

**ILLINOIS STATE BOARD OF EDUCATION  
IMPARTIAL DUE PROCESS HEARING**

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██████████ a minor, by and through	)	
his parents, ██████████ and ██████████ <sup>1</sup> ,	)	
	)	
Petitioners,	)	
	)	Case No. 2017-0490
- v -	)	
	)	
City of Chicago SD 299,	)	Alan G. Schuster
	)	Hearing Officer
	)	
Respondent.	)	

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**DECISION AND ORDER**

**I. JURISDICTION:**

Jurisdiction to adjudicate the issues raised in Petitioner’s (██████████” or “Student”) Complaint is afforded under the Individuals with Disability Act (IDEA), 20 USC §1400, *et seq.* and the Illinois School Code, 105 ILCS 5/14-8.02a, *et seq.*

**II. PROCEDURAL HISTORY:**

On June 16, 2017 Petitioners served the City of Chicago School District 299, (“Respondent” or “District” or “CPS”) its Due Process Complaint Notice (“DPCN”) requesting the appointment of an impartial due process hearing officer to determine whether or not the District has denied the Petitioner his right to a Free Appropriate Public Education (“FAPE”) under IDEA.

This Hearing Officer (“IHO”) was appointed to hear this matter on June 20, 2017. The Student is represented by and through his parents, ██████████ and ██████████<sup>2</sup> (“Parent”) and

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<sup>1</sup> Personal identification information is provided in Appendix A.  
<sup>2</sup> Student’s mother, ██████████ was in attendance each day of the Hearing.

their attorney, Mr. Neil E. Takiff of Whitted Takiff LLC. The District is represented by one of its attorneys, Ms. Koga Ndikum-Moffor.

On June 20, 2017 this IHO set the matter for an initial status conference on July 10, 2017 and to set a Prehearing Conference date.

On June 26, 2017, the initial status conference call was rescheduled to July 12, 2017 by agreement of the parties.

On July 12, 2017, this IHO entered an Order granting the parties an extension of time to complete their state-sponsored resolution/mediation efforts and set the matter for a Prehearing Conference on August 11, 2017.

On August 11, 2017, following a Prehearing Conference, the matter was set for hearing on September 21<sup>st</sup>, 22<sup>nd</sup>, 25<sup>th</sup>, 26<sup>th</sup>, with closing arguments scheduled for October 2, 2017. The 45 day timeline was extended by agreement to October 12, 2017 to allow sufficient time to complete the Hearing and for this IHO to issue his written Decision.

### **III. ISSUE PRESENTED FOR ADJUDICATION:**

**1. WHETHER OR NOT THE STUDENT HAS BEEN DENIED A FREE APPROPRIATE PUBLIC EDUCATION (FAPE) IN THAT THE STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM (IEP) FAILS TO PROVIDE AN APPROPRIATE PLACEMENT, IN THE LEAST RESTRICTIVE ENVIRONMENT, AND/OR FAILS TO PROVIDE APPROPRIATE SPECIAL EDUCATION AND RELATED SERVICES TO MEET THE STUDENT'S EDUCATIONAL NEEDS?**

**2. IF IT SHOULD BE DETERMINED THE STUDENT HAS BEEN DENIED FAPE, WHETHER OR NOT THE STUDENT'S UNILATERAL PRIVATE PLACEMENT IS APPROPRIATE?**

### **IV. REMEDIES REQUESTED BY PETITIONER:**

The Petitioner request this IHO to find that the District has denied Student a FAPE and requests this IHO to order the District to pay for Student's private placement at [REDACTED] along with costs for related services and transportation.

**RECEIVED 1/11/2018 - SPECIAL EDUCATION SERVICES**

**V. REMEDIES REQUESTED BY THE RESPONDENT:**

The District denies the Student has been denied a FAPE and requests this IHO to find the Student's Placement and special education and related services as provided in the Student's IEP is appropriate.

**VI. WITNESS PRESENTED FOR TESTIMONY AT HEARING:**

**On Behalf of Petitioner :**

██████████, Parent ("RS")  
██████████, Neuropsychologist ("AV")  
██████████, Educational Advocate ("MW")  
██████████, Executive Program Director, ██████████ ("KO")  
██████████, Private Speech-Language Therapist, ("EG")  
██████████, Program Director, ██████████ ("JS")  
██████████, Regular Education Teacher, CPS ("MZ")  
██████████, Case Manager, CPS ("MH")  
██████████, School Nurse, CPS ("KA")  
██████████, School Psychologist, CPS ("AC")  
██████████, Occupational Therapist, CPS ("MPJ")  
██████████, Social Worker, CPS ("BK")  
██████████, Speech-Language Pathologist, CPS ("EB")

**On Behalf Of Respondent:**

██████████, CPS District Representative ("SB")  
██████████, CPS ABA Specialist ("KK")

**VII. DOCUMENTS OFFERED AND ADMITTED INTO EVIDENCE:**

Petitioner's Exhibits Nos. 1-12; 18-24; 26-41; 46

District's Exhibits Nos. 36-48; 55-60

**VIII. BURDEN OF PERSUASION:**

With respect to the Petitioner's request for a due process hearing, in general the Petitioner has the burden of persuasion concerning the issues presented for adjudication, *Schaffer v. Weast*, 546 U.S. 49, 56-62; 126 S.Ct. 528 (2005); 105 ILCS 5/14-8.02(b). However, when the Petitioner is seeking tuition reimbursement, the District bears the

burden to show its proposed IEP is substantively adequate to provide a FAPE, and if not, the Petitioner then bears the burden to show that the Student's private placement is adequate, *J.R. –v- New York City Dept. of Education*, 70 IDELR 151, 117 LRP 32760, (S.D. N.Y., 2017). Additionally, under Illinois law, the District must provide evidence that it has appropriately identified the Student's educational needs and that the special education and related services are adequate, appropriate, and available, however this does not shift the burden of proof to the District, *City of Chicago Public School District 299*, 108 LRP 43065; 105 ILCS § 14-8.02a(g).

