

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 Due Process Hearing Officer

Final Decision And Order

Closed Hearing

ODR No. 27679-22-23

Child's Name:

A.W.

Date of Birth:

[redacted]

Parents:

[redacted]

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Hearing Officer:

Cheryl Cutrona, J.D.

Date of Decision:

May 13, 2023

BACKGROUND & INTRODUCTION

A.W. (hereafter "Student"),¹ who resides with their Mother and two siblings within the boundaries of the School District of Philadelphia (hereafter "District"), was found eligible for special education and related services in 2020. The Student attended the neighborhood elementary school (hereafter "Home School") [for three grades].

In Fall of 2022 at the beginning of the Student's [redacted] year, after participating in the District's voluntary school lottery, the Student transferred to a different school closer to the Mother's place of employment (hereafter "Transfer School").

A Reevaluation Report ("RR"), dated November 3, 2021 (S-5)² conducted by the Home School, qualified the Student for special education and related services under the disability categories of Specific Learning Disability ("SLD"), Other Health Impairment ("OHI"), and Speech or Language Impairment ("SLI"). The resulting Individualized Education Program ("IEP"), dated February 2, 2022 (S-6), recommended 675 minutes per week of learning support and a 1:1 aide. The Parent consented to this IEP.

The January 23, 2023 IEP (S-17) developed at the Transfer School, recommended increasing the number of learning support level to 900

¹ In the interest of confidentiality and privacy, Student's name, gender, and other potentially identifiable information are not used in the body of this decision. All personally identifiable information, including the details on the cover page, will be redacted prior to the decision's posting on the website of the Office for Dispute Resolution in compliance with its obligation to make special education hearing officer decisions available to the public pursuant to 20 U.S.C. § 1415(h)(4)(A) and 34 C.F.R. § 300.513(d)(2).

² References to the record throughout this decision will be to the Notes of Testimony (NT), School Exhibit (S-) followed by the exhibit number and page number(s). At the hearing, the parties agreed that all of the Exhibits submitted by the District should be considered to be Joint exhibits. The Parents submitted no additional exhibits. For the purposes of this decision, the exhibits noted herein will be identified as District exhibits (using the S-abbreviation) as they were labelled at the time of admission to the record.

minutes per week, which is considered Intensive Learning Support (“ILS”). The Parent did not approve the NOREP.

The Home School offers ILS. The Transfer School does not provide ILS. The District wants the Student to return to the Home School so that the Student can begin receiving the number of learning support hours identified in the 2023 IEP (S-17). The Parent does not want the Student to return to the Home School claiming that it would be premature, overly restrictive and “geographically problematic.” The Parent wants the Student to be given an opportunity to make meaningful progress with a 1:1 aide and 675 minutes of learning support weekly at the Transfer School (S-17, p. 59) prior to determining if the level of learning support needs to be increased.

On February 26, 2023, the Parent filed a Complaint³ requesting that the Student remain at the Transfer School. The Complaint proceeded to a one-day, closed, due process hearing that was convened via video conference on March 29, 2023.

For the reasons set forth below, the Parent’s claim is denied.

ISSUE

Whether the District’s January 2023 IEP/ Notice of Recommended Educational Placement (“NOREP”) provides a Free Appropriate Public Education (“FAPE”) in the Least Restrictive Environment (“LRE”) requiring a change of school placement, or if the pendant February 2022 IEP/NOREP should remain in place so the Student can stay at the Transfer School.

FINDINGS OF FACT

³ The parties reached a settlement agreement regarding compensatory education regarding failure to provide a 1:1 aide at the Transfer School in exchange for a waiver of past claims. As a result, the due process hearing and this decision are limited to the single issue of placement.

All evidence, including the exhibits admitted to the record and transcripts of the testimony, was considered by the hearing officer. The only findings of fact cited herein are those needed by the hearing officer to render this Final Decision and Order. All exhibits and all aspects of each witness's testimony are not explicitly referenced herein.

