

[REDACTED]

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

■ a minor, by and through His/her Parent(s),

Student,

v.

Case No. 2018-0471

Mary Jo Strusz

■
District # ■,

Impartial Hearing Officer

District.

FINAL DETERMINATION AND ORDER

JURISDICTION

The undersigned has jurisdiction over this matter pursuant to the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §1400 *et seq.*, and the Illinois School Code, 105 ILCS 5/14-8.02a *et seq.*

PROCEDURAL BACKGROUND

On June 1, 2018, Petitioners filed a Due Process Complaint (“DPC”) against the Chicago Public Schools District No. 299 (“District”) pursuant to IDEA.¹ Petitioners are the parents (“Parents”) of ■ (“Student”), an eight -year-old student with a disability who in 2013 was found eligible for special education services and an Individual Education Plan (“IEP”) on the basis of a diagnosis of Autism.² Student attended District schools from the fall of 2013 to June of 2017, and beginning in September 2017 Student attends school in another public school district in Illinois.³ Parents’ DPC alleges that in September 2016 the District reevaluated Student and subsequently improperly determined that she was no longer eligible for special education

¹ HO-1. (References to the record in this case are designated as “HO-____.”)

² HO-1c.

³ HO-1c.

services and denied her an IEP, resulting in a denial of a Free Appropriate Public Education (“FAPE”) during the 2016-2017 school year.⁴

This Hearing Officer (“IHO”) was appointed to preside over this case on June 7, 2018.⁵ The IHO issued an initial status call letter and preliminary order on June 11, 2018.⁶ The District submitted a response to the DPC on June 11, 2018.⁷ The parties participated in mediation on July 2, 2018, but were unable to resolve the issues.⁸

The parties each filed their prehearing conference disclosures on August 6, 2018.⁹ The prehearing conference was conducted by recorded telephone conference call on August 8, 2018.¹⁰ The Prehearing Report and Order (“PRO”) was entered on August 8, 2018.¹¹ The PRO set the due process hearing dates for November 7, 8, & 9, 2018,¹² and gave Parents until September 4, 2018 to file a formal written request for compensatory services, with the District given until September 14, 2018 to file a response.¹³

On September 4, 2018, Parents filed their formal written Request for Compensatory Services.¹⁴ On September 14, 2018, the District filed its response to the Parents’ request, and as part of that response requested that the IHO strike Parents’ remedies (“Motion to Strike”). The Motion to Strike sought to strike Parent’s requested compensatory remedies: 1). for the period that Student moved out of the District; and 2) for the amount paid for by Parents’ insurance.¹⁵ On October 24, 2018, a status conference was held and a briefing schedule set on Parents’

⁴ HO-1c.

⁵ HO-4.

⁶ HO-6.

⁷ HO-5.

⁸ HO-15c.

⁹ HO-11,12.

¹⁰ HO-15b.

¹¹ HO-15.

¹² HO -15e.

¹³ HO-15d.

¹⁴ HO-18.

¹⁵ HO-19.

Request for Compensatory Services and on the District's Motion to Strike.¹⁶ The parties then filed a joint motion to continue the due process hearing date.¹⁷ The motion to continue was granted and the due process hearing was set for the week of January 28, 2019.¹⁸

The parties subsequently briefed the issues contained in Parents' Request for Compensatory Services and the District's Motion to Strike,¹⁹ and on January 11, 2019, an Order was entered denying the District's Motion to Strike.²⁰

On January 18, 2019, the Parties filed their prehearing disclosures.²¹ Parent's disclosure was approximately one hour late due to computer issues, however this was not deemed prejudicial to the District's case and the hearing proceeded.

The due process hearing took place on January 28, 2019 at the District School²² and on January 29 and 31, 2019 at the District School Offices, [REDACTED], [REDACTED], Illinois [REDACTED]. An official court reporter was provided by the District for all hearing dates. The hearing was closed to the public. Parents presented three (3) witnesses.²³ The District called seven (7) witnesses.²⁴

There was no stipulation of facts. No subpoenas were requested.

At the conclusion of the evidence presentation, the IHO admitted the following exhibits: District Exhibits SD 1, 3, 4, 5, 7, 18, 23, 25, 27, 28, 29, 31, 32, 34, 37²⁵ and 38; and Parent Exhibits through P 1, 6, 12, 15, 16, 18, 20, 29, 32. Parent P-19 was offered, the District

¹⁶ HO-22 b-c.

¹⁷ HO-21.

¹⁸ HO-21, 22.

¹⁹ HO-23, 24, 25.

²⁰ HO-26.

²¹ HO-28, 29.

²² Personally identifiable information is in Appendix A.

²³ Personally identifiable information is in Appendix A.

²⁴ Personally identifiable information is in Appendix A.

²⁵ The following pages of SD37 were not admitted: 002, (021-026), (029-039), (044-048), (052-069), (071-084).

objected, the objection was sustained, and Parents withdrew the offer. The exhibit was maintained for the record but not considered for this decision.²⁶

No written transcript has been provided and this decision is based on the IHO's personal notes and recollection. In rendering this decision, the IHO has considered all documents entered into evidence, testimony by the parties' witnesses, the parties' opening statements and closing arguments, the parties' suggested case law,²⁷ as well as independent research. This decision is issued within ten (10) business days after the hearing's conclusion, as required by Illinois law.²⁸

ISSUE AND REMEDY REQUESTED

Parents' DPC raised the following issues, and this IHO certified the following issues at the PHC for adjudication at the due process hearing:

Issue One: Whether Student was denied FAPE when the District allegedly failed to properly to conduct a psychological evaluation of Student during the fall of 2016.

