

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: 22028-18-19

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

Parent:
[redacted]

Counsel for Parent
Tanya Alvarado, Esq.
Two Bala Plaza, Suite 300
Bala Cynwyd, PA 19044
tanya@talvaradolaw.com

Local Education Agency:
Chester-Upland School District
232 W. 9th Street
Chester, PA 19013

Counsel for the LEA
Scott Gottel, Esq.
Holsten & Associates
1 Olive Street
Media, PA 19063
sgottel@holstenassoc.com

Hearing Officer: James Gerl, CHO **Date of Decision:** August 26, 2019

DECISION

DUE PROCESS HEARING

22028/18-19AS

BACKGROUND

The school district filed a due process complaint challenging the parent's right to independent educational evaluations at public expense and contesting the continued residential placement for the student. In this case, I find that the district has not demonstrated that the parent's request for independent educational evaluations at public expense should be denied. I find further that the district has proven that the student does not need a residential placement in order to meet the student's educational needs.

PROCEDURAL HISTORY

The due process hearing was conducted over one session with three witnesses testifying. Parent's Exhibits 1 through 14 were admitted into evidence. The school district's Exhibits 1 through 22 were admitted into evidence.

After the hearing, counsel for each party presented written closing arguments/post-hearing briefs and proposed findings of fact. All arguments submitted by the parties have been considered. To the extent that arguments advanced by the parties are in accordance with the findings, conclusions, and views stated below, they have been accepted, and to the extent that they are inconsistent therewith, they have been rejected. Certain arguments have been omitted as not relevant or not necessary to a proper determination of the material issues as presented herein. To the extent that the testimony of various witnesses is not in accordance with the findings as stated below, it is not credited.

Personally identifiable information, including the names of the parties and similar information, has been omitted from the text of the decision that follows. FERPA 20 U.S.C. § 1232(g); and IDEA § 617(c).

ISSUES PRESENTED

Counsel were asked to provide a bulleted list of issues before the hearing. Counsel for the district complied, but counsel for the parent did not do so. At the hearing counsel for the parent agreed with the district's list of issues. Thus, by agreement of the parties, the following two issues were presented in this case:

1. Has the school district proven that the parent is not entitled to independent educational evaluations at public expense? and

2. Has the school district proven that it is not required to continue a residential program for the student?

FINDINGS OF FACT

Based upon the evidence in the record compiled at the due process hearing, the hearing officer makes the following findings of fact:¹

1. The student is a friendly person who loves music and church. (NT 378-379)

¹ (Exhibits shall hereafter be referred to as “P-1,” etc. for the parent’s exhibits; “S-1,” etc. for the school district’s exhibits; references to page numbers of the transcript of testimony taken at the hearing is the hereafter designated as “NT___”).

2. The student was born on [redacted]. The student has been diagnosed with Prader Willi syndrome and receives special education under the eligibility categories of Intellectual Disability and Other Health Impairment. (S-13; S-4; NT 39-40)

3. Prader Willi syndrome is characterized by a preoccupation with food and obesity. It limits growth and muscle development. It has been associated with delays in adaptive behavior, limited speech and perseverative behaviors. (P-1; NT 40, 203-204)

4. The student was placed by the district in a day program and a residential program on September 17, 2014. The day program and the residential program are separate programs located at the same facility. (S-3; S-8; NT 173-174)

5. Together, the day education program and the residential program at the private facility for the student costs approximately Two Hundred Seventy-six Thousand (\$276,000.00) per year. Of that amount, the school district pays approximately Ninety-nine Thousand (\$99,000.00) per year. (NT 174)

6. On June 29, 2016, the program administrator at the day school and residential placement wrote to a school district representative requesting that the student be discharged from the program. The administrator complained that the student's mother and stepfather made continual complaints of dissatisfaction and threats to the personnel of the facility. No change in the student's placement was made as a result of the correspondence. (S-6; S-14 at page 1)

7. The student's mother brings the student home from the residential placement approximately two weekends per month and on holidays. (NT 366, 379 – 380, 299)

8. The student has had a number of behavioral incidents in the residential setting in the residential placement. These incidents do not impact the student's ability to access the student's education. (NT 207 – 212; P-1)