1. The Student has attended school in the District since [redacted]. Over time, based on performance, progress monitoring, teacher input, and reevaluation results, the number of special education supports and related services have been increased (S-5; S-6; S-17).
2. The November 3, 2021 RR, conducted by a qualified examiner, was sufficiently comprehensive, evaluated the Student in all areas of need, and made appropriate recommendations in light of the results. The standardized tests that were administered found the Student's reading and math skills were significantly below grade level, that there was a significant discrepancy between the Student's cognitive and achievement scores. The examiner concluded that the Student continued to need for learning support under the category of SLD. The RR also found that the Student demonstrated symptoms of Attention Deficit Hyperactivity Disorder ("ADHD"), qualifying the Student for support in the category of OHI. And, the Speech Therapist's assessment included in the RR demonstrated that the Student continued to need speech and language supports thereby qualifying the Student under the SLI category (S-5, p. 8-9; NT 195-196). Based on those results, the examiner concluded that the Student would benefit from a higher level of learning support, or ILS (S-5, p. 22; NT 197).
3. At the time of the February 3, 2022 IEP meeting, the Home School did not have an ILS program accommodating [redacted] students. The Mother was opposed to changing schools mid-year (S-6, p. 45; 56), so

the IEP Team developed a plan that provided 675 minutes of learning support per week, a 1:1 aide, and Modifications and Specially Designed Instruction (“SDI”) to support the Student in the regular education. The SDI included check-ins to keep the Student on task; breaking assignments into small tasks; breaks when needed; repeated instruction, working with a partner, when appropriate; small-group testing; extending the allotted time per subtest; multiple shortened test periods; extended time; and small groups (S-3, p. 17). This plan was intended to last until the Student could enter the Home School’s ILS classroom at the beginning of [redacted] (S-6, p. 56-57; NT 88; 122; 219-222). The Parent consented to this arrangement (S-6, p. 57).

4. Subsequently, the Parent participated in the voluntary school selection lottery. As a result, the Parent enrolled the Student in the Transfer School at the beginning of [redacted]. The Transfer School is closer to the Parent’s job and reduced her commute time.⁴ However, the Transfer School does not provide ILS so the plan to increase the level of learning support at the beginning of the Student’s [redacted] year could not be implemented. Furthermore, the Transfer School did not assign a 1:1 aide at the beginning of the school year (NT 151).
5. [Redacted] progress monitoring at the Transfer School indicated that the Student was failing to meet IEP goals (S-15; S-16; NT 171-173).
6. Based on the Student’s RR; teacher input; classroom observation; progress monitoring; and information from the related service provider, the 2023 IEP increased the FAPE offer to 900 minutes of ILS per week, a 1:1 assistant, speech services, more extensive goals and objectives, additional SDI, and consultative Occupational Therapy (S-17; NT 89). Requiring ILS effectively changed the placement back to the Student’s Home School.

⁴ [redacted]

7. The Special Education Director testified that the LRE would be ILS (NT 90-91). In the Home School ILS program, the Student would receive direct instruction of all core subjects by a special education teacher, delivered in a smaller group of 15 or less peers (NT 92).

FINDINGS OF FACT

Parents Claim

The Parent contends that the Student can make meaningful progress at the Transfer School with the now pendant February 2022 IEP/NOREP that includes the assistance of a 1:1 aide and 675 minutes of weekly learning support. The Parent argues that moving back to the Home School for ILS would be premature until the Student is given the opportunity to have an 1:1 aide assigned at the Transfer School, too restrictive for the Student, and that the move would cause an undue logistical burden on the Family. Furthermore, the Parent claims that transferring the Student so late in the semester would be detrimental.

District's Claim

The District asserts that the evidence overwhelmingly establishes that the District's January 2023 IEP and placement at the Student's Home School offers FAPE in the LRE. In fact, the District contends, the evidence shows from February 2022 through November 2022 the Parent explicitly agreed with this plan. The Parent has now rejected this NOREP. The Parent has not refuted the fact that the Home School is this child's neighborhood school closest to her home address; but rather has explained that her work schedule and location of her employment makes the Transfer School more convenient. The District argues that parental convenience is not a FAPE consideration.

