

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

Final Decision and Order

CLOSED HEARING

ODR File Number 20703-17-18

Child's Name: J. D. **Date of Birth:** [redacted]

Parent:
[redacted]

Counsel for Parent
Frederick Stanczak, Esquire
179 North Broad Street – 2nd Floor, Doylestown, PA 18901

Charter School:
Pennsylvania Virtual Charter School
630 Park Avenue, King of Prussia, PA 19406

Counsel for the Charter School
Maria Ramola, Esquire
350 Eagleview Boulevard – Suite 100, Exton, PA 19341

Hearing Officer: Michael J. McElligott **Date of Decision:** 10/11/2018

INTRODUCTION

Student¹ is a mid-teen aged student who attends the Charter School. The parties agree that the student qualifies under the terms of the Individuals with Disabilities in Education Improvement Act of 2004 (“IDEIA”)² as a student with autism and intellectual disability. The student is also diagnosed with Tourette’s syndrome, which requires accommodation in the educational setting.

The student’s mother claims that the student was denied a free appropriate public education (“FAPE”) for summer 2018 extended school year (“ESY”) programming. The student’s mother privately funded ESY services in the summer of 2018, so she asserts a claim to be reimbursed for those services. Additionally, the student’s mother alleges that the Charter School’s proposed programming for the 2018-2019 school year is inappropriate. Analogously, she asserts these claims and request for remedy under the Rehabilitation Act of 1973, particularly Section 504 of that statute (“Section 504”).³

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

² 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 §§711.1-711.10 (“Chapter 711”).

³ 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 (“Chapter 15”). Parent also makes claims under the Americans with Disabilities Act (“ADA”, *see* 28 C.F.R. §§ 35.160-35.161). These proceedings were held pursuant to 22 PA Code §§15, 711, neither of which provide jurisdiction to hear claims, or engage in fact-finding, in Pennsylvania related to ADA claims. Accordingly, any ADA claims are denied under the terms of the order below, specifically on the basis for lack of jurisdiction.

Parent also requested, as a remedy, an independent educational evaluation. At the conclusion of the first hearing session, this hearing officer concluded that the student should undergo an independent educational evaluation and ordered that it should take place at Charter School expense.⁴ Therefore, this remedy was not considered as part of the order below.

The Charter School counters that at all times it met its obligations to the student under IDEIA and Section 504, both in terms of the summer 2018 ESY programming and in terms of the proposed programming for the 2018-2019 school year. Accordingly, the Charter School argues that the parent is not entitled to any remedy.

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

ISSUES

Should parent be reimbursed for
private expenditure for summer 2018 ESY programming?

Is the Charter School's proposed programming
for the 2018-2019 school year appropriate?

⁴ To be clear, this independent educational evaluation was ordered not through any sense or finding that that the Charter School's re-evaluation process was incomplete or inappropriate. Instead, evidence developed at the first hearing session indicated that the student last underwent comprehensive standardized testing by a local education agency—not the Charter School—in June 2011. More recent testing was completed by an outside evaluator in August 2017, but the Charter School's questions about the nature, scope, and validity of the results of that testing could not be addressed with the evaluator because the student's mother would not provide consent for the Charter School to speak with the evaluator (see *Findings of Fact* below). Therefore, this hearing officer ordered an independent educational evaluation at public expense under his authority pursuant to 34 CFR §300.502(d), as adopted at 22 PA Code Section 711.3(b)(26). (Hearing Officer Exhibit ["HO"]-6, HO-7; NT at 417-422).