9. The student has also engaged in problematic behaviors when visiting home, including screaming, physical aggression, using expletives, and flapping on the ground. During Christmas 2017, the student destroyed the family Christmas tree. (NT 306 – 311)

10. When the student visits home, the student is not accompanied by a one on one aide or other staff from the residential facility. (NT 59)

11. The district experienced a turnover of special education administrators in 2018, and the school district discovered that it was paying for the student's residential placement. At that time, the school district had no records concerning the student. (NT 171 – 176, 180, 288 – 291)

12. The parent signed a prior written notice and consent form for a reevaluation, including behavioral assessments and cognitive assessments. The consent form was signed on July 17, 2018 by the student's mother. (S-9; NT 43)

13. A school psychologist for the school district conducted a reevaluation of the student in October 2018. The school psychologist administered the Wechsler Individual Achievement Test - Third Edition to the student and the student's scores were generally in the below average to very low range. The evaluator administered the Wechsler Adult Intelligence Scale – Fourth Edition to the student and the student received a full-scale IQ score of 53 which places the student in the extremely low range. The district's school psychologist also administered the Behavior Assessment System for Children – Third Edition and the Adaptive Behavior Assessment System – Third Edition to the student. The evaluator noted that the scores were consistent with the student's behavioral issues. The school psychologist also administered the Conners – Third Edition assessment to the student. (SD-11; NT 39-41)

14. During the school psychologist's visit to the student at the residential placement to conduct the reevaluation of the student, the school psychologist interviewed the student. The student told the school psychologist that the student feels that [the student] does not need such intense supervision, and that the student wants more freedom and independence than the student gets at the residential facility. The student indicated frustration concerning lack of freedom and independence. (NT 48 – 49; S-13 at page 6)

15. A meeting was held on November 8, 2018 with the school psychologist and other school officials and the parent concerning the reevaluation report. At the

meeting, the student's mother requested that information pertaining to the student's residential placement be included in the reevaluation report. (S-9; S-12; S-13; NT 42 – 45)

16. The staff at the day placement and residential facility issued a residential evaluation report concerning the student on November 10, 2018. The report shows that the student is independent when it comes to bathing; requires no staff assistance in brushing teeth; that the student is able to indicate a need to use the toilet and uses it when necessary, although staff remains in visual range; that the student is able to feed self using appropriate utensils, although staff remains in visual range during meals because of the student's medical conditions; the student is independent with regard to getting dressed; that the student is independent with regard to grooming; that the student often sleeps through the night, although the student occasionally wakes up to use the bathroom; and that the student is capable of completing the student's laundry with minimal assistance. The report notes that the student's expressive and receptive language skills have remained stable. The report states that although the student's gross motor skills have decreased during the past year, the student's fine motor skills have remained stable over that period of time. The report states that the student's maladaptive behaviors have remained consistent during the past year. The report states that the student has made progress on each of the seven annual academic goals at the day school educational component of the placement. The report does not state that

the student needs a residential placement in order to make progress on the student's educational goals, but the report does recommend a continued residential placement and a continuation of the current educational placement. (S-14)

17. The school district's school psychologist added the information concerning the student's residential placement and reissued the reevaluation report on December 7, 2018. (S-13; NT 42)

18. For the period from August 1, 2018 to October 31, 2018, the student had only one residential goal, which involved sorting and folding dirty bedding for the laundry process. During that period, the student had seven academic goals that the student worked on during the day program. (S-16; NT 204 – 205)

19. The individual service plan three-month review by the student's day program and residential program for the period from November 1, 2018 to January 31, 2019 included only two residential goals, both of which involved the student doing laundry. During the same period, the student had seven annual academic goals. (S-19; NT 52, 157, 205)

20. On January 3, 2019, the student's mother e-mailed the school district's special education supervisor at the school district, with a copy of the email addressed to another special education official of the school district. The e-mail notes the parent's dissatisfaction with the reevaluation report dated December 6, 2018. In addition, in the e-mail, the parent requests the following independent educational evaluations for the

student: neuropsychological, speech and language (pragmatic language and communication), occupational therapy, transition, visual processing and a functional behavioral analysis. (P-5; NT 271-272, 293-294)

21. The school district's school psychologist made a number of attempts to schedule a meeting to review the revised reevaluation report with the parent and the team, but the parent was unavailable until March 22, 2019. (NT 190)

