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

# Pennsylvania Special Education Due Process Hearing Officer

## Final Decision and Order

**ODR No. 28406-23-24**

**CLOSED HEARING**

**Child's Name:**
C.B.

**Date of Birth:**
[redacted]

**Parent/Guardian:**
[redacted]

*Pro Se*

**Local Education Agency:**
Wyoming Area School District
20 Memorial Street
Exeter, PA 18643

**Counsel for the LEA:**
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**Hearing Officer:**
Brian Jason Ford, JD, CHO

**Date of Decision:**
January 8, 2024

## Introduction and Procedural History

This matter concerns the educational rights of a child with disabilities (the Student) and arises under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq*. The Student's public school district (the District) proposed changing the Student's placement to a specialized private school. The Student's parent (the Parent) opposes the change in placement and requested this due process hearing to block the District's action.

The Parent filed the due process complaint on July 29, 2023, by sending a hand-written complaint to the Office for Dispute Resolution. The District received the complaint on August 10, 2023. On September 16, 2023, the Parent amended the complaint to allege additional facts. On September 26, 2023, the District filed an answer to the amended complaint.

The Parent and Student are not represented by an attorney. The Parent represented herself and the Student (*pro se*).

During a pre-hearing conference, a dispute about the Student's pendent placement became apparent. I considered both parties' submissions concerning pendency and issued a Pendency Determination on September 11, 2023. That order speaks for itself. For context, I found that the District's own school was the Student's pendent placement.

After I issued the pendency determination, the hearing was scheduled and rescheduled a great many times. Both parties experienced genuine emergencies resulting in last minute cancelations on several occasions. Despite the scheduling difficulties, both parties presented evidence over three, part-day hearing sessions. Both parties then filed written closing statements. The District filed its closing statement on the submission deadline: December 29, 2023. The Parent filed after the deadline on December 30, 2023, and did not ask for an extension. The District neither objected nor acquiesced to my consideration of the Parent's closing. In deference to the Parent's pro se status, I accept the Parent's closing.

As discussed below, I find that the Parent has not presented evidence proving that that the District's proposed placement is inappropriate for the Student.

## Issue

A single issue was presented for adjudication: Is the District's proposed change in the Student's placement appropriate?

## Findings of Fact

I considered the record in its entirety. I make findings of fact only as necessary to resolve the issue before me. I find as follows:

### *The 2022-23 School Year*

1. For years prior to the time in question, the Student has received special education as a child with Autism and a Speech or Language Impairment. *Passim*.

2. The Student's school does not have an Autism support program. *See, e.g.* NT at 152.

3. Throughout the 2022-23 school year, the Student's behaviors were persistently maladaptive. The Student engaged in a series of behavioral incidents, some incredibly dangerous, and sometimes resulting in suspension.[1] *Passim, see, e.g.* S-9.

4. There is no dispute that, towards the end of the 2022-23 school year, the Student was engaging in increasing levels of negative behaviors in school. *Passim*.

5. There is no dispute that the parties entered into a settlement agreement resolving a prior special education dispute in March 2023. Pursuant to that agreement, the District funded an Independent Educational Evaluation (IEE) of the Student. *Passim*.

6. On June 6, 2023, a private, doctoral-level, certified school psychologist (the Psychologist) completed the IEE and drafted a report thereof. S-4.

7. There is no dispute that the IEE accurately captured the Student's academic and behavioral presentation at the time testing and observations were completed. The Student's academic performance was not impaired, but the Psychologist found significant weaknesses in the Student's social skills, attention and executive functioning, and

[1] The extreme dangerousness of the Student's behaviors during one incident cannot be sufficiently underscored. I write for the parties, who are aware of the incident. Describing the incident in any detail would likely identify the Student. It is incredibly lucky that the incident did not result in life-threatening injury or death to the Student or others. It is remarkable that the incident was resolved without injury. While other incidents were less extreme by several orders of magnitude, many were inherently dangerous, and some resulted in injury.

cognitive skills including association, conceptualization, and expression. S-4.

8. At the time of the IEE, the Student had been found eligible for special education under the IDEA disability categories of Autism and Speech or Language Impairment (SLI). The Student was receiving Emotional Support at and Speech/Language Support at a supplemental level, individual and group school-based social work services, speech and language support, and occupational therapy. S-4.

9. At the time of the IEE, the Student was receiving behavioral support from a Board Certified Behavior Analyst (BCBA). The BCBA was working with the Student to decrease episodes of tantrums and aggression. S-4.

10. At the time of the IEE, the Student was showing a significant level what the Psychologist described as "negative responses to stimuli." S-4 at 17. On standardized behavior ratings, both the Parent and teachers rated the Student in elevated ranges across multiple behavioral domains. S-4.