The District points to the Student's below average academic levels and lack of meaningful progress outside of an ILS setting to support its position that the January 2023 IEP is FAPE. The District contends that the Parent has not provided any evidence to support a finding that the 2021 RR was insufficient nor does the Parent dispute the special education eligibility categories.

The District maintains that the evidence is clear that the January 2023 IEP includes appropriate goals, specially designed instruction ("SDI"), and related services to allow the Student to make meaningful progress in an ILS program, that the Parent has failed to present any evidence to warrant a contrary conclusion. Therefore, the District argues, the Parent's demands for relief should be denied.

GENERAL LEGAL PRINCIPLES

Burden of Proof

In general, the burden of proof essentially consists of two elements: the burden of production and the burden of persuasion. Here, it should be recognized that the burden of persuasion lies with the party seeking relief: the Parent. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006).

The burden of persuasion must be established by a preponderance of the evidence. *Jaffess v. Council Rock School District*, 2006 EL 3097939 (E.D. Pa. October 26, 2006). A "preponderance" of evidence is a quantity or weight of evidence that is greater than the quantity or weight of evidence produced by the opposing party. *Comm. v. Williams*, 532 Pa. 265, 284-286 (1992).

This rule can decide the issue when neither side produces a preponderance of evidence – when the evidence on each side has equal weight, which the Supreme Court in *Schaffer* called "equipoise." On the

other hand, whenever the evidence is preponderant (i.e., there is weightier evidence) in favor of one party, that party will prevail, regardless of who has the burden of persuasion. See *Schaffer*, above.

In the present matter, based upon the above rules, the burden of persuasion rests upon the Parent, who filed the Complaint challenging the appropriateness of the program and placement offered by the District. In essence, the Parent must prove by a preponderance of the evidence that the District failed to propose a program reasonably calculated to provide the Student with FAPE in the LRE, and that the Student should remain in the Transfer School rather than returning to the Home School where the District can provide ILS. The Parent has failed to meet that burden of proof.

Credibility Determinations

Special education hearing officers, in the role of factfinders, are charged with the responsibility of making “express, qualitative determinations regarding the relative credibility and persuasiveness of the witnesses.” *Blount v. Lancaster-Lebanon Intermediate Unit*, 2003 LEXIS 21639 at *28 (2003). See also *J. P. v. County School Board*, 516 F.3d 254, 261 (4th Cir. Va. 2008).

One purpose of an explicit credibility determination is to give courts the information that they need in the event of judicial review. See, *D.K. v. Abington School District*, 696 F.3d 233, 243 (3d Cir. 2014) (“[Courts] must accept the state agency's credibility determinations unless the non-testimonial extrinsic evidence in the record would justify a contrary conclusion.”). See also, generally *David G. v. Council Rock School District*, 2009 WL 3064732 (E.D. Pa. 2009); *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); *Rylan M. v Dover Area Sch. Dist.*, No. 1:16-CV-1260, 2017 U.S. Dist. LEXIS 70265 (M.D. Pa. May 9, 2017).

In this matter, the hearing officer finds all the witnesses to be credible and persuasive, testifying honestly and to the best of their ability based on their recollection of the events in question.

Free Appropriate Public Education

The Individuals with Disabilities Education Act ("IDEA")⁵ requires the provision of a 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 *Hendrick Hudson Central School District Board of Education v. Rowley*, 458 U.S. 176 (1982), the U.S. Supreme Court addressed these statutory requirements, holding the FAPE mandates are met by providing personalized instruction and support services that are reasonably calculated to assist a child to benefit educationally from the instruction, provided that the procedures set forth in the Act are followed. The Third Circuit has interpreted the phrase "free appropriate public education" to require "significant learning" and "meaningful benefit" under the IDEA. *Ridgewood Board of Education v. N.E.*, 172 F.3d 238, 247 (3d Cir. 1999).