22. The team met on March 22, 2019 to discuss the reevaluation report. At the meeting, the student's mother brought up the request that the mother had made for independent educational evaluations. The school district's special education supervisor said that the supervisor was not aware of the request for independent evaluations. When the parent and her advocate raised the question of independent evaluations and objected to the school district's school psychologist reading aloud from the report, the special education supervisor abruptly terminated the meeting. At the end of the meeting, the school district's special education supervisor stated that the supervisor would be requesting a due process hearing. (NT 344 – 346, 381 – 384)

23. On March 22, 2019, the district special education supervisor sent an e-mail to the student's mother recounting previous meetings and stating that a meeting had occurred earlier that day. The e-mail mentions the parent's request for independent educational evaluations and states that the supervisor was not aware of the request. The e-mail states that because the evaluations requested by the parent were not performed

by the district first, the district would not agree with the parent's request. The e-mail states that the team was unable to review the reevaluation report or to discuss the student's needs at the meeting on March 22, 2019 "due to the demand of an IEE." The supervisor states in the email that the school district's lawyer will forward the due process complaint to the parent. (P-5)

24. On April 5, 2019 the school district filed a due process complaint. (P-6)

25. The residential facility where the student is currently placed conducted a speech language evaluation of the student on April 22, 2019. The report recommends that the student receive 1,300 minutes of direct conservative speech language services during the course of an IEP year. (S-20)

26. The residential facility at which the student is currently placed conducted an occupational therapy evaluation of the student in March of 2019. The report recommended that the student continue to receive occupational therapy services once a week for 30-minute individual sessions. (S-21)

27. The residential facility where the student is currently placed conducted a physical therapy evaluation of the student in March 2019. The report recommends that the student continue to receive physical therapy for 30 minutes twice per week. (S-22)

28. The student does not need a residential placement for educational purposes. (record as a whole; NT 61 – 63; 207 – 211)

CONCLUSIONS OF LAW

Based upon the arguments of counsel, all of the evidence in the record, as well as independent legal research by the hearing officer, the hearing officer makes the following conclusions of law:

1. A parent has a right to an independent educational evaluation if the parent disagrees with an evaluation obtained by the public agency. If the parent requests an independent educational evaluation at public expense, the public agency must without unnecessary delay either (i) file a due process complaint to request a hearing without unnecessary delay to show that its evaluation is appropriate; or (ii) ensure that an independent educational evaluation is provided at public expense. 34 C.F.R. § 300.502(b)(1) and (2). If a parent obtains an independent educational evaluation at public expense or shares with a public agency an evaluation obtained at private expense, the results of the evaluation must be considered by the public agency if it meets agency criteria in any decision made with respect to the provision of FAPE to the child. 34 C.F.R. § 300.502(c).

2. The Third Circuit has adopted a two-part test for determining whether a school district is compliant with the least restrictive environment provision of IDEA. First, the court must determine whether education in the regular classroom with the use of supplemental aids and services can be achieved satisfactorily. Second, if the court

finds that placement outside a regular classroom is necessary, it must decide whether the school has mainstreamed the child to the maximum extent appropriate, i.e., whether the school has made efforts to include the child in programs with nondisabled children whenever possible. Oberti v. Board of Educ, 995 F.2d 1204, 19 IDELR 908 (3d Cir. 1993). The least restrictive environment requirement of IDEA is a substantive requirement of IDEA. Oberti, supra at n.18; see, TM by AM and RM v. Cornwall Central School District, 752 F.3d 145, 63 IDELR 31 (2d Cir. 2014).

3. If placement in a residential program is necessary to provide special education to a child with a disability, the program must be provided at no cost to the parents by the school district. 34 C.F.R. § 300.104. A school district is only required to fund a residential placement for a student with a disability when a residential placement is necessary for educational purposes. Munir ex rel. OM v. Pottsville Area School District, 723 F.3d 423, 61 IDELR 152 (3d Cir. 2013). See also, Kruelle v. New Castle County School District, 642 F.2d 687, 552 IDELR 350 (3d Cir. 1981).