### **IX. FINDINGS OF FACT (FF):**

This Hearing Officer did not have the benefit of having the official transcript of the Hearing proceedings when writing this decision. Therefore, the following is based upon this Hearing Officer's personal notes, recording of the hearing, and recollection. This Hearing Officer has considered the testimony of the witnesses presented and the documents introduced and admitted into evidence when rendering this final determination. After considering the evidence, as well as the arguments of both the District's counsel and Parent's counsel, this Hearing Officer's Findings of Fact are as follows:

#### **A. BACKGROUND INFORMATION:**

1. █████ is a 6-year-old student currently enrolled at █████, a private therapeutic day school located in █████, Illinois. He has been formally diagnosed with having multiple disabilities including Autism Spectrum Disorder (ASD) with intellectual impairment and language impairment, Generalized Anxiety Disorder, and Attention Deficit Hyperactivity Disorder (ADHD), which has been linked to █████'s difficulties with social interactions, language processing, self-regulation, sensory

overload, anxiety, hyperactivity, impulsivity and distractibility, (Test. AV<sup>3</sup>; P's Ex. 8, 10, 41; D's Ex. 30, 27).

2. ██████'s difficulty with language was first noticed by his mother at age 2. In October 2013, ██████ began participating in private speech and language therapy and occupational therapy at ██████ in Chicago. At that time he was diagnosed with Mixed Expressive-Receptive Language Disorder and participated in speech and language therapy twice a week. He was also diagnosed with Lack of Coordination and participated in occupational therapy once a week. He received this therapy for about a year. (Test. RS; P's Ex. 8; D's Ex. 30).

3. During the 2014-2015 school year, ██████ was enrolled at ██████ ██████ in Chicago for a half-day preschool program. He reportedly struggled to participate in the class activities, did not engage in peer interactions, and had difficulty learning his pre-academic skills, (P's Ex. 8; D's Ex. 1, 30).

4. In March 2015, ██████ was evaluated at the ██████ (PDC) at ██████ located in Chicago. At that time ██████ was diagnosed with ASD with language impairment, (Test. RS; P's Ex. 1, 8; D's Ex. 6, 30).

5. In April 2015, at the parents request, the District performed an initial case study evaluation of ██████. At that time the District determined Ronin eligible for special education services under an Autism classification, and formulated an Individual Education Program (IEP) for ██████. The IEP proposed included special education and related services comprising 30 minutes per week (mpw) Speech/Language, 30 mpw

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<sup>3</sup> Dr. ██████ is an Illinois Licensed Clinical Psychologist since 2004. She is a neuropsychologist associated with the Chicago Neurodevelopmental Center for the past 3 ½ years. She received her psychology degrees from ██████ and the ██████. Her specialty is performing neuropsychological evaluations of children diagnosed with Autism Spectrum Disorder having performed about 1000 such evaluations during her career.

Occupational Therapy and 15 minutes per month (mpm) of Speech/Language consultation, ( Test. MW<sup>4</sup>; MH; P's Ex. 13-17, 21, 27; D's Ex. 35-46).

6. ██████'s parents felt ██████ required far more intensive support than was being offered under the District's proposed IEP, and in June 2015, ██████ was enrolled at ██████ ██████ ██████, a private therapeutic day program located in Chicago, (Test. RS; MW, AV; P's Ex 8; Dist. Ex. 30).

7. In September 2015 ██████ began participating in the Bridges Program through The autism program offered through the PDC. At that time ██████ received 120 mpw of speech and language therapy, 60 mpw occupational therapy, 60 mpw vision therapy and 600 mpw Applied Behavioral Analysis (ABA) therapy. ██████'s parents also received skills training and education to help implement the program's strategies with ██████ while in his home environment, (Test. SD; AV; P's Ex. 8; D's Ex. 7, 30).

8. ██████ remained enrolled at the ██████ ██████ through August 2017 at which time he aged-out of the program. During his tenure at ██████ ██████, a series of Speech-Language Evaluations were conducted by ██████ ██████, Ltd. which is a testing agency associated with ██████ ██████, (Test RS, EB<sup>5</sup>; P's Ex. 2, 4-7, 9; D's Ex. 24-26, 28).

9. In January 2017, a Neuropsychological Evaluation of ██████ was completed by Dr. ██████ of the ██████ ██████. ██████ was referred for

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<sup>4</sup> Dr. ██████ has been employed with ██████ & Associates since 2008 as an educational consultant. He received his Ph.D. in School Policy from the ██████ ██████. He holds an Illinois Special Education teaching certificate with a learning disability endorsement and an Illinois Type 75 General Administration Certificate. Since 1998, he has been employed with various school districts in Illinois in both a teaching and administrator capacity. Over the years he has participated in IEP meetings in varied capacities as a special education teacher, as a case manager, and as the local education agency representative. He has participated in 4000-5000 IEP meetings over his career.

<sup>5</sup> ██████ has been an Illinois licensed speech and language pathologist for 6 years. He holds a Master of Science degree in Speech, Language and Learning and has a Certificate of Clinical Competence from the American Speech and Hearing Association. He has been employed by the Chicago Public School system for 3 years.

the evaluation by the Parent's educational consultant, Dr. [REDACTED] to update [REDACTED]'s current functioning and to provide context for school-based supports, (Test. RS, MW; P's Ex 8; D's Ex 30).

10. As part of her evaluation report, Dr. [REDACTED] recommended the following: i) That [REDACTED] be enrolled in a highly structured low student-teacher ratio and small group of children (i.e., 1:3 teacher student ratio classroom); ii) due to [REDACTED]'s significant dysregulation, that an individual aide be provided throughout the day to ensure that he is attending to the lessons, to limit his deregulation, and to help him regulate when he becomes dysregulated; c) that [REDACTED] receive 30 minutes per day of speech-language therapy; d) that [REDACTED] receive 60 minutes per week of occupational therapy to address his sensory diet, regulation, fine motor skills, and visual-motor coordination, (Test. AV; P's Ex. 8; D's Ex. 30).

11. In anticipation of [REDACTED] aging-out of the [REDACTED] program, in January 2017, Parents, through their advocate, [REDACTED] & Associates, requested the District to re-evaluate [REDACTED] (Test. RS; Test. MW; P's Ex. 18, 32; D's Ex. 35-36).