A FAPE, as the IDEA defines it, includes individualized goals, "specially-designed instruction" and "related services." IDEA, supra. § 1401(9). "Special education" is "specially designed instruction . . . to meet the unique needs of a child with a disability"; "related services" are the support services "required to assist a child . . . to benefit from" that instruction. Id. §§ 1401(26), (29).

⁵ 20 U.S.C. §§ 1400-1482. The federal regulations implementing the IDEA are codified in 34 C.F.R. §§ 300.1 – 300. 818. The applicable Pennsylvania regulations are set forth in 22 Pa. Code §§ 14.101 – 14.163 (Chapter 14).

A school district must provide a child with disabilities such special education and related services "in conformity with the [child's] individualized education program," or "IEP." 20 U.S.C. § 1401(9)(D).

Individualized Education Plan

"The IEP is 'the centerpiece of the statute's education delivery system for disabled children.'" *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, U.S. 137 S. Ct. 988, 994, 197 L. Ed. 2d 335 (2017) (quoting *Honig v. Doe*, 484 U.S. 305, 311, 108 S. Ct. 592, 98 L. Ed. 2d 686 (1988)).

An IEP is a comprehensive program prepared by a child's "IEP Team," which includes teachers, school officials, the local education agency ("LEA") representative and the child's parents. An IEP must be drafted in compliance with a detailed set of procedures. 20 U.S.C. § 1414(d)(1)(B). An IEP must contain, among other things, "a statement of the child's present levels of academic achievement," "a statement of measurable annual goals," and "a statement of the special education and related services to be provided to the child." *Id.* § 1414(d)(1)(A)(i).

To be eligible for special education services under IDEA, the student must (1) meet the requirements of one or more of the disability categories identified in the regulation and (2) require specially designed instruction to benefit from that instruction.

From a procedural standpoint, the family plays "a significant role in the IEP process." *Schaffer*, *supra*, at 53. The IEP proceedings entitle parents to participate not only in the implementation of IDEA's procedures but also in the substantive formulation of their child's educational program. Among other things, IDEA requires the IEP Team, which includes the parents as members, to take into account any "concerns" parents have "for enhancing the education of their child" when it formulates the IEP. *Winkelman v. Parma City School District*, 550 U.S. 516, 530 (2007).

Full participation in the IEP process does not mean, however, that parents have the right to control it. 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); see also *Yates v. Charles County Board of Education*, 212 F.Supp.2d 470, 472 (D. Md. 2002) (explaining that “parents who seek public funding for their child's special education possess no automatic veto over” an LEA’s decision).

The U.S. Department of Education explains,

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). It is not appropriate to make IEP decisions based on a majority "vote." If the team cannot reach 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. 48 at 12472 (1999) (same).

Moreover, choices of methodologies are generally left to the discretion of the LEA. *Lachman v. Illinois Board of Education*, 852 F.2d 290, 297 (7th Cir. 1988); *J.G. v. New Hope-Solebury School District*, 323 F. Supp. 3d 716, 723 (E.D. Pa. 2018).

Least Restrictive Environment

The LEA must place students with disabilities in the LRE in which each student can receive a FAPE. See 34 C.F.R. § 300.114. The IDEA mandates that eligible students are to be educated in the LRE that provides meaningful educational benefit standards.

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when 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.S.* § 1412(a)(5)(A); see also *T.R. v. Kingwood Township Board of Education*, 205 F.3d 572, 578 (3d Cir. 2000); *Oberti v. Board of Education of Clementon School District*, 995 F.2d 1204, 1215 (3d Cir. 1993).

The IDEA further requires the LEA to “ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.” 34 C.F.R. § 300.115(a). That continuum must include “instruction in regular classes, special schools, home instruction, and instruction in hospitals and institutions.” 34 C.F.R. § 300.115(b)(1); see also 34 C.F.R. § 300.99(a)(1)(i).

