplementary aids and services and undertook significant efforts to consider measures to accommodate the Student's needs. Although the pendent IEP provided the Student with supplemental emotional support, after meeting with the Charter, the Parent declined the offered one to one aide and access to a

behavioral classroom. Eventually, the team, which included the Parent, agreed to change the Student's placement to an itinerant level. That program provided the Student with an implemented PBSP and an IEP that offered academic and behavioral goals, compatible SDI and related services, including counseling and OT. Despite the implementation of these supplementary aids and services, the Student demonstrated persistent negative and frequently aggressive behaviors that interfered with instruction and educational access. Although the Charter offered additional support, refused by the Parent, arranged for an FBA, implemented the resultant PBSP, by January, the Student continued to engage in many behavioral incidents, some resulting in suspension.

In February, the Parent, through a NOREP, rejected a change to the Student's placement to a full-time emotional support program and an interim one-to-one paraprofessional support. The next month, the Parent agreed to change placement to a supplemental level of support, a cohort change, and a one-to-one paraprofessional on school days. Despite these adjustments, and subsequent FBA resulting in an updated PBSP, the Student was involved in near-daily behavioral incidents that included insubordination, disruption and physical aggression.

Next, the court must compare and contrast the educational benefits the child can receive in regular education and the segregated setting. *Ibid.* The Parent presented no preponderant evidence in support of this consideration. However, credible testimony from the Charter School was clear that the benefits of the full-time emotional support setting at the Proposed Placement outweigh the attributes of the current placement. Although the Student can earn satisfactory grades, the frequent behavioral outbursts, disruption, and negative interactions prevent the Student from

achieving a complete educational experience. The benefit of a change in placement was unrefuted. The Proposed Placement is a therapeutic learning environment with social-emotional learning embedded into daily instruction, school counselors providing support in the classroom, and a small group learning setting.

As to the final factor under the first prong of the *Oberti* analysis, the evidence determined that maintaining the current Charter School placement would more likely than not continue to expose the Student's peers to highly disruptive behavior that would significantly diminish their opportunity to benefit from the academic experience. The hearing record is replete with examples of the Student's unpredictable, aggressive behavioral episodes. These behaviors have disrupted instruction and are undoubtedly frightening for the Student and classmates. The adverse effects on the education of other children in the Student's current classroom are likely to continue if the placement is not changed. As noted, the Charter attempted numerous interventions to enable Student to remain in the current education setting. None of these was sufficient to ameliorate the deleterious effect of Student's behavior. The first prong of the *Oberti* test is satisfied. The record is preponderant that the Charter not only considered but actively attempted to implement an array of aids and services, all of which have not led to meaningful behavioral growth.

The second prong of the *Oberti* analysis is whether the Charter made reasonable efforts to provide the Student with contact with nondisabled peers to the greatest extent appropriate. Again, the Parent presented no evidence concerning this consideration. In these circumstances, placement in the Proposed Program, a full-time emotional support special school, precludes such partial inclusion measures. Depending upon the final

selection of programming, the Student, more likely than not, would be unable, as a practical matter, to participate in any classes during the school day or in recess or lunch activities in the regular environment. The primary benefit of a full-time emotional support placement would be an integrated, school-wide and systematic approach to behavioral intervention. I conclude that any partial inclusion would disrupt the continuity of such a program and deprive the Student of the benefit of the proposed programming. Therefore, I conclude that the Parent has failed to prove that any partial inclusion would be practicable and would not deprive the Student of the primary benefit of the segregated setting. However, I also conclude that private placement must be limited to whatever reasonable period is necessary to enable the Student to benefit from it. Moreover, it is consistent with the purpose of the least restrictive environment requirement that the IEP team begin immediately to discuss the appropriateness of the Student's transition back to the regular education environment. Therefore, I will order that prospective transition planning occur after the Student spends a reasonable time in the Proposed Placement to assess progress and suitability for return.

Despite the Charter's efforts to provide specialized instruction, an array of behavioral supports and even a full-time dedicated aide, the Student, nonetheless, continued aggressive, noncompliant behaviors that put the Student and others at risk of harm. Based upon the evidence adduced, the Hearing Officer concludes that for the Student to receive a FAPE, a change to a full-time emotional support placement must occur consistent with the determination reflected in the Charter School's PWN/NOREPs issued on February 1, March 8, March 19, and April 25, 2024.

ORDER

AND NOW, this 30th day of August 2024, in accordance with the foregoing findings of fact and conclusions of law, it is hereby ORDERED as follows.

1. A full-time emotional support placement is the Student's least restrictive environment.
2. The full-time emotional support program and placement proposed by the Charter School on February 1, March 8, March 19, and April 25, 2024, was appropriate for Student.
3. Within one-hundred and twenty (120) days of the Student's transition to the recommended full-time emotional support placement, the Charter shall schedule an IEP meeting, to occur by the following thirty days, inviting a representative of the program attended.
 - a. At the IEP meeting, the team will discuss the Student's progress and the need for continued placement in a full-time emotional support setting.

It is FURTHER ORDERED that any claims not specifically addressed by this decision and order are DENIED and DISMISSED.

/s/ Joy Waters Fleming, Esquire

Joy Waters Fleming

HEARING OFFICER
ODR File No. 29666-23-24

August 30, 2024