11. The Psychologist found that the Student did meet IDEA eligibility criteria for Autism and Other Health Impairment (OHI). The OHI eligibility was based on the educational impact of the Student's ADHD symptoms. S-4.

12. The Psychologist found that the Student did not meet IDEA eligibility criteria for Specific Learning Disability (SLD) or Emotional Disturbance (ED). S-4. Regarding ED, the Psychologist found that the Student's behaviors were a function of the Student's Autism and, therefore, the Student did not qualify as a child with an emotional disturbance by definition. S-4 at 39.

13. The Psychologist deferred to the expertise of the Speech and Language Pathologist who was working with the Student at the time of the IEE, but also independently concluded that the Student continued to meet eligibility criteria for SLI based on the Psychologist's review of records. S-4.

14. The Psychologist made multiple recommendations for the Student's IEP team to consider. For all recommendations, the Psychologist urged placement in the least restrictive environment for the Student, and implementation of special education through an inclusionary model. S-

4 at 40. Within that framework, the Psychologist recommended (among others):[2]

a. Placement in a structured learning environment with consistent, positive reinforcement and "immediate, specific, and direct feedback, and academic emotional, social, and behavioral supports with a strong ABA (Applied Behavior Analysis) component." S-4 at 40.

b. Ongoing ABA training by a BCBA for the Student's teachers. S-4 at 40.

c. Direct social skills instruction, either group or individual, at a minimum of two days per week for 30 minutes per session. S-4 at 40.

d. Continuation of outside services and a recommendation for the Parent to share the IEE with outside providers. S-4 at 40.

e. IEP team consideration of the possible need for summer Extended School Year (ESY) services. S-4 at 40.

f. An assistive technology assessment (SETT). S-4 at 41.

g. A Speech/Language Evaluation (an independent S/L evaluation was pending at the time). S-4 at 41.

h. A recommendation that the IEP team discuss whether an updated Occupational Therapy (OT) evaluation with a focus on sensory needs and/or an updated Physical Therapy (PT) evaluation with a focus on the need for adapted physical education were need. S-4 at 41.

i. A recommendation that the Student's teachers help the Student with daily transitions and alert the Student to expected changes in daily routines. S-4 at 41.

j. A recommendation for the IEP team to complete an updated Functional Behavioral Assessment (FBA) which, in turn, could be used to update the Student's Positive Behavior Support Plan (PBSP). S-4 at 41.

[2] Recommendations not explicitly discussed herein concern fostering of the Student's academic strengths and methods for using ABA principles with the Student. S-4 at 40-43.

15. While the Psychologist expressed a clear preference for an inclusionary model, the Psychologist also provided this caution (S-4 at 40):

> [Student's] educational placement is ultimately left up to the decision of the IEP team. However, it is this evaluator's opinion that if [Student's] academic, social, emotional, and behavioral needs cannot be met within the current school environment with the recommendations and accommodations reported within this evaluation or if there is a significant increase in behaviors, the IEP team may wish to discuss and consider an educational placement outside of the [District] that can meet all [of Student's] identified needs.

16. Consistent with the Psychologist's recommendations, the District obtained an independent FBA for the Student. The District agreed that an independent FBA was warranted before the IEE was complete. The independent FBA concluded with the issuance of a report on May 8, 2023. S-3. The independent FBA is not referend in the IEE. S-4.

17. The independent FBA revealed significant maladaptive behaviors including elopement, self-injurious behavior, property damage, and physical aggression. The independent FBA provided hypotheses for the functions of those behaviors and included several behavioral recommendations (both to prevent behaviors and about what to do should behaviors occur). S-3.

18. The Student's IEP team used the independent FBA to draft a PBSP for the Student. S-5.

19. On June 8, 2023, the District issued a reevaluation report (RR) incorporating and adopting the IEE and the independent FBA. S-7. On June 13, 2023, the Parent signed the RR, indicating that she disagreed with it. S-7 at 57.

20. The record as a whole supports a finding that, despite multiple efforts, from June 8, 2023, onward the parties were never able to agree to a new IEP for the Student. Rather, the District sent frequent communications to the Parent as it continued to provide special education to the Student pursuant both to the Student's last approved IEP and less formal agreements (sometimes simply information

without parental objection) to implement services consistent with the IEE and independent FBA. *Passim*.

21. As part of the parties ongoing effort to develop an IEP for the Student, the District recommended placement in a licensed, private academic school (the Private School). *See, e.g.* NT 510.