4. Under IDEA, a procedural violation is actionable only if it results in the loss of educational opportunity for the student or seriously deprives the parents of their participation rights or causes a deprivation of educational benefit. IDEA § 615(f)(3)(E)(ii), Ridley School District v. MR and JR ex rel. ER, 680 F.3d 260, 58 IDELR 271 (3d Cir. 2012)

5. An IDEA hearing officer has broad equitable powers to remedy a violation of the Act. Forest Grove School District v. TA, 557 U.S. 230, 52 IDELR 151 (U.S. 2009); Stapleton v. Penns Valley Area SD, 71 IDELR 87 (M.D. Penna 2017); In re Student With A Disability, 52 IDELR 239 (SEA W.V. 2009)

6. The school district has not proven that the parent is not entitled to independent educational evaluations at public expense. The school district unreasonably delayed its filing of a due process complaint after the parent notified the district that the parent desired the requested independent educational evaluations at public expense. The school district's procedural violation in abruptly terminating the meeting to discuss the reevaluation report in retaliation for the parent requesting independent educational evaluations is actionable because it seriously impaired the parent's participation rights.

7. The school district has demonstrated that a residential placement is not necessary for this student for educational purposes.

8. The procedural violation by the school district in not convening an IEP team meeting to terminate the student's residential placement is harmless because the restrictive residential placement is not required for this student.

DISCUSSION

1. Has the school district proven that the parent is not entitled to independent educational evaluations at public expense?

In the instant case the parent requested independent educational evaluations from the district's special education supervisor, with a copy to a second special education official, by e-mail dated January 3, 2019. In the e-mail, the parent requests the following independent educational evaluations: neuropsychological, speech and language, occupational therapy, transition, visual processing and a functional behavioral analysis.

The school district did not respond to the parent's e-mail. At a meeting to discuss a reevaluation report concerning the student on approximately March 22, 2019, the parent brought up the independent educational evaluation requests. Soon after the parent and her advocate brought up the independent educational evaluation requests at the March 2019 meeting, the school district special education supervisor abruptly ended the meeting.

The school district's special education supervisor sent the student's parent an e-mail on March 22, 2019 stating that the request for independent educational evaluations had been denied. On April 5, 2019, the school district filed a due process complaint

seeking an order denying the parent's request for independent educational evaluations, among other things.

The school district did not file its due process complaint within a reasonable period of time. Under the facts and circumstances of this case, a due process complaint filed more than three months after the parent's request is an unreasonable delay. In particular, the fact that the student was then [late teen-age] and was eligible for transition services makes the three-month delay intolerable.

The school district's special education supervisor claims that the school district did not receive the parent's January 3, 2019 e-mail. The testimony of the special education supervisor in this regard is less credible and persuasive than the testimony of the parent because of the demeanor of the witnesses as well as the fact that the email was sent to two different special education administrators. The parent's email was copied to a second special education official as well as the special education supervisor. The conclusion that the district ignored the request is buttressed by the fact that the special education supervisor reacted angrily in abruptly terminating the meeting when the parent repeated the request for the IEEs. Clearly the district received the parent's request. It is concluded that the school district's filing of the due process complaint was characterized by an unreasonable delay. Accordingly, the school district will be ordered to pay for the independent educational evaluations requested by the parent.

It is significant that the school district abruptly terminated the March 2019 meeting. The special education supervisor testified that the parent and her advocate were disruptive at this meeting. This testimony is not credible or persuasive. The student's mother testified that because she and the advocate asked not to have the school psychologist read his report word for word and because they brought up the independent educational evaluations, the special education supervisor retaliated by terminating the meeting. The testimony of the parent is more credible and persuasive than the testimony of the special education supervisor in this regard. It is significant that the special education supervisor mentioned that the district would be filing a due process complaint as the supervisor was abruptly terminating the meeting. The filing of the due process complaint relates directly to the parent's request for independent educational evaluations, and it is apparent that the request for independent educational evaluations caused the special education supervisor to terminate the meeting. Moreover, the documentary evidence also supports the testimony of the parent; the email to the parent from the district's special education supervisor states that the team was unable to review the reevaluation report and the student's progress "...due to the demand of an IEE." The supervisor's email concerning the meeting does not mention any disruptive behavior. It is clear from the record evidence that the meeting was abruptly ended because of the parent's request for an IEE and not because of disruptive behavior by the parent or the advocate.