FINDINGS OF FACT

1. In the spring of 2017, the student was enrolled in another Pennsylvania cyber charter school. (School Exhibit ["S"]-4).
2. While enrolled in this charter school, the student was last evaluated by the charter school in January 2016. The January 2016 re-evaluation report did not contain updated psycho-educational assessment. The most recent psycho-educational assessment was conducted in June 2011. (S-22, S-35; HO-5).
3. In March and June 2017, the student's individualized education program ("IEP") team considered proposed IEPs ("prior charter school's spring 2017 IEP"). (S-4).
4. In August 2017, a neuropsychologist issued a discharge summary/report. (S-6).
5. In October 2017, the student enrolled in the Charter School. (Parent's Exhibit ["P"]-1; S-7, S-8).
6. Upon enrollment at the Charter School and through the fall of 2017, the student's mother shared various documents with the Charter School, including the January 2016 re-evaluation report, the prior charter school's spring 2017 IEP, and the August 2017 neuropsychological discharge summary/ report. (S-4, S-6, S-22; Notes of Testimony ["NT"] at 326-330).
7. The Charter School implemented the prior charter's spring 2017 IEP, in anticipation of an IEP meeting to design its own IEP for implementation within 30 days of enrollment, including a positive behavior support plan based on the information that had been provided by parent. (S-9, S-12, S-13; NT at 329).
8. In late October 2017, the student's IEP team designed an IEP for the student. In early November 2017, the student's mother approved the Charter School's recommended program and placement. (S-15, S-21; NT at 345).
9. In late October 2017, the Charter School requested permission to re-evaluate the student, including specific questions for the neuropsychologist about the testing performed as part of the August 2017 discharge summary/report. In early November 2017, the student's mother provided consent to re-evaluate the student, along with an

addendum with additional information and clarifications provided by her, and requests for further information. (S-22; NT at 346-348).

10. In mid-November 2017, the Charter School issued a revised recommendation for re-evaluation in light of parent's addendum, providing requested information and answering questions raised by her. (S-23; NT at 348).
11. In late November 2017, the student's mother returned the Charter School's revised recommendation in which it addressed parent's concerns, largely rejecting the Charter School's request to re-evaluate the student. Still, the Charter School proceeded under the terms for which she had provided permission, arranging for an independent neuropsychological evaluation. (S-28, S-56, S-57).
12. The student's mother did not communicate/coordinate with the private neuropsychologist for the evaluation process to which she had consented. (S-56, S-57, S-58; NT at 360).
13. In late November 2017, the student's mother refused to provide consent for the Charter School to speak with the neuropsychologist who prepared the August 2017 discharge summary/report, and largely circumscribed the information that the Charter School could review as part of that process/document. The Charter School continued to have questions for the neuropsychologist about certain aspects of the discharge summary/report. (S-29; NT at 346-348, 349-350).
14. In late November 2017, the Charter School revised the student's positive behavior support plan, including input from private service providers/educators retained by the parent. (P-3; S-26; NT at 348-349).
15. In late November 2017, the Charter School requested permission to gather data on the student's skills in the activities of daily living. The parent refused to provide permission for the data-gathering. (P-36, P-37; NT at 351-352).
16. In late November 2017, service providers retained by the Charter School who were providing services in the student's home witnessed behavioral escalation which concerned them. The Charter School recommended that the student's IEP be revised to allow for strategies to be implemented for de-escalation, sensory integration, and behavioral strategies to address the behavior witnessed by the providers. (S-30, S-38; NT at 350-351).
17. A conflict emerged between the student's mother and the Charter School service providers who were providing services to the student in

the home. As of late November 2017, the service providers were no longer admitted into the student's home. (P-5, P-8; S-41, S-55; NT at 351-355).

18. In early December 2017, the student underwent a functional behavior assessment by an outside agency, as well as a physical therapy evaluation from an outside agency. (S-39, S-45).
19. In mid-December 2017, the student's IEP team met to discuss the student's IEP, and the Charter School issued a notice of recommended educational placement ("NOREP") based on the revisions discussed at that meeting. The IEP team awaited further goal information from a private educator providing support to the student. (S-44, S-46, S-47, S-49).
20. In early January 2018, after the private educator communicated goal information to the Charter School, the IEP was revised and re-issued, along with a new NOREP. (S-52, S-53, S-54).
21. In mid-January 2018, the Charter School made arrangements to share the physical therapy evaluation with the student's mother. (S-45, S-55).
22. In mid-January 2018, the Charter School informed the student's mother that the student's in-home services, which had not been delivered since November 2017 with the providers not being welcomed into the home, would be discontinued if the parent continued to bar the providers from the home. (S-55; NT at 351-355).
23. In mid-January 2018, the student's mother requested an independent educational evaluation at public expense. The Charter School responded that such a request was premature since it had not yet issued its re-evaluation report (based on the November 2017 permission from parent) because she had not communicated/coordinated with the private neuropsychologist retained to conduct the re-evaluation. (S-56, S-57, S-58; NT at 360, 363).
24. In late January 2018, the Charter School issued a NOREP indicating that it was discontinuing the in-home services, to be reinstated at the request of the parent when those providers would be admitted to the home. (S-60; NT at 360-361).
25. In early February 2018, the physical therapist who issued the December 2017 report provided an updated report. (S-62; NT at 360-362).