22. The Private School specializes in instructing children with behavioral needs similar to the Student's. The Private School uses an ABA model that comports with the recommendations in the IEE and provides behavioral supports that comport with the independent FBA. The Private School also provides a learning environment with much greater structure, fewer transitions, a smaller class size, and a lower student-to-teacher ratio than the District can provide. The staff at the Private School are also trained and specialized to provide immediate behavioral interventions. NT at 434-435, 492, 489-490, 492, 499.

### *The 2023-24 School Year*

23. There is no dispute that the Student continued to receive special education pursuant to during the 2023-24 school year through the Student's last approved IEP and less formal agreements, as described above. *Passim*.

24. The PBSP drafted after the independent FBA was implemented during the 2023-24 school year. NT at 140-141, 327, 429-430. The District also provided a PCA to support the Student. *See, e.g.* NT 202, 227, 234. The District also accepted and adopted the recommendations in the IEE, including ABA. Despite this, the Student's behaviors became increasingly maladaptive. NT at 134, 299, 305-307, 313-319. *See also* S-10.

## Witness Credibility

During a due process hearing, the hearing officer is charged with the responsibility of judging the credibility of witnesses, and must make "express, qualitative determinations regarding the relative credibility and persuasiveness of the witnesses." *Blount v. Lancaster-Lebanon Intermediate Unit*, 2003 LEXIS 21639 at *28 (2003). 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).

I find that all witnesses testified credibly in that all witnesses candidly shared their recollection of facts and their opinions, making no effort to withhold information or deceive me. To the extent that witnesses recall events differently or draw different conclusions from the same information, genuine differences in recollection or opinion explain the difference.

While none of the testimony triggered credibility issues, I do not assign equal weight to all testimony. Significant portions of the Parent's testimony provided no information about the appropriateness of the Private School, relative to the Student's needs. Those portions of the Parent's testimony are not relevant (meaning that they do not substantively contribute to resolution of the issue before me, regardless of their importance to the Parent) and are afforded no weight.

## Applicable Laws

### *The Burden of Proof*

The burden of proof, generally, consists of two elements: the burden of production and the burden of persuasion. In special education due process hearings, the burden of persuasion lies with the party seeking relief. *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006). The party seeking relief must prove entitlement to its demand by preponderant evidence and cannot prevail if the evidence rests in equipoise. *See N.M., ex rel. M.M. v. The School Dist. of Philadelphia*, 394 Fed.Appx. 920, 922 (3rd Cir. 2010), *citing Shore Reg'l High Sch. Bd. of Educ. v. P.S.*, 381 F.3d 194, 199 (3d Cir. 2004). In this case, the Parent is the party seeking relief and must prove entitlement to the relief that it demands by a preponderance of evidence.

### *Free Appropriate Public Education (FAPE)*

The IDEA requires the states to provide a "free appropriate public education" to all students who qualify for special education services. 20 U.S.C. §1412. Local education agencies, including school districts, meet the obligation of providing a FAPE to eligible students through development and implementation of IEPs, which must be "'reasonably calculated' to enable the

child to receive 'meaningful educational benefits' in light of the student's 'intellectual potential.'" *Mary Courtney T. v. School District of Philadelphia*, 575 F.3d 235, 240 (3d Cir. 2009) (citations omitted). Substantively, the IEP must be responsive to each child's individual educational needs. 20 U.S.C. § 1414(d); 34 C.F.R. § 300.324.

This long-standing Third Circuit standard was confirmed by the United States Supreme Court in *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 137 S. Ct. 988 (2017). The *Endrew F.* case was the Court's first consideration of the substantive FAPE standard since *Board of Educ. of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 206-07, 102 S.Ct. 3034 (1982).

In *Rowley*, the Court found that a LEA satisfies its FAPE obligation to a child with a disability when "the individualized educational program developed through the Act's procedures is reasonably calculated to enable the child to receive educational benefits." *Id* at 3015.

Third Circuit consistently interpreted Rowley to mean that the "benefits" to the child must be meaningful, and the meaningfulness of the educational benefit is relative to the child's potential. *See T.R. v. Kingwood Township Board of Education*, 205 F.3d 572 (3rd Cir 2000); *Ridgewood Bd. of Education v. N.E.*, 172 F.3d 238 (3rd Cir. 1999); *S.H. v. Newark*, 336 F.3d 260 (3rd Cir. 2003). In substance, the *Endrew F.* decision in no different.