12. The District agreed to re-evaluate [REDACTED] and as part of its re-evaluation assessments were conducted by the District in the areas of speech-language, occupational therapy, social work, along with an evaluation by the school nurse. The District's re-evaluation also included a review of numerous reports and evaluations provided by the Parent including the Neuropsychological Evaluation completed by AV on January 3, 2017, the District's prior 2015 evaluation of [REDACTED], information provided by [REDACTED], [REDACTED], as well as other numerous reports and evaluations

prepared by ██████████ and its testing affiliate, ██████████, Ltd., (Test. MW, KK<sup>6</sup>, BK<sup>7</sup>, P's Ex. 18-25, 32; D's Ex. 55-59).

13. On March 23, 2017, ██████████ and his mother meet with the District's evaluators to complete the assessments earmarked as part of the District's re-evaluation of ██████████. The District's assessment team included AC, the school psychologist, EB, the speech-language pathologist, KA, the school nurse, MPJ, the occupational therapist and MH, the District's case worker. Due to ██████████'s deregulation, none of the evaluators were able to administer standardized assessments because ██████████ was generally unable to follow directions or complete the task at hand. The evaluators were however able to make qualitative observations of ██████████ in either a play-based environment or when the OT evaluator removed ██████████ from the group to a separate quiet environment. This meeting lasted about 2-3 hours, (Test. RS, AC, EB, MPJ, MH).

14. On May 11, 2017, an Eligibility Determination Meeting was conducted and ██████████ was found eligible to receive special education and related services under an Autism classification, (P's Ex. 26; D's Ex. 42).

15. On May 15, 2017, an IEP meeting was held. The IEP proposed by the District provides ██████████ special education and related services including 60 minutes per week Speech-Language; 45 minutes per week Occupational Therapy and 15 minutes per week Speech-Language consultation. The IEP also provides for its implementation to be in one of the District's "cluster" program classroom settings whereby ██████████ would receive special education and related services about 68% of the time and also be mainstreamed or

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<sup>6</sup> ██████████ is employed with the District as Manager of Specialized Behavioral Support and Strategy for the Office of Diverse Learners. She has a Bachelor of Science degree in elementary and special education, holds an Illinois Special Education teaching certificate and had been a classroom teacher for 10 years.

<sup>7</sup> ██████████ received her Masters in Social Work from the ██████████ 13 years ago and has been employed with the District as a social worker since that time.

included in a general education setting for non-academic classes about 32% of the time. The IEP also provides that during the time [REDACTED] would be in a general education setting that he would be provided a non-dedicated or shared paraprofessional aide which would be shared among [REDACTED] and other students, (RS, MW, AV, MH, AC, KA, MPJ, BK, EB; P's Ex. 27).

16. The Parents disagreed with both the proposed related service minutes being offered under the proposed IEP as well as the "cluster" program Placement proposed to implement the IEP as the Parent felt a more intensive and restrictive educational program was required to meet [REDACTED]'s needs. A number of days after the IEP meeting the District notified Parents the "cluster" program which was being offered was located at the [REDACTED] Center in Chicago, ([REDACTED]). The [REDACTED] classroom setting was observed by [REDACTED]'s mother and AV on June 6, 2017. Parent's advocate MW is familiar with CPS's "cluster" programs and presently has placed a client at [REDACTED] although he has never been to [REDACTED], (Test. RS, AV, MW; P's Ex. 40; D's Ex. 48).

17. On August 8, 2017, Parents provided the District a formal written placement notice of their intention to enroll [REDACTED] at Soaring Eagle, (P's Ex. 41).

**B. HAS THE DISTRICT DENIED THE STUDENT A FAPE:**

18. In order to determine whether the Student is entitled to tuition reimbursement for the unilateral placement, two questions must be answered. The first question is whether or not the District's Placement was appropriate or more specifically, did the District make a free appropriate public education available to Ronin in a timely manner prior to his unilateral placement, *School Committee of Burlington –v- Department of Education of Massachusetts*, 471 U.S. 359, (1985); 20 U.S.C. §1412(a)(10)(C)(ii); 34

C.F.R. §§ 300.148(a) and 300.148(c). In answering this first question, the District bears the burden to show the IEP offered is both procedurally and substantively adequate, **J.R. –v- New York City Dept. of Education**, 70 IDELR 151, 117 LRP 32760, (S.D. N.Y., 2017). Additionally, the appropriateness of an IEP must be determined as of the time at which it was made, and the reasonableness of the program should be judged only based on the evidence, known to the school district at the time at which the offer was made. **D.S. v. Bayonne Board of Education**, 602 F.3d 553, 564-65 (3rd Cir. 2010); **D.C. v. Mount Olive Twp. Bd. Of Educ.**, 2014 WL 1293534, (DNJ 2014).

19. If the answer to this first question is no the District did not provide █████ a FAPE, then the second question to be answered is whether or not the Parent’s unilateral placement is appropriate to meet the child’s needs and weighing also equitable considerations relating to the reasonableness of the parents actions, **Florence County School District Four –v- Carter**, 510 U.S. 7 (1993). The Parent bears the burden of persuasion in answering this second question, **J.R.**, *supra*.

20. Furthermore, application of this tuition reimbursement test applies despite the fact █████ has never received special education or related services through the District, **Forest Grove –v- T.A.**, 557 U.S. 230 (2009).

**i. PROCEDURAL VIOLATIONS CLAIMED DENYING A FAPE:**

**A) WAS THE IEP PREDETERMINED?:**

21. “Predetermination of a student’s IEP amounts to a procedural violation of the IDEA ‘if it deprives the student’s parents of meaningful participation in the IEP process,’ **B.K. –v- New York City Dep’t of Educ.**, 12 F. Supp. 3d 343, 358 (E.D.N.Y., 2014). For an IEP to be predetermined, the district must ‘not have an open mind’ to consider alternative programs or services during the meeting,” **T.P. –v- Mamaroneck Union Free**

*Sch. Dist.*, 554 F.3d 247, 254 (2<sup>nd</sup> Cir., 2009). Mere parental disagreement with a school district's IEP and placement recommendation does not amount to a denial of meaningful participation, *B.K. supra* at 359. "School districts are permitted to come prepared to the [IEP] meeting with a draft IEP as long as it has not been finalized and the parents are not deprived of 'the opportunity to meaningfully participate in the IEP development process, (citations omitted)," *P.F. and S.F. –v- Board of Educ. Of the Bedford Cent. Sch. Dist.*, 67 IDLER 148 (S.D.N.Y., 2016).