26. In early February 2018, the Charter School issued a NOREP rejecting as moot the parent's request for an independent evaluation, pending the parent allowing the private neuropsychologist to engage in the re-evaluation process for which parent had provided permission in November 2017. (S-63; NT at 363).
27. In late February 2018, the Charter School issued a re-evaluation report based on the data and input it had, but it could not include updated psycho-educational testing due to the student's mother's lack of communication/coordination with the private neuropsychologist. (S-65).
28. On the same date that the Charter School issued the re-evaluation report, the Charter School again requested updated permission to evaluate the student with a variety of assessments. The student's mother did not return the permission. (S-66).
29. In late February 2018, the Charter School clarified the custody arrangement between the student's mother and father. The student's mother has physical custody of the student but parents share joint legal custody (including educational decision-making). (S-69).
30. In March and April 2018, the student's IEP team met to revise the student's IEP, the IEP which is the basis of the programming issues considered in these proceedings. (S-76; NT at 378-379).
31. The March/April 2018 IEP provided the student's present levels of functioning. The IEP noted the questions/concerns the Charter School had with the data from the August 2017 neuropsychological discharge summary/report and lack of updated assessment. (S-76 at pages 7-9).
32. The March/April 2018 IEP provided present levels of academic achievement and behavioral input from the November 2017 functional behavior assessment. (S-76 at pages 9-10).
33. The March/April 2018 IEP provided present levels of functional performance from the private educator who focuses on appropriate interaction/sexuality education. (S-76 at pages 10-15).
34. The March/April 2018 IEP contained present levels of occupational therapy functioning. (S-76 at pages 15-23, 36-48).
35. The March/April 2018 IEP contained present levels of behavior functioning. (S-76 at pages 23-30).
36. The March/April 2018 IEP contained present levels of speech and language functioning. (S-76 at pages 23, 30-35).

37. The March/April 2018 IEP contained present levels of physical therapy functioning. (S-76 at pages 48-51).
38. The March/April 2018 IEP contained present levels of performance for transition planning in education, employment, and independent living. (S-76 at pages 51-54).
39. The March/April 2018 IEP contained parental input from both the student's mother and father. (S-76 at pages 54-56).
40. The March/April 2018 IEP contained the student's strengths and needs. (S-76 at pages 56-57).
41. The March/April 2018 IEP contained transition goals and programming in the areas of education, employment, and independent living. (S-76 at pages 56-59).
42. The March/April 2018 IEP contained sixteen goals: six in speech/language, three in occupational therapy, two in physical therapy, two in behavior, one in reading, one in mathematics, and one in activities of daily living. (S-76 at pages 63 -78).
43. The March/April 2018 IEP contained specially designed instruction and related services, including weekly physical therapy, occupational therapy, and speech/language therapy. The IEP also incorporated sexuality education programming, which the student had been receiving privately to address issues of appropriate interaction with members of the opposite gender. (S-76 at pages 80-81).
44. The March/April 2018 IEP recognized the student's need for ESY programming, programming that would include instruction and related services in physical therapy, occupational therapy, speech/language therapy and sexuality education. (S-76 at page 82).
45. In early May 2018, the student's positive behavior support plan was updated. (S-73).
46. In early May 2018, the Charter School issued a NOREP to each parent regarding its recommendations for provision of summer 2018 ESY programming, as well as programming/placement for the 2018-2019 school year, in a specialized school-based setting. The student's father returned the NOREP, approving the recommendation to a specialized school-based setting. The student's mother disapproved the NOREP and requested the special education due process proceedings which resulted in this decision. (S-78, S-79; HO-1).