Moreover, it is significant that the school district did not submit any documents to support the special education supervisor's testimony. The district has produced no documents pertaining to the March 2019 meeting that the special education supervisor abruptly terminated. The parent has produced an e-mail from the special education supervisor mentioning the meeting and stating that the request for independent educational evaluations had been denied. Significantly, the email states that the team was not able to discuss the reevaluation report or the student's needs because of the IEE demand. The school district, on the other hand, has produced no notices of this meeting or any notes or official records documenting that the meeting took place.

The parent's right to meaningful participation in the process was impaired by the school district's abrupt shutting down of the March 2019 meeting and the school district has offered no good justification for so seriously impairing the parent's participation rights in this manner. It should be noted that even assuming arguendo that the parent and/or the advocate had become somewhat difficult at the meeting, that would not be sufficient basis for abruptly terminating the meeting and the parent's participation rights.

It is true, as the school district points out, that a school district generally is entitled to the first crack at an evaluation, and a parent is only entitled to an independent educational evaluation after the school district has attempted the evaluation. The parent

was not, however, afforded the opportunity to voice her opinion that the evaluations were necessary in any meaningful fashion. Given the parent's lack of opportunity for input in this regard, the school district has forfeited its right to have the first crack at the evaluations.

In addition to the provision in the federal regulations providing for an independent educational evaluation at public expense, such evaluations may also be an appropriate equitable remedy for conduct such as the conduct by the district in this case in impairing the parent's meaningful participation rights by abruptly terminating the team meeting because the parent exercised a procedural safeguard by requesting an independent educational evaluation.

It is concluded that the school district has not proven that the parent is not entitled to the requested independent educational evaluations at public expense.

The school district argues in its post-hearing brief that the parent failed to sign a permission to evaluate form concerning a number of the requested evaluations. The district claims that the parent never requested these evaluations in the first place. This argument must be rejected. As has been noted, the parent notified the school district on January 3, 2019 that the parent sought independent educational evaluations in a number of areas. The school district never responded to this request until the parent brought it up again at the March 2019 meeting. The district could have pointed out

that it wanted to do evaluations in these additional areas if it had a desire to do so. Instead, the district remained silent until the March 22, 2019 meeting and then the April 5, 2019 due process complaint. The district cannot rely on the lack of a permission to evaluate form for the particular evaluations requested when the district never offered to perform the evaluations in response to the parent's request. That said, the parent will need to sign all appropriate consent documents before any evaluations at public expense occur.

The school district has not demonstrated that the parent's request for independent educational evaluations at public expense should be denied.

2. Has the school district proven that it is not required to continue a residential program for the student?

The second issue raised by the school district's complaint in this matter involves whether the district should be required to continue providing a residential placement for the student. The school district has demonstrated that it should not be required to keep the student in a residential placement.

The least restrictive environment provision of IDEA, that the student must be placed in the least restrictive placement that is appropriate for the student, is a

substantive requirement of the Act. A residential placement is among the most restrictive placements for a special education student.

The school district has proven that the student did not need the restrictive residential placement for educational reasons. The district's school psychologist and special education supervisor testified that the student did not need a residential placement to meet the student's educational needs and that that residential placement was not necessary for educational purposes. The student's mother testified that the student's educational and residential needs were not segregable, but the student's mother gave no justification or explanation for that position. The testimony of the school district witnesses is more credible and persuasive than the testimony of the student's mother in this regard because of their demeanor and because of the following factors: the student's mother contradicted herself in her testimony concerning whether the student ever said that the student wanted to not come home for a weekend visit. Moreover, the report of a residential evaluation by the residential facility that the student is attending contradicts the testimony of the student's mother with regard to whether the student can conduct numerous skills (such as toothbrushing, showering, toileting and grooming) with little or no supervision. Indeed, the report of the residential evaluation by the residential facility demonstrates that the student does not need a residential placement in order to meet the student's educational needs. The three-month reviews of the individual service plan for the student by the residential facility

also reveal that as of December 6, 2018 and March 5, 2019, the student's only residential goals involve laundry. Thus, the student's residential goals are not related to the student's educational needs.

It is also significant that the student is able to come home approximately two weekends per month and for holidays. While the student is home, the student functions well with the exception of a few behavioral incidents. It should be noted that the student also has behavioral incidents while at the residential facility.