22. In advance of the IEP meeting Parents advocate submitted numerous evaluative records of ██████ to the District for consideration in the preparation of the IEP. The records were considered along with the District's own evaluations and the team members communicated with each other to prepare a draft IEP which was forwarded to the Parent and Parent's advocate in advance of the IEP meeting at the Parent's specific request in order for them to prepare for the IEP meeting. The IEP meeting was held with the District's IEP team members, the Parent, Parent's Advocate and ██████'s Neuropsychologist. Discussions were had concerning the draft IEP and the Parent's disagreements with the IEP were discussed, but no material changes<sup>8</sup> were made to the draft IEP<sup>9</sup>. At the end of the IEP meeting, Parent's advocate delivered a letter on his letterhead dated May 11, 2017 which states the reasons why the Parent disagrees with the District's Placement recommendations. Shortly thereafter on May 18, 2017, the IEP was amended and finalized which amended one goal and provided extended school year (ESY) services for ██████. The District later notified the Parent of the location of the school (██████)

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<sup>8</sup> MW testified a minor change to one goal was made.

<sup>9</sup> A review of the draft IEP reveals that many of the recommendations as to services and modifications recommended in the evaluative information provided by the Parent was adopted and included in the draft IEP.

where the IEP was to be implemented which was visited by the Parent on June 6, 2017, (Test. RS, MW, AV, MH<sup>10</sup>, AC<sup>11</sup>, KA<sup>12</sup>, MPJ<sup>13</sup>, BK, EB; P's. Ex 38; FF 12-16).

23. The above facts clearly show the Parent, both directly and through the Parent's advocate MW, has meaningfully participated in the IEP process. Parent participated in the eligibility meeting, the domain meeting, exchanged considerable evaluative information with the District for its consideration in advance of the preparation of a draft IEP, attended ██████'s evaluation meeting, received and considered the draft IEP in advance of the IEP meeting, met with the District's IEP team members to review the draft IEP, and participated with the District to arrange for an observation of the location where ██████'s IEP was proposed to be implemented.

24. While the draft IEP was prepared in advance of the IEP meeting, the Parent requested this information in advance of the IEP meeting for its own use in preparing for the IEP meeting and therefore has no basis to now complain that the IEP draft somehow shows predetermination by the IEP team. The draft IEP was not finalized in advance of the IEP meeting and in fact was subsequently modified to modify a goal and to add an ESY provision. A continuum of placements was offered in the IEP, none of which were acceptable to the Parent, (Test. RS, MW; P's Ex. 26, 27; D's Ex. 42, 46).

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<sup>10</sup> ██████ has been employed by the District for 13 years. She has teaching degrees in special education and counseling. She hold a Type 10 and Type 73 certification from the State of Illinois and is also a Licensed Professional Counselor in the State of Illinois. She taught as a special education teacher for 8 years and for the past 3 years served as a counselor, case manager and a member of the District's Citywide Assessment team.

<sup>11</sup> ██████ is employed by the District as a School Psychologist. She received a B.S. degree in Psychology from ██████ in 2006 and a M.S. degree in Educational Psychology in 2007. She has been licensed to practice in the State of Illinois since 2009.

<sup>12</sup> ██████ is a nurse employed by the District.

<sup>13</sup> ██████ is employed by the District as an Occupational Therapist. She has a B.S. degree in Occupational Therapy from ██████ which was received in 1997. She also has a Masters in Developmental Disabilities from ██████ which was received in 2015. She has been licensed in the State of Illinois as an Occupational Therapist since 2001 or 2002.

25. Based upon the above, this Hearing Officer finds that the IEP was not predetermined and that the Parent did, in fact, participate in the IEP process in a meaningful way. Accordingly this IHO finds the District did not deny █████ a FAPE as a result of its preparation of a draft IEP in advance of the IEP meeting.

**B) WAS THE IEP IMPERMISSIBLY VAGUE TO DENY A FAPE?**

26. “IDEA requires an that IEP to include a statement of the special education and related services that will be provided to the student, 20 U.S.C. § 1414(d)(1)(A)(i)(IV). IDEA also requires that the IEP set forth “the anticipated frequency, location, and duration of those services and modifications,’ 20 U.S.C. § 1414(d)(1)(A)(VII),” *Tampalpais Union High School –v- D.W.*, 170 LRP 41035 (Sept., 2017). Where the language in the IEP is too vague to enable the student to use the IEP as a blueprint for enforcement purposes, a denial of FAPE may be found, *Tampalpais, supra*. Denial of a FAPE may also be found where the language of the IEP is too vague such that the parent is deprived of the right to participate in the IEP process in a meaningful way, *S.H. v. Mount Diablo Unified School District*, 70 IDELR 98 (July, 2017).

27. Parent contends the IEP is too vague to allow meaningful participation in the IEP process because 1) the “cluster” program through which the IEP was to implemented is not well defined in the IEP; 2) the related service OT service minutes is vague as to the details of the OT minutes being provided in either an individual or small group setting.

28. The May 18, 2017 IEP comprises approximately 48 pages which on its face, is very detailed in its scope and description. With respect to the OT minutes, the IEP provides for 45 minutes per week of services and states: “*Occupational Therapy Services will be provided in a separate setting either individually to focus on isolated*

*fine/visual-motor skills with less distraction or in a small group to facilitate imitation or modeling of peers so that █████ can generalize his skills in the larger classroom setting,”* (P’s Ex. 27, pg. 43-44; D’s Ex. 46).

29. The language as provided in the IEP appears clear on its face to inform the parent of both the scope and under what circumstances the OT minutes will be provided to █████. While it fails to state specifically how the minutes will be allocated between an individual or small group setting, one may reasonable infer that this will be dependent on factors such as what skills █████ is working on from time to time and what level of emotional dysregulation he may experience in these alternate settings. The IEP language as written does provide the Parent sufficient information of the OT programming to decide whether or not to accept or reject the proposed service.

30. As such, this IHO finds the OT language as plainly set forth in the IEP is not sufficiently vague to deny the Parent an opportunity to meaningfully participate in the IEP process and does not constitute a denial of a FAPE.