47. In mid-May 2018, the student's father provided consent for the Charter School to share information with specialized schools for potential placement in the summer of 2018 and/or the 2018-2019 school year. (S-80, S-81, S-83; NT at 364-365).
48. The student's father has concerns that the student needs to gain skills which are not being developed adequately in the home-based program and wishes to see the student educated with peers in a more structured setting. (NT at 216-248).
49. The Charter School identified a specialized school which was willing to accept the student and provide services according to the student's IEP. (P-23; S-83, S-84, S-85; NT at 433-497).
50. The summer 2018 ESY program at the specialized school where the Charter School sought to enroll the student was a 4-week program meeting every day for six hours, including implementation of the student's IEP, along with vocational exploration and community-based experiences. (NT at 364-379).
51. The specialized school where the Charter School would seek to place the student for the 2018-2019 school year is the same school where the Charter School sought to enroll the student for the summer 2018 ESY programming. The school serves students, ages 3-21, with autism and/or intellectual disability, as well as a host of other disability profiles. The specialized school was able to implement the student's IEP for summer 2018 ESY programming and is able to implement the student's IEP for the 2018-2019 school year. (NT at 338-340, 433-497).
52. There was a misunderstanding and mis-communication regarding the provision of services under the student's IEP at the specialized school. School administrators clarified the issue at the hearing, but the student's mother had not communicated with the school, or visited the specialized school, or made any arrangements to have the student visit the specialized school, either for the summer of 2018 or for the 2018-2019 school year. (P-23; NT at 433-497).
53. In the summer of 2018, the student received private educational services funded by the student's mother through a trust established as the result of a prior round of special education due process. (P-24, P-27, P-28, P-29; NT at 56-215, 687-829).
54. In the home-based programming, the student spends the entire day with adults and receives no instruction, and indeed has limited/no

interaction, with same-age peers. (S-47; NT at 277, 301-302, 306-309, 313-314, 340-341, 356-357, 763-765, 774, 827).

WEIGHING OF TESTIMONY

Between the two witnesses, and especially where the testimony of the witnesses materially differed, the testimony of the Charter School's assistant director of special education was credited and accorded heavier weight than the testimony of the student's mother.

A medium degree of weight was accorded to the testimony of all other witnesses.

The student's father did not testify as a fact-witness, nor was he a party to the complaint. As a parent under the terms of the IDEIA, he was invited to participate in the hearing, and to testify to the extent he wished to. He indicated that he wished to testify, and he did so. The student's father exhibited authentic concern for the student's well-being and the student's education. It is the considered view of this hearing officer that his testimony was heartfelt and offered in good faith. (NT at 216-248).

DISCUSSION AND CONCLUSIONS OF LAW

FAPE

The provision of special education to students with disabilities is governed by federal and Pennsylvania law. (34 C.F.R. §§300.1-300.818; 22 PA Code §§711.1-711.10). 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 student. (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 in light of his or her individual needs, not simply *de minimis* or minimal education progress. (Andrew F. ex rel. Joseph F. v. Douglas County School District, 580 U.S. , 137

S. Ct. 988, 197 L. Ed. 2d 335, (2017); K.D. v. Downingtown Area School District, F.3d (3d Cir. at No. 17-3605, September 18, 2018)).

Pertinent to the considerations in this matter, the provision of FAPE also requires that the placement of a student with a disability be in the least restrictive environment (“LRE”). Educating a student in the LRE requires that placement of a student with disabilities be supported, to the maximum extent appropriate, in an educational setting which affords exposure to non-disabled peers. (34 C.F.R. §300.114(a)(2); 22 PA Code §711(b)(11); Oberti v. Board of Education, 995 F.2d 1204 (3d Cir. 1993)).

Finally, understanding a student’s needs and strengths through an evaluation process, and the design of an IEP and educational placement, require parental participation. (34 C.F.R. §§300.501, 300.322; 22 PA Code §711(b)(24), (26)). At the same time, as collaborative processes, parents must substantively engage in those processes as well. Where a parent chooses not to engage substantively in evaluation and/or IEP and placement processes, it may impact on whether and how a local education agency can provide FAPE.