A school district is not required to maximize a child's opportunity; it must provide a basic floor of opportunity. *See, Lachman v. Illinois State Bd. of Educ.*, 852 F.2d 290 (7th Cir.), *cert. denied*, 488 U.S. 925 (1988). However, the meaningful benefit standard required LEAs to provide more than "trivial" or "de minimis" benefit. *See Polk v. Central Susquehanna Intermediate Unit 16*, 853 F.2d 171, 1179 (3d Cir. 1998), *cert. denied* 488 U.S. 1030 (1989). *See also Carlisle Area School v. Scott P.*, 62 F.3d 520, 533-34 (3d Cir. 1995). It is well-established that an eligible student is not entitled to the best possible program, to the type of program preferred by a parent, or to a guaranteed outcome in terms of a specific level of achievement. *See, e.g., J.L. v. North Penn School District*, 2011 WL 601621 (E.D. Pa. 2011). Thus, what the statute guarantees is an "appropriate" education, "not one that provides everything that might be thought desirable by 'loving parents.'" *Tucker v. Bayshore Union Free School District*, 873 F.2d 563, 567 (2d Cir. 1989).

In *Endrew F.,* the Supreme Court effectively agreed with the Third Circuit by rejecting a "merely more than de minimis" standard, holding instead that the "IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the

child's circumstances." *Endrew F.*, 137 S. Ct. 988, 1001 (2017). Appropriate progress, in turn, must be "appropriately ambitious in light of [the child's] circumstances." *Id* at 1000. In terms of academic progress, grade-to-grade advancement may be "appropriately ambitious" for students capable of grade-level work. *Id.* Education, however, encompasses much more than academics. Grade-to-grade progression, therefore, is not an absolute indication of progress even for an academically strong child, depending on the child's circumstances.

In sum, the essence of the standard is that IDEA-eligible students must receive specially designed instruction and related services, by and through an IEP that is reasonably calculated at the time it is issued to offer an appropriately ambitious education in light of the Student's circumstances.

### ***Least Restrictive Environment (LRE)***

The IDEA requires LEAs 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).

LEAs must place students with disabilities in the least restrictive environment in which each student can receive a FAPE. *See* 34 C.F.R. § 300.114. 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 LEAs must determine whether a student can receive a FAPE by adding supplementary aids and services to less restrictive placements. 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 non-disabled peers as possible. *Id at* 1215-1218. More specifically, the court articulated three factors to consider when judging the appropriateness of a restorative placement offer:

"First, the court should look at the steps that the school has taken to try to include the child in a regular classroom." Here, the court or hearing officer should consider what supplementary aids and services were already tried. *Oberti v. Bd. of Educ.,* 995 F.2d 1204, 1216 (3d Cir. 1993).

"A second factor courts should consider in determining whether a child with disabilities can be included in a regular classroom is the comparison between 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. The court will have to rely heavily in this regard on the testimony of educational experts." The court cautioned, however, that the expectation of a child making grater progress in a segregated classroom is not determinative. *Oberti v. Bd. of Educ.*, 995 F.2d 1204, 1216-1217 (3d Cir. 1993).

"A third factor the court should consider in determining whether a child with disabilities can be educated satisfactorily in a regular classroom is 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.

In essence, the court instructs that hearing officers must consider what the LEA did or did not do to curb the child's behavior in less restrictive environments. *Oberti v. Bd. of Educ.*, 995 F.2d 1204, 1217 (3d Cir. 1993).

***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 LEAs 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. Through that process, the law requires that LEAs place each child in the least restrictive environment for that child.

## Discussion

Despite the very long time that it took to complete this hearing, the record is small and the issue is straightforward. It is the Parent's burden to prove that the Private School is inappropriate for the Student. The Parent has not met her burden. I find that the Private School is appropriate for the Student.

The Parent argues that the Private School cannot meet the Student's academic needs. The Parent provided no evidence in support of this argument. The record establishes that the Student has strong academic

abilities despite frequent maladaptive behaviors. There is no evidence in the record that the Student cannot receive appropriate academic instruction in the Private School.

The Parent also argues that placing the Student in the Private School would violate the Student's right to receive special education in the least restrictive environment. The Parent is correct that, by definition, the Private School is more restrictive than the District's school. Discussed above, the Student has no right to be educated in the least restrictive of all possible environments. Rather, the Student has a right to receive special education in the least restrictive of all environments that are appropriate for the Student (including environments that can be made appropriate through accommodations). The Student has no right to an *inappropriate* placement.

The record establishes that the Student's placement in the District's school is inappropriate. When the Student's behaviors escalated at the end of the 2022-23 school year, a dispute arose between the parties. To resolve that dispute, independent third parties evaluated the Student and made recommendations. Then, the District implemented those recommendations to the best of its ability, given the Parent's withholding of consent to do more. Even so, the resulting in-school placement was consistent with the recommendations, but the Student's behaviors continued to deteriorate.