31. With respect to the IEP being vague by failing to provide a description of the “cluster” program, while the term “cluster program” is nowhere to be found within the IEP<sup>14</sup>, the program itself is sufficiently described in the IEP to inform the Parent of what program is being proposed in order for the Parent to decide whether or not to accept or reject the program offer. A review of the IEP reveals a program in which █████ will be in a special education setting to receive academic instruction 68% of the time with disabled peers to be taught by a special education teacher, and in a general education setting 32% of the time with non-disabled peers during times he is receiving instruction in non-academic core courses, namely, art, music, physical education and computer. A shared

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<sup>14</sup> It should be noted at the I.E.P. meeting, the terminology “cluster program” was used as a descriptor of the program being offered in the I.E.P., (Test. MW).

aide is provided when he is in a general education setting, and one programmatic aide is in the classroom when in a special education setting, (Test. AC; P's Ex. 27; D's Ex. 46).

32. While the testimony of the various witnesses from CPS was somewhat inconsistent when asked to describe the District's "cluster" programs, the program as described in the IEP should be the focus in determining whether it provides sufficient information for the Parent to make an informed decision whether or not to accept the program, (Test. AC, MPJ, EB, P's Ex. 27; D's Ex. 46).

33. In this case the Parent has employed a highly qualified and experienced advocate who has had considerable experience with CPS's "cluster" programs at four separate CPS locations. His understanding of CPS's "cluster" programs entails the student being educated in a special education setting part of the day and in a general education setting for the remainder of the day. He noted this feature appears to be consistent across the various "cluster" programs he had been previously involved with, (Test. MW).

34. Given the plain language used in the IEP describing the proposed programming along with the added knowledge of what CPS's "cluster" programs involve as understood by the Parent's advocate, this IHO finds the IEP was not sufficiently vague to deny the Parent an opportunity to participate in the IEP process in a meaningful manner or to understand the features of the program sufficient to make an informed decision whether to accept or reject the program.

35. Accordingly, this IHO does not find the language in the IEP describing the "cluster" programming sufficiently vague to find a violation under IDEA.

**ii. SUBSTANTIVE VIOLATIONS CLAIMED DENYING A FAPE:**

36. “Where the IEP is substantively deficient, parents may unilaterally reject it in favor of sending their child to private school and seek tuition reimbursement...,” *T.K. –v- N.Y.C. Dep’t of Educ.*, 810 F. 3d 869 (2<sup>nd</sup> Cir., 2016).

37. To determine whether the District has provided █████ a FAPE substantively, it must be determined whether the District meets the standard recently discussed by the United States Supreme Court. That is whether the District offered “an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances,” *Andrew F. –v- Douglas County. School Distist RE-1*, 137 S.Ct. 988, 69 IDELR 174 (March, 2017). The *Andrew* decision further notes the IEP has to be “appropriately ambitious” in light of the child’s circumstances which is “markedly more demanding than the de minimis test” set forth in *Board of Education of Hendrick Hudson Central School District –v- Rowley*, 458 U.S. 176 (1982), *Andrew*, Id. at 1000.

38. Under the *Andrew* standard, an examination of █████’s present levels of academic and functional performance is important to understand █████’s “circumstances” at the time the IEP was prepared.

**A) PRESENT LEVEL OF ACADEMIC ACHIEVEMENT  
AND FUNCTIONAL PERFORMANCE:**

39. The Present Level of Academic Achievement and Functional Performance section set forth in the IEP is a distillation of the reports provided by the Parent including those from █████, its affiliated testing agency, █████, Ltd., the report of Dr. █████ and the District’s own evaluations. Because the District was unable to administer standardized assessments when █████ presented for testing, due to attention and dysregulation issues, the District accepted the evaluation data and reports provided by the Parent as being a valid assessment of █████’s functioning, (Test. AC, MPJ, EB).

40. The most recent comprehensive evaluation conducted of [REDACTED] was by Dr. [REDACTED] in January of 2107. Her evaluation involved a review of prior evaluations from [REDACTED], [REDACTED], Ltd, [REDACTED], speaking with staff from [REDACTED] and observing [REDACTED] in the [REDACTED] school setting. Her testing including administration of the Comprehensive Test of Nonverbal Intelligence, 2<sup>nd</sup> Edition; Preschool Language Scales, 5<sup>th</sup> Edition; Bracken School Readiness Assessment, 3<sup>rd</sup> Edition; Beery-Buktenica Developmental Test of Visual-Motion Coordination, 6<sup>th</sup> Edition; Autism Diagnostic Observation Schedule, 2<sup>nd</sup> Edition, Module 1; Vineland Adaptive Behavioral Scales, 3<sup>rd</sup> Edition-Parent Report; Behavioral Assessment System for children, 3<sup>rd</sup> Edition-Parent & Teacher Reports, (Test. AV; P's Ex. 8; D's Ex. 30).

41. The testing results show [REDACTED] was unable to complete the Intellectual Functioning testing as he was unable to respond to the questions. The testing tasks required him to look at a sequence of pictures and choose a response from a group of five choices. Dr. [REDACTED] reports [REDACTED] did not seem to understand the task instructions and did not focus on the response booklet, (Test. AV; P's. Ex. 8; D's Ex. 30).

42. With respect to Language Development, [REDACTED] tested within the 1 percentile range across domains related to auditory comprehension and expressive communication which was consistent with previous reports of his functioning. With respect to [REDACTED]'s auditory comprehension (i.e., understanding language), AV notes in her report [REDACTED] did not show understanding related to making inferences (e.g. How do you think his shoes got wet?), or understanding of analogies (e.g., You sleep in a bed. You sit in a ----?), or an understanding of negatives in sentences (e.g. Show me the baby who is not crying). With respect to expressive communication (i.e. using spoken language), AV reports when

naming pictures, █████ occasionally labeled the picture using an associated word (i.e., rather than saying *refrigerator*, he said *food*; rather than saying *scissors*, he said *cut*). Dr. █████ also notes in her report that █████ did not exhibit the ability to use a variety of nouns, verbs, modifiers, and pronouns in spontaneous speech, use present progressives (e.g.. Tell me about this girl...she is eating) nor did he exhibit the ability to answer *what* or *where* questions. █████'s overall age-equivalent score fell at the 2 year, 8 month old level which was significantly below his actual age at testing of 5 years, 7 months, (Test. AV; P's. Ex. 8; D's Ex. 30).

43. With respect to Pre-Academic Skills, which measures basic concept development in young children, including colors, letters, numbers/counting, sizes, comparisons, and shapes, █████'s School Readiness Composite fell within the impaired range (1<sup>st</sup> percentile) and was consistent with his impaired language development. His overall score placed him at the 3-year, 2 month old age equivalent at the time of testing, (Test. AV; P's. Ex. 8; D's Ex. 30).