Summer 2018 ESY. Long-standing case law and the IDEIA provide for the potential for reimbursement to parents if a local educational agency, such as a charter school, has failed in its obligation to provide FAPE to a child with a disability, and parents undertake private expenditure in providing educational services to the child. (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 §711.3(b)(14)). A substantive examination of the parents' claim for reimbursement proceeds under the three-step Burlington-Carter analysis, which has been incorporated into IDEIA. (34 C.F.R. §§300.148(a),(c),(d)(3); 22 PA Code §711.3(b)(14)).

In the three-step Burlington-Carter analysis, the first step is an examination of the charter school's proposed program and whether it was reasonably calculated to yield meaningful education benefit (34 C.F.R. §300.17; *see above* Andrew F.; Rowley; K.D.). Here, the March/April 2018 IEP calls for ESY programming, including direct instruction and related services. More importantly, the ESY programming proposed by the Charter School for the summer of 2018 in the specialized school placement includes the critical transition, vocational, and peer-interaction instruction that the student requires. The record is overwhelmingly preponderant that as the student moves into early adulthood, these issues (with their attendant needs in terms of communication and behavior) are becoming of paramount importance. The ESY programming/placement at the specialized school proposed by the Charter School is highly appropriate, in general and especially in light of how it would have addressed those needs.

The peer-access and peer-interaction available at the specialized school are also factors in rendering that placement the LRE. While in many (or even most) cases, placement in a specialized school centered on special education services for students with complex disability profiles would normally be considered a more restrictive placement on the continuum of educational

placements, the specialized school placement offered by the Charter School represents a less restrictive when compared to exclusively home-based programming with no peer interaction at all, let alone in a structured way. Indeed, placement comparisons aside, based on the student's needs, the specialized school is both wholly appropriate, and the LRE, on its merits.

Having found that the Charter School proposed an IEP and placement that provided FAPE to the student for the proposed summer 2018 ESY programming, the Burlington-Carter analysis ends at this point, and there is no need to proceed to the second step of the analysis (the appropriateness/inappropriateness of the private services).

Additionally, the student's mother—the parent with full physical custody— did not substantively participate in the re-evaluation process, which factors into weighing any argument that the Charter School's program was inappropriate. First, the student's mother did not allow the Charter School to speak with the neuropsychologist who performed the August 2017 discharge summary/report (to answer the Charter School's significant questions about that report). Second, she did not communicate or coordinate, over a series of months, with the outside neuropsychologist in the re-evaluation process which she had consented to, and did not make the student available for that re-evaluation.

These actions placed a prejudicial limit on Charter School's ability to understand fully the student's needs in the run-up to the offer of summer 2018 ESY programming. The Charter School's re-evaluation report (and follow-on

IEP of March/April 2018) was comprehensive in light of what information the Charter School was permitted to develop. But the re-evaluation process was clearly hamstrung by the refusal of the student's mother to allow for the reasonable and necessary communications/testing that it was seeking.

Proceeding in this way is certainly the parent's prerogative, but it undermines a claim that the Charter School's proposed programming and placement, which must necessarily be based on its understanding of the student through a comprehensive re-evaluation process, is inappropriate.

In sum, the Charter School proposed an IEP and placement that was reasonably calculated to provide FAPE in the LRE for the student's summer 2018 ESY programming. The March/April 2018 IEP and proposed specialized school placement were reasonably calculated, in light of the student's unique needs, to result in significant learning in the summer of 2018. Parent's claim for reimbursement for privately-funded summer 2018 ESY programming is denied because, at the first step of the Burlington-Carter analysis, the Charter School's program was reasonably calculated to yield meaningful education benefit in the LRE. Additionally, the parent did not substantively engage in the re-evaluation process and prejudicially limited the Charter School's ability to re-evaluate the student.

Accordingly, the parent is not entitled to reimbursement for the summer 2018 ESY programming.

2018-2019 Proposed Programming. In a similar way, the Charter School's proposed March/April 2018 IEP and placement at the specialized school are reasonably calculated to yield meaningful benefit to the student in the 2018-2019 school year. This IEP and placement are crafted to allow the student to engage in significant learning given the student's unique needs.