Importantly, the student told the school district's school psychologist when the student was interviewed for the reevaluation that the student feels that [the student] does not need such intense supervision and that the student wants more freedom and independence than the student gets at the residential facility. Clearly the student feels that the residential placement is too restrictive.

It is concluded that a residential placement is way too restrictive for this student and that the school district is not required to continue to maintain the student's residential placement.

The parent includes with its brief, as Exhibit A, a transportation policy by the State Department of Education. Because this document was not offered into evidence at the hearing, it is not properly in the record before the hearing officer and it was not

considered for purposes of this decision. There was testimony, however, that the current placement would be a long bus ride from the student's home. The IEP team should consider whether the current day program is the appropriate day placement for the student given the length of the bus ride.

The other argument raised by the parent in its post-hearing brief is that the school district did not conduct its own residential evaluation of the student. It is undisputed, however, that the residential facility at which the student was placed by the district conducted a comprehensive and thorough residential evaluation for the student. Thus, there was a comprehensive residential evaluation of the student's needs by the facility as the agent for the district. To the extent that the district's failure to conduct its own residential evaluation may be construed to be a procedural violation, there has been no harm to the student's education or to the parent's participation rights as a result. Accordingly, if there was any error with regard to conducting a residential evaluation, it is a harmless procedural error. The parent's argument in this regard is rejected.

It should be noted that the district is not contesting that it must pay for a day program to meet the student's educational needs, such as the day program currently attended by the student at the residential facility. The parent contends in its post-hearing brief that the student would have to travel for an excessive amount of time to

attend the day school at the current residential facility. The parties may well agree to place the student at a day program closer to the student's home, but that does not require the school district to continue funding the residential placement of the student which is clearly excessively restrictive and not necessary to meet the student's educational needs.

It is true, as the parent contends, that the school district should have had an IEP team meeting and issued a prior written notice concerning the change of placement for the student from a residential placement to another placement. However, given the fact that the student in this case so clearly does not require residential placement for educational purposes and the fact that a residential placement for this student at this point would constitute a clear violation of the substantive requirement of IDEA that the student be placed in the least restrictive environment, it must be concluded that any procedural violations by the district concerning the residential placement is harmless. In this case, in particular, to flaunt procedure over substance would end up harming the student's right to a placement in the least restrictive environment under IDEA. It will be necessary, however, for the school district to convene an IEP team meeting to determine which day program is most appropriate for the student. Given the long bus ride that the student would need to take to continue the day program at the current facility, the IEP team may determine that another day program that provides for all of

the student's IEP team needs is appropriate. The IEP team will need to meet to discuss the particular day placement of the student within 30 days of the date of this decision.

RELIEF

An IDEA hearing officer has broad equitable powers to remedy a violation of the Act. Forest Grove School District v. TA, 557 U.S. 230, 52 IDELR 151 (U.S. 2009); Stapleton v. Penns Valley Area SD, 71 IDELR 87 (M.D. Penna. 2017); In re Student With A Disability, 52 IDELR 239 (SEA W.V. 2009).

Because equitable IDEA relief should be flexible and because IDEA is a collaborative process, Schaffer v. Weast, 546 U.S. 49, 44 IDELR 150 (2005), the parties shall have the option to agree to alter the relief awarded, so long as both parties and their lawyers agree in writing.

ORDER

Based upon the foregoing, it is HEREBY ORDERED as follows:

1. The school district shall provide independent educational evaluations at public expense within 60 days of the appropriate consent being signed by the parent

for the following independent educational evaluations: neuropsychological evaluation, a speech language evaluation, an occupational therapy evaluation, a transition evaluation, a visual processing evaluation, and a functional behavioral analysis. The school district shall convene an IEP team meeting within thirty days of receipt of all reports of the independent educational evaluations to determine whether any changes to the student's educational program are necessary.

2. The school district is not required to continue funding a residential placement for the student. The student's IEP team shall meet within 30 days of the date of this decision to determine whether the student's educational program will be provided at the day program currently provided by the student's residential facility or at some other appropriate day program to be funded by the school district;

3. The parties may adjust or amend the terms of this order by mutual written agreement signed by all parties and counsel of record; and

4. All other relief requested by the instant due process complaint is hereby denied.

IT IS SO ORDERED.

ENTERED: August 26, 2019

James Gerl

James Gerl, CHO
CHO Hearing Officer