Importantly, Autistic Support is a *service* not a *place*. The District does not have an Autistic Support classroom. However, the District implemented a program for the Student that was consistent with the Autistic Support recommendations in the IEE. The District accomplished this through its in-house Emotional Support program and close coordination with third party providers like the BCBA. The District provided ABA as recommended as well as it could, given the structure of the Student's program and the Parent's unwillingness to even consider, let alone approve, services recommended by the District. *See, e.g.* S-1b.

The independent recommendations also establish that a change in placement is warranted if the Student's behaviors do not improve. By recommending (or continuing to recommend) the Private School, the District acted consistently with well-reasoned, well-supported, independent recommendations from third parties. The Psychologist was clear: the District should educate the Student in its own schools if possible, but must consider more specialized placements if the recommended in-school program does not change the trajectory of the Student's behaviors. The District implemented the recommendations, the Student's behaviors did not change, and so the District moved on to the next step.

This matter could be (and arguably should be) resolved with my determination that the Parent did not meet her burden. I recognize, however, that there is a different between the Parent's failure to prove that the Private School is inappropriate and an affirmative determination that the Private School is appropriate. It would be inequitable to permit the District to violate a student's right to a FAPE because a *pro se* parent failed to satisfy a legal standard in a due process hearing. For that reason, and to avoid ambiguity, I affirmatively find that District's proposed Private School placement is reasonably calculated to provide a FAPE to the Student.

The Private School provides what the District lacks: small classes, a comparatively more structured setting, a lower student-to-teacher ratio, and on-staff personnel with training and expertise (including but not limited to ABA) to address the Student's behavioral needs as they arise. All of this will be available to the Student in an academically accredited school that is already familiar with the Student's educational strengths and needs. The record of this hearing preponderantly supports an affirmative determination that placement in the Private School not only is reasonably calculated to provide a FAPE, but also constitutes the least restrictive placement for the Student at this time.

## Summary and Legal Conclusions

After a prior settlement agreement, an IEE, and an independent FBA, the parties could not come to an agreement about the Student's placement. While the parties' dispute resulted in a temporary legal stalemate, the Student's dangerous, maladaptive behaviors worsened.

The Parent requested this hearing to prevent the District from moving the Student to a specialized private school. It was, therefore, the Parent's burden to prove that the Private School was not appropriate for the Student under the IDEA's standard for a FAPE, as interpreted by the Supreme Court in *Endrew F., supra*. The Parent did not present preponderant evidence in support of her claim. For that reason, the Parent is not entitled to relief and my prior Pendency Determination must be vacated.

While the District, as a respondent, is not required to prove anything, it would be unjust to resolve this matter based on an absence of evidence. As an exercise of my discretion, I examined the record to determine if placement at the Private School is reasonably calculated to provide a FAPE to the Student. The record of this hearing supports an affirmative finding that the District's proposal is reasonably calculated to provide a FAPE to the Student. Discussed above, the Private School is well-suited to the Student's needs as they exist today.

Nothing in this Decision alters the District's obligation to ensure the continuing provision of FAPE to the Student. If the Private School's program works as intended, the Student's behaviors will change. In no way does the Student have to "earn" a right to be educated in the LRE. Rather, the District has every reason to believe that what constitutes the LRE for the Student will change as the Student's educational needs change in response to appropriate special education. When that happens, the District must reconvene the Student's IEP team make whatever changes are necessary. The District would be wise to prepare for that scenario before a change in placement is needed.

Similarly, nothing in this decision limits the Parent's right to call for and meaningfully participate in IEP team meetings, or future disputes regarding the Student's right to a FAPE – including but not limited to future disputes about the Student's future placement. *See generally,* 20 U.S.C. § 1415. I must, however, permit the District to change the Student's placement and enroll the Student in the Private School.

## ORDER

Now, January 8, 2024, it is hereby **ORDERED** as follows:

1. The Pendency Determination issued in this matter on September 11, 2023, is hereby **VACATED.**

2. The District shall take all necessary and reasonable action to enroll the Student in the Private School. The District shall inform the Parent of all such action but need not obtain the Parent's consent to complete the enrollment process.

3. The Private School shall be the Student's pendent placement for purposes of 20 U.S.C. § 1415(j), and shall remain the Student's pendent placement during appeals of this order, if any, unless or until the parties agree otherwise in writing or execute an IEP changing the Student's placement.

It is **FURTHER ORDERED** that any claim not specifically addressed in this order is **DENIED** and **DISMISSED.**

/s/ Brian Jason Ford
HEARING OFFICER