Generally, restrictiveness is measured by the extent to which a student with a disability is educated with children who do not have disabilities. See *id.* In *Oberti v. Board of Education of Clementon School District*, 995 F.2d 1204 (3d Cir. 1993), the Third Circuit held that the LEA must determine whether a student can receive a FAPE by adding

supplementary aids and services to the LRE. If a student cannot receive a FAPE in a less restrictive placement, the LEA may offer a more restrictive placement. Even then, the LEA must ensure that the student has as much access to nondisabled peers as possible. *Id* at 1215-1218.

The court in *Oberti* identified three factors to consider in determining the appropriateness of the placement offer:

1. The court or hearing officer should look at “the steps that the school has taken to try to include the child in a regular classroom” including what supplementary aids and services were already tried. *Id* at 1204, 1216.
2. In considering whether a child with disabilities can be included in a regular classroom, the court or hearing officer should compare the educational benefits the child will receive in a regular classroom (with supplementary aids and services) and the benefits the child will receive in the segregated, special education classroom. In making that determination, the court or hearing officer will have to rely heavily on “the testimony of educational experts.” However, the court cautioned, the expectation of a child making greater progress in a segregated classroom is not determinative. *Id* at 1204, 1216-1217.
3. In determining whether a child with disabilities can be educated satisfactorily in a regular classroom, the court or hearing officer must also consider the possible negative effect the child's inclusion may have on the education of the other children in the regular classroom. The court explained that a child’s disruptive behavior may have such a negative impact upon the learning of others that removal is warranted. Moreover, the court reasoned that disruptive behaviors also impact upon the child’s own learning. Even so, the court again cautioned that this factor is directly related to the

provision of supplementary aids and services. If that is an issue, the court or hearing officer must consider what the LEA did or did not do to curb the child's behavior in less restrictive environments. *Id at 1204, 1217.*

There is no tension between the FAPE and LRE mandates. There may be a multitude of potentially appropriate placements for any student. The IDEA requires the LEA to place students in the least restrictive of all potentially appropriate placements. There is no requirement for an LEA to place a student into an inappropriate placement simply because it is less restrictive. However, LEAs must consider whether a less restrictive but inappropriate placement can be rendered appropriate through the provision of supplementary aids and services.

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)).*

DISCUSSION

There is no dispute that, pursuant to the IDEA, the Student is eligible for special education as a child with a Specific Learning Disability, Other Health Impairment (ADHD), and a Speech or Language Impairment. There is no disagreement that, despite the increasing level of supplementary supports and services the District has offered to the Student in the regular classroom since [redacted], the Student is not meeting IEP goals and objectives. There is no evidence suggesting that the District does not

provide a continuum of alternative placements to meet the needs of children with disabilities for special education and related services. The sole issue before this hearing officer is to determine if the 2023 IEP offers FAPE in the LRE. If it does, the Student must transfer to an elementary school that can provide the level of Intensive Learning Support outlined in the 2023 IEP.

The 2023 IEP was developed by the IEP Team based on the most recent RR, classroom observations, teacher and parental input, progress monitoring. The Parent is an integral part of the IEP Team and has had a meaningful role in providing input to the decisions reached about the Student's educational program. In fact, the LEA acceded to her preferences during the last school year when she objected to transferring the Student late in the semester with a contemplated transfer back to the Home School at the beginning of the next semester.

When the members of the IEP Team do not agree on FAPE, the Parent does not control the decision. The LEA is ultimately responsible for ensuring the IEP includes the services that the child needs to receive a FAPE in the LRE. The Parent disagrees with the transfer of the Student back to the Home School so she has exercised her legal right to seek a resolution by filing for due process. The hearing officer's role is to render a decision based on the evidence presented. In this case, the hearing officer must determine whether the District's offer of FAPE in the 2023 IEP will provide FAPE in the LRE or if the Parents have proven by a preponderance of the evidence that the pendant 2022 IEP should remain in effect so that the Student can stay at the Transfer School, which is more convenient in light of the Family's situation.

The hearing officer will consider the three factors listed in *Oberti*, outlined above, to render a Decision in this situation.