44. With respect to █████'s Visual-Motor Coordination, test results fell within the borderline range (4<sup>th</sup> percentile) which place him at the 3 year, 8 month age range at time of testing. Dr. █████ noted in her report that █████ was able to draw simple shapes (e.g. line, circle, diagonal line), but had difficulty on more complex shapes (e.g. cross, triangle, square) and noted █████ having trouble with fine motor control and coordination. She also states in her report fine motor skills and visual-motor coordination are important components of early academic development because these skills are necessary for handwriting, (Test. AV; P's. Ex. 8; D's Ex. 30).

45. With respect to the Autism Spectrum Disorder Assessment, during the play-based assessment, █████ demonstrated deficits related to social communication and

reciprocal social interaction. Behavioral observations of ██████'s social interactions revealed poorly modulated eye contact and lack of facial expressions to regulate social exchanges. He did show joint attention by immediately responding to Dr. ██████ when called by his name. He did not engage Dr. ██████ unless ██████ requested that he wanted something. He was observed to enjoy some activities (i.e. bubble play) but did not seem to enjoy these interactions when also involved with Dr. ██████. ██████ was also noted not to be able to sustain his play with any single object or activity. ██████ was noted to move quickly from one object to another without sustaining purposeful play. ██████ was noted to be able to imitate some of Dr. ██████'s play behaviors. He was observed to be distracted by toy trains in the room during the assessment and when he heard a train pass by outside the room. ██████ was also observed during the evaluation to engage in repetitive behaviors such as hand clapping as well as vocalizing loud noises, which occurs when ██████ becomes dysregulated as reported by his mother, (Test. AV, RS, P's. Ex. 8; D's Ex. 30).

46. With respect to Dr. ██████'s observations of ██████ at ██████, she noted he was being taught by a speech-language pathologist with 2 other students. She noted ██████ could complete simple tasks. When he was given a more difficult task he would become dysregulated and unable to complete the task. Dr. ██████ reports when the teacher was working with the other students ██████ would not work independently on the task, became dysregulated by either becoming quiet or made noises or got up and walked around the room to check on his picture schedule. She noted no indication that ██████ was able engage with or imitate the behaviors of his peers in class. She stated that ██████ required frequent prompting from his teacher and was not able to stay on any one task for longer than 3 minutes at a time and in the case of academic tasks, she observed ██████

needed prompting from his teacher every 10-15 seconds, and at times required hand-over-hand interventions from the teacher to complete tasks, (Test. AV).

47. Prior to ██████'s current placement at ████████████████████, ██████ was enrolled at ████████████████████ during the 2016-2017 school year. The school provides therapeutic services for children through age 6. Classes are taught by a special education teacher, speech-pathologist and/or occupational therapist. The class room size is no larger than 6 students with a teacher/student ratio of 1 to 3. The population makeup of the school is primarily students with autism spectrum disorder or other developmental delays. The school is equipped with sensory supports, a calming corner, and a sensory gym. KO was ██████'s teacher at ████████████████████ and his individual speech-language therapist. ██████'s classroom had 3 students. KO worked with ██████ in both the classroom setting and in a one-to-one setting depending on the level of his dysregulation. KO reports ██████ suffers from both external dysregulation and internal dysregulation. External dysregulation relates to distraction arises from things in the room, people and peers. Internal dysregulation relates to an internal thought on an object, such as a train, where ██████ "zones out" to the exclusion of all other external stimuli. KO states internal dysregulation is shown by the child's scripting, making noises, doing something with their hands or observing stemming behavior. At ████████████████████ when ██████ was exposed to a larger group of his neurotypical or non-disabled peers (up to 15 students), he became over-stimulated and dysregulated such that he was unable to process information including auditory or visual information. KO stated that ██████ made consistent progress throughout the year but notes ██████'s day to day progress was inconsistent meaning that one day he may

achieve a 90% accuracy on his goals and the next day 5% accuracy depending on his level of dysregulation, (Test. KO<sup>15</sup>).

48. ██████████, CPS's psychologist had the opportunity to observe ██████ at ██████████. She observed ██████ in a play activity. During that time ██████ required multiple redirections and prompts (both verbal and physical) by his teacher to stay on task and he also required one sensory break during the activity which she reports lasted 20-30 minutes. He was also noted to be distracted by a train passing by outside the classroom and by a mirror on the wall in the room where the play activity was being conducted. She noted the teacher's assistance was required for ██████ to complete the play activity. When distracted, ██████ was noted to have wandered away from the play activity area, (Test. AC).

49. ██████████, the Parent's advocate also had the opportunity to observe ██████ at ██████████ in September and November 2016. MW observed ██████ in both his small classroom setting and also when he was in a large group setting with his non-disabled peers in music class. MW testified that in his classroom setting which was 3 students and the teacher, ██████ would work on a task for 1-2 minutes which required constant verbal, visual and hand-over-hand prompting from the teacher to complete the task. At that point MW noted ██████ would become over-stimulated and would require a sensory break of 3-5 minutes in order to regroup. This pattern of short periods of attending to the task followed by break periods to regroup was noted to repeat over and over throughout his observation. MW also observed ██████ transition to the general education music class with an aide. During this transition, MW observed ██████ became

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<sup>15</sup> ██████████ has been the Therapeutic Director at ██████████ for the past 7 years and was also employed there as a Speech and Language Pathologist. She has a B.S. from the ██████████ in Speech and Hearing Science and an M.S. degree in Communication Sciences and Disorders from ██████████ University. She started working with disabled students professionally in 2009.



any meaningful way, and therefore does not receive any educational benefit from being included in a large group settings, (Test. MW, AV, EG<sup>17</sup>).

51. This IHO is persuaded by the Parent's experts opinions and the basis for their opinions. The evidence overwhelmingly shows that ██████ presents as a highly dysregulated child who has been formally diagnosed with multiple disabilities including Autism Spectrum Disorder with intellectual impairment and language impairment, Generalized Anxiety Disorder, and Attention Deficit Hyperactivity Disorder, (Test. AV, P's Ex. 1-13; D's Ex. 6, 10).