This legal conclusion is based on the same considerations that underpin the conclusion above regarding the proposed IEP/placement for the summer 2018 ESY program. Obviously, though, the March/April 2018 IEP—86 pages long—contains information that will emerge in the student's school-year programming in ways that it may not in summer programming. In this regard particularly, the present levels of performance—to the extent the Charter School was allowed to develop it—is comprehensive and provides a foundation for the IEP goals. Those goals are numerous and appropriate, each providing clear and measurable guidance/structure for the student's progress, and each supported by appropriate instruction and modifications. Additionally, the March/April 2018 IEP contains comprehensive and appropriate transition goals and instruction, again bolstered by the vocational and community-based experiences available through the specialized school.

The above reasoning and conclusions regarding the student's ability to peer-access/peer-interaction, and instruction embedded in and driven by that access and those interactions, apply here. That reasoning and those conclusions also factor into an identical conclusion that the specialized school placement is the LRE for this student.

The above reasoning and conclusions regarding the lack of parental participation in the re-evaluation process also apply here. An additional facet to that lack of parental participation, however, is the parent not visiting the school and/or not making the student available for such a visit. Again, this too is the parent's prerogative. But it undercuts the parent's argument that the placement is inappropriate or that the placement was comprehensively considered by the parent, and by extension the IEP team. There is a slight argument that the initial mis-communication about the services the student might receive at the specialized school led her to believe it is an inappropriate placement. But this argument is overwhelmed by the clear weight of the record that the student's mother was simply not interested in the placement and did not give it any good-faith consideration.

In sum, the Charter School proposed an IEP and placement that was reasonably calculated to provide FAPE in the LRE for the 2018-2019 school year. The March/April 2018 IEP and proposed specialized school placement are reasonably calculated, in light of the student's unique needs, to result in significant learning in the 2018-2019 school year.

Accordingly, the Charter School has met its obligations to the student under IDEIA in its proposal for the 2018-2019 school year as represented in the March/April 2018 IEP.

Section 504/Chapter 15

Section 504 and Chapter 15 also require that children with disabilities in Pennsylvania schools be provided with FAPE. (34 C.F.R. §104.33; 22 PA Code §§15.1-15.8, 711.3(c)).⁵ The provisions of IDEIA/Chapter 711 and related case law, in regards 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)). Therefore, the foregoing analysis is adopted here—the Charter School proposed programming reasonably calculated to yield meaningful education benefit, in the LRE, to the student under the obligations of Section 504/Chapter 15 in an analogous way.

Additionally, the provisions of Section 504 bar a charter school from discriminating against a student on the basis of disability. (34 C.F.R. §104.4). A student with a disability who is otherwise qualified to participate in a school program, and was denied the benefits of the program or otherwise discriminated against, has been discriminated against in violation of Section 504 protections. (34 C.F.R. §104.4; *S.H. v. Lower Merion School District*, 729 F.3d 248 (3d Cir. 2013)). A student who claims discrimination in violation of the obligations of Section 504 must show deliberate indifference on the part of the

⁵ Pennsylvania’s Chapter 711, at 22 PA Code §711.3(b)(1), utilizes the term “child with a disability” for a student who qualifies under IDEIA/Chapter 711. 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.

school district. (S.H., *infra*). Here, the Charter School has not in any way discriminated against the student, or taken actions against the student with deliberate indifference in light of the student's disabilities.

Accordingly, the Charter School met its FAPE obligations to the student and did not discriminate against the student under the anti-discrimination provisions of the same statutory/regulatory frameworks.

•

ORDER

In accord with the findings of fact and conclusions of law as set forth above, the Charter School met its obligations to the student under the terms of the IDEIA in its last-proposed March/April 2018 IEP and placement at a specialized school for summer 2018 extended school year programming and for 2018-2019 programming.

Within ten calendar days of the date of this order, the student's IEP team shall meet to design a transition plan for the student's enrollment and attendance at the specialized school, with a view to having the student begin attending the specialized school full-time within 30 days of the date of this order.

Parent's claim in the complaint for remedy under the Americans with Disabilities Act is denied for lack of jurisdiction of these proceedings to adjudicate such claims.

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

With the issuance of this final decision and order, the undersigned hearing officer releases jurisdiction.

Michael J. McElligott, Esquire

Michael J. McElligott, Esquire
Special Education Hearing Officer

October 11, 2018