1. *What steps has the District has taken to offer the Student FAPE in a regular classroom?:* The District has gradually increased a variety of

supplementary aids and services to support the Student in a regular education classroom including but not limited to a 1:1 aide (albeit not during the Fall of the 2022-2023 school year at the Transfer School), a panoply of SDI, and increasing the number of learning support hours offered. The educational professionals concluded that those supplementary supports and services did not result in the Student making meaningful progress in the regular education classroom. It is important to note that if placed in the ILS program, the Student would not be totally isolated from students in the regular education program. The Student would still be in a regular education environment for nonacademic subjects (e.g., gym, art, lunch). Despite the increase in services, the evidence demonstrates that the Student is not meeting IEP goals and objectives.

2. *The educational benefits the child will receive in a regular classroom (with supplementary aids and services) compared to the benefits the child will receive in the segregated, ILS classroom:* In the opinion of the professional educators, increased supports were not sufficient to provide FAPE based on the Student's RR; teacher input; classroom observation; progress monitoring; and information from the related service provider. The hearing officer must defer to the educational professionals who are of the opinion that the Student cannot receive a FAPE in a less restrictive placement than an ILS program. In the opinion of the educational professionals, ILS is the LRE in this situation. The District may offer a more restrictive placement if it is required to provide FAPE. Therefore, the 2023 IEP decision to increase the level of learning support must be implemented to provide an opportunity for more significant learning.

3. *The possible negative effect the child's inclusion may have on the education of the other children in the regular classroom:* This factor does not apply in this case. There was no evidence to suggest that the Student has behavioral issues that would adversely impact other students.

The Parents assert that it is premature to require placing the Student in the ILS classroom because the Student has not been given an opportunity to succeed with 675 minutes of learning support with a 1:1 aide. However, the Student did have a 1:1 aide and that level of learning support during the Spring of the 2021-2022 school year at the Home School following the implementation of the 2022 IEP. There is no evidence demonstrating that level of support resulted in the Student achieving IEP goals and objectives. As the educational professionals also pointed out, the aides are not special educators; they are merely there to help keep the student on task, not to teach. Furthermore, the 2023 IEP recommends a 1:1 aide *in addition* to increasing the level of learning support to ILS. The hearing officer concludes that the Student should be provided with the opportunity to access the benefits offered in the 2023 IEP sooner rather than postponing that decision by continuing with the pendant IEP which, as the evidence suggests, has not resulted in the Student's meeting the IEP goals and objectives.

The hearing officer finds that the ILS program offered by the District in the 2023 IEP provides FAPE in the LRE. The District amply demonstrated that its attempts to render a regular education classroom appropriate through the provision of supplementary aids and services were not sufficient to provide "significant learning" and "meaningful benefit" under the IDEA. While the hearing officer commiserates with the Parent's early mornings, intense commute, and long work hours, the hearing officer must concur with the District's argument that parental convenience is not a FAPE consideration.

CONCLUSION

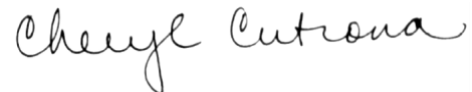
Based on the evidence, the hearing officer concludes that the District's January 2023 IEP/NOREP provides a FAPE in the LRE requiring a change of school placement to one that provides ILS for the Student's grade as of the 2023-2024 school year. The Parent has not met the burden of proving that the pendant IEP should remain in effect to avoid transferring back to the Home School. Therefore, the Parent's claim for relief is denied.

ORDER

In light of the fact that the current school year will conclude in about a month, the Student's current placement will remain through the end of the 2022-2023 school year. However, the Student will transfer back to the Home School for the 2023-2024 school year and attend the ILS program.

If, however, for some reason the Student's residence changes before then and another Philadelphia public school that provides ILS for the Student's grade that is more convenient for the Parent is identified, the IEP team is ordered to consider changing the Student's placement to that school.

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



Cheryl Cutrona, J.D.
Hearing Officer

Date of Decision

May 13, 2023

ODR 27679-22-23