52. His chronic dysregulation (both withdrawal and over-stimulation) prevents him from staying on task for more than a few minutes at a time even with verbal, visual or physical prompts from his instructor. He requires frequent sensory breaks as he is shown to become quickly dysregulated by the task, number of people or objects in the room, at various times which is not at all predictable, (Test. MW, AV, EG, RS).

53. His present level of functioning shows that he is in the 1 percentile range in Language Development and Pre-Academic Skills and in the 4<sup>th</sup> percentile in Visual-Motor Coordination placing him 2-3 years behind his peers in his development, (FF 40-45).

54. The evidence shows Ronin needs require him to receive intense support in order to develop his basic language and attention skills as these skills, once developed, will provide him the window of opportunity through which he will then be able to learn and receive educational benefit from academic studies. Without these basis skills to learn he will not be able to make any meaningful progress academically, (Test. MW, EB).

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<sup>17</sup> ██████ has been a Speech-Language Pathologist for the past 7 years. She is currently employed with ██████ in Chicago. During 2012-2016 she was employed with ██████. She has a B.A. in Communication Sciences and Disorders from ██████ University and an M.S. degree in Speech-Language Pathology from the University of ██████.

55. The District's IEP proposes ██████ to receive related services of 60 minutes per week speech-language and 45 minutes per week occupational therapy. The facts further show ██████ has progressed, albeit moderately, at ██████ when receiving 135 minutes per week of speech-language therapy and 90 minutes per week of occupational therapy at a time when he was also receiving substantial private support for his language and speech needs. AV who conducted the most recent evaluation of ██████ recommends 150 minutes per week of speech-language. CPS's speech-language pathologist EB, who did not observe ██████ in any classroom setting and did not complete a speech-language evaluation of ██████, ( but rather accepted the evaluative reports provided by Parent), testified that he disagreed with the minutes recommended by AV because she is not a speech-pathologist<sup>18</sup> and because ██████'s special education teacher would also be providing him support while in the classroom. When inquiry was made, EB was unable to quantify the number of minutes his special education teacher would be providing ██████. EB further testified that if AV was recommending 150 minutes of speech-language for a program such as ██████ then that would be appropriate stating that ██████ is a clinical program whereas CPS is not. This distinction belies logic and traverses the real issue which is what are ██████'s present needs and what placement is appropriate for him to receive necessary services in order for him to make academic progress.

56. The IEP which proposes a reduction in ██████'s speech-language and occupational minutes by 50% from what he had been receiving at ██████ is not appropriate and also raises a concern whether the reduction in these service minutes would actually impede the modest progress ██████ has shown he had been making or worst yet, cause him to regress. *Andrew, supra*, requires the IEP to be "appropriately

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<sup>18</sup> AV's report and recommendations were based in part upon a review of the evaluations of ██████ while at ██████. The evaluations from ██████ and ██████, Ltd. were all performed by qualified Illinois Licensed Speech-Language Pathologist and Illinois Licensed Occupational Therapist, (Test. KO).

ambitious” in light of the child’s circumstances. [REDACTED] was making slow progress at [REDACTED] when receiving twice the number of related service minutes as being offered under the District’s proposed IEP. He is far behind his peers in his development and is presently functioning at the 1 percentile across most domains. It seems clear to this IHO that the service minutes being offered under the proposed IEP are not “appropriately ambitious” to allow [REDACTED] to progress, given Ronin’s circumstances.

57. Likewise, the IEP which provides [REDACTED] a shared, rather than a dedicated aide, is inappropriate given [REDACTED]’s circumstances. The testimony is replete in characterizing [REDACTED]’s chronic dysregulation requiring him to be prompted verbally, visually, or physically and often with hand-over-hand interventions sometimes every few seconds to refocus his attention in order to stay on task to learn and at times his dysregulation requires his physical removal from the classroom to an alternate sensory setting to decompress when he becomes overly-stimulated. A shared aide, who is shared with other students, will not be available to [REDACTED] full-time to implement the various interventions [REDACTED] is shown to constantly need. Absent a dedicated aide who would provide full-time support, [REDACTED] would experience much down time in wait for support at times of dysregulation, down time which could otherwise be used by [REDACTED] for his educational development. Additionally, [REDACTED] is also known to wander when he disconnects from his external reality and becomes internally dysregulated. This wandering creates a potential safety concern if [REDACTED] is not monitored full-time. This IHO also agrees with the Parent’s expert that [REDACTED] is an inappropriate classroom setting for [REDACTED]. Testimony taken indicated the classroom as observed is physically very large, and contains many objects located throughout the classroom including the walls. The testimony heard was that environments with clutter such as [REDACTED] causes [REDACTED] to

become over-stimulated and dysregulated which interferes with his ability to learn. Various witnesses testified that the [REDACTED] classroom may contain up to 13 students at any one time. This would also interfere with [REDACTED]'s ability to learn as he is known to trigger and become dysregulated when in a setting of as little of 5 students and adults. In addition, testimony heard indicated the [REDACTED] setting did not have in place a number of the sensory intervention tools [REDACTED] requires when over-stimulated such as a sensory gym or other sensory tools to allow him to decompress and regain attention, ( Test. RS, MW, AV, KO, AC, MH).

58. Accordingly, for these reasons this IHO finds the IEP and [REDACTED] Placement offered by the District is inappropriate and finds a denial of FAPE<sup>19</sup>.

59. The Parent also argues [REDACTED] has been denied a FAPE because District failed to perform a Functional Behavioral Assessment (FBA) or develop a Behavioral Intervention Plan (BIP) for [REDACTED] noting this is a requirement under IDEA when it is suspected a student's behavior may be impacting the child's ability to learn, 34 CFR 300.324(a)(2)(i). It is somewhat axiomatic that in order for the District to perform an FBA, [REDACTED]'s behaviors must first be observed and assessed while being instructed in the classroom setting at [REDACTED]. The District was never provided an opportunity to observe or assess [REDACTED]'s behaviors in that setting due to the Parent's rejection of that Placement. Because it was the Parent's actions which disallowed the District from having any opportunity to perform an FBA, the Parent's claim is simply not tenable. Given these circumstances, this IHO finds the District's failure to perform an FBA does not result in a violation of IDEA.

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<sup>19</sup> In closing arguments, the District contends that after it has had the opportunity to assess how [REDACTED] may perform in the [REDACTED] setting, his IEP and/or classroom setting could be modified to cure any deficiencies present in the proposed IEP. However, the law does not provide for that, "A school district cannot rehabilitate a deficient IEP after the fact," *T.K. v. N.Y.C. Dep't of Educ.*, 810 F.3d 869, (2d Cir. 2016) citing *R.E. -v- N.Y.C. Dep't of Educ.*, 694 F.3d 167 (2d Cir. 2012).

**C. DOES SOARING EAGLE ACADEMY PROVIDE THE STUDENT AN APPROPRIATE PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT?**

60. The District contends the [REDACTED] Placement is more appropriate for Ronin because it satisfies the Least Restrictive Environment (LRE) mandate under IDEA. IDEA requires *“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 USC 1412 (5); 34 CFR § 300.114(2)(i, ii). This requires [District’s] to educate handicapped children with nonhandicapped children whenever possible, *Board of Educ. –v- Rowley*, 458 US 176, 102 S.Ct. 3034.

61. When reconciling the LRE requirements of IDEA with its primary goal of providing disabled students with an appropriate education, “where necessary for educational reasons, mainstreaming assumes a subordinate role in formulating an educational program,” *Carter –v- Florence County School Dist. Four*, 950 F.2d 156, (4<sup>th</sup> Cir. 1991), citing *Rowley*, *supra* at 181.

62. The District testified the proposed IEP provided for [REDACTED]’s part-time inclusion in a general education setting for the benefit of acquiring language, communication and social skills through modeling by [REDACTED] of his non-disabled peers, (Test. MH).

63. The Parent’s experts testified that because [REDACTED] has very limited “shared attention” and does not have the basic language and communication skills to interact with

his peers in a meaningful way, he would not receive any educational benefit from mainstreaming or inclusion in a general education setting, (Test. MW, AV, EG).

64. The District has never observed ██████'s behavior or interactions in a general education setting with a large group of his peers, whereas the Parent's experts have. They testified that even with full-time support in a general education setting, such as when ██████ was observed in his music class at ██████, (which ██████ is reported to enjoy), he becomes quickly over-stimulated and dysregulated and was observed not to engage with his peers in any meaningful way. Because of ██████'s limited receptive and expressive skills, inability to function independently for more than a few minutes at a time, limited shared attention and chronic dysregulation in large group settings, this IHO is persuaded that ██████ is not yet ready to benefit from mainstreaming with his non-disabled peers. in any meaningful way, (Test. MW, AV, EG).

65. Deference is given to the Parent's expert's opinions based upon their respective educational backgrounds, work experience, and the observations made of ██████'s behavior and functioning in both small and large group settings, (Test. MW, AV, EG).

66. Therefore this IHO finds that due to the severity and nature of ██████'s disabilities, inclusion of ██████ in a general education setting, even with full-time support, would not be appropriate or provide him with any meaningful educational benefit. The appropriate LRE for ██████ at this stage of his development is a small classroom therapeutic setting with full-time supports.

67. ██████ was first enrolled at ██████ in September 2017, following the Parent's rejection of the District's proposed Placement. ██████ is a small non-for-profit private therapy day school located in ██████, Illinois. It currently has students

ranging in age from 3 to 21 years old. The school is an approved Illinois State Board of Education facility meaning it is in compliance with the provisions of §401 of the Illinois School Code. Of its current student body, 38 of the students were placed at [REDACTED] by other school districts. The population of the school is primarily students with autism, but the school is also approved and also educates students with developmental disabilities, speech and language impairment, specific learning disabilities and other health impairments. [REDACTED] is currently being taught in a small classroom with 1 or 2 other students by a special education teacher or speech-language pathologist or occupational therapist along with a dedicated teaching assistant. In non-academic settings such as lunch, recess, or physical education, [REDACTED] is supported full-time by a dedicated teaching assistant to assist him with issues arising when included in a larger group setting. The school has a sensory gym and other sensory tools to facilitate students who require periodic re-regulation. Classroom instruction is from 9:00 am to 2:30 p.m. [REDACTED]'s academic programming includes literacy instruction, math, science, social studies, social-emotional learning and a period dedicated to developing job vocation skills. [REDACTED] is reported to have progressed at [REDACTED] during the limited time there. It is reported his "shared attention" has now doubled to about 60-90 seconds before he disengages from the task or others. The school has a support plan in place to provide interventions when [REDACTED] disengages and is now in the process of gathering data on [REDACTED]'s functioning at Soaring Eagle in order to draft goals, (J.S., P's Ex 28, 31). Based upon the foregoing, this IHO finds [REDACTED] does provide [REDACTED] an appropriate Placement in the least restrictive environment.

68. When considering the equities relating to the reasonableness of the Parent's actions in this matter, the equities clearly favor the Parents. The Parents spent a great deal

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of their time and personal resources working with highly trained and experienced professionals to gain an understanding of ██████'s behaviors, his disabilities, and his educational needs. The Parents fully cooperated with the District during the entire IEP process by sharing evaluative information, attending meetings, discussing issues, presenting ██████ for the District's evaluation and by observing the ██████ school setting, all in what is shown as a good faith attempt to find an appropriate Placement for ██████ within his school district, (Test. RS, MW, AV, MZ, MPJ, AC, MH, EB).

#### **X. CONCLUSIONS OF LAW:**

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

1. The IEP and Placement offered by the District to the Student denies the Petitioner a FAPE, substantively;
2. ██████ provides the Petitioner an appropriate Placement in the least restrictive environment.

#### **XI. ORDER:**

**Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered:**

Petitioner's request for both retroactive and prospective tuition and related services reimbursement and transportation costs relating to Student's Placement at ██████ ██████ is granted, to be paid to the Petitioner by the City of Chicago Public School District No. 299 within 30 calendar days of presentation of paid receipt(s).

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**NOTICE OF RIGHT TO REQUEST CLARIFICATION**

Pursuant to 105 ILSC 5/14-8.02a(h), either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification must specify the portions of the decision for which clarification is sought. A copy of the request must be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

**NOTICE OF RIGHT TO APPEAL**

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

Dated: October 11, 2017

s/ Alan Schuster  
Hearing Officer

Alan G. Schuster,  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**APPENDIX A**

**██████████ -v- City of Chicago SD 299**  
**Case No: 2017-0490**

██████████	██████████-Student
██████████	██████████-Parent
██████████	██████████-Parent