Issue Two: Whether Student was denied FAPE when the District allegedly failed to consider reports and test data from private medical experts when it denied Student an IEP in January 2017.

ISSUES NOT CERTIFIED FOR ADJUDICATION:

Issue Three: The Hearing Officer has no jurisdiction to hear enforcement claims under section 504, and therefore does not certify this issue for hearing. Whether the District failed to implement the terms of the Section 504 plan during the 2016-17 school year.

²⁶ Each exhibit is identified by "P" for Parents' exhibits and "SD" for the District's exhibits and includes the exhibit number and specific page in the exhibit.

²⁷ Copies of the closing statements and the supporting case law were provided to the IHO by the parties.

²⁸ 105 ILCS 5/14-8.02a(g55)(5).

Issue Four: The Hearing Officer has no jurisdiction to hear alleged claims of retaliation and therefore does not certify this issue for hearing. Whether the District retaliated against the Parent(s) for expressing disappointment in the District's failure to find Student eligible for an IEP in June 2016, alleging that the District failed to implement the Student's 504 plan, and denied Parent's request to transfer Student to another District school.

Remedies: The Parents seek compensatory services for special education services that were improperly denied by [REDACTED] since June 2016. The Parents incurred significant expense in retaining private providers to replace the services which District did not provide during the 2016-17 school year. Complete cost information is unavailable but anticipated to be in excess of \$60,000 during 2016. Additional costs were incurred in 2017 and 2018. Student continues to experience adverse effects resulting from the District's failure to provide services necessary for a FAPE and anticipate that retention of private providers will be necessary for, a minimum, Summer 2018 and the 2018-19 school year. They request that [REDACTED] be directed to reimburse them for all of these costs.²⁹

District Defense: The District maintains that its evaluation utilized a variety of tools to conduct assessments of Student's then-present levels of performance in multiple areas. The District believes that the evaluation was comprehensive in nature and provided the Team with the information it needed to determine whether Student continued to require the supports of a special education teacher to access her curriculum. The Team determined, based on their evaluations of Student, that Student's diagnosis of autism, which qualified her for services, no longer adversely impacted her educational performance in a manner that would require special education instruction, and therefore she no longer qualified for an IEP. The Team determined it would be most appropriate to provide Student with accommodations and modifications under a

²⁹ HO-1g.

504 plan. The District maintains that the Team properly considered Parents' outside evaluations when they were provided.

FINDINGS OF FACT

After considering all the evidence, as well as the arguments of counsel, the IHO's Findings of Fact are as follows:

Background

1. Student was born in 2010. At fourteen months old Student was diagnosed with failure to thrive and gastro intestinal issues.³⁰ At fifteen months old, early intervention, including a feeding therapist, occupational therapist, and social worker, were provided to Student by the State of Illinois.³¹
2. Student was initially found eligible for special education services and an IEP was drafted on June 11, 2013.³² Parent began using occupational therapy services, using the services of Parent-OT³³ in 2013-14, and those services continue to date of hearing.³⁴
3. Student was put into a blended³⁵ pre-kindergarten class at [REDACTED], a [REDACTED] School.³⁶ At the request of Parents, in November 2013, Student was transferred to a blended pre-kindergarten program at [REDACTED] (" [REDACTED] ") Public School, which was closer to Student's home.³⁷ Student remained at [REDACTED] until Student's transition to kindergarten in September 2016.³⁸

³⁰ Mother testimony.

³¹ Mother testimony and SD5-002. These providers were not identified and did not participate in this hearing.

³² SD4-016.

³³ Personally identifiable information is located in appendix "A".

³⁴ Parent-OT testimony.

³⁵ Blended preschool consists of students with a general education teacher and a special education teacher (P1-2).

³⁶ Mother testimony and HO1-c.

³⁷ Mother testimony.

³⁸ Mother and Case Worker testimony.

4. On February 7, 2014, Student was seen by Doctor³⁹ for an autism evaluation (“Initial Evaluation”).⁴⁰ Doctor, who did not testify, provided a written evaluation to Parents on April 5, 2014.⁴¹ During the evaluation, the Autism Diagnostic Observation Schedule (“ADOS”) Module 2 assessment and the Behavioral Assessment System for Children, 2nd edition (BASC-2) were completed.⁴² Doctor noted that “Student’s performance in the ADOS evaluation was not consistent with an Autism Spectrum disorder”.⁴³ However, after completion of testing and a telephone communication with Student’s special education teacher, on April 5, 2014 the Doctor arrived at the “impression”⁴⁴ Student had: mild autism spectrum disorder; motor coordination disorder and sensory processing deficits; and anxiety and emotional dysregulation.⁴⁵ The Initial Evaluation made the following recommendations for Student: 1) after school services to compliment services Student is receiving in school, including speech therapy, occupational therapy, and behavioral therapy; 2) occupational therapy to address Student’s sensory processing deficits and help regulate her emotions and behavior; 3) behavioral therapy with an ABA foundation targeted at helping Parents provide anticipation and more effective responses to Student’s behavioral and emotional challenges; 4) additional services to address Student’s social communication and emotional regulation challenges.⁴⁶ Mother testified that Parents implemented these recommendations.

³⁹ Personally identifiable information is located in appendix “A”.

⁴⁰ Mother testimony and P-1.

⁴¹ P-1.

⁴² P1-3. The BASC-2 assessment included phone communication with Student’s special education teacher on April 5, 2014.

⁴³ P1-3.

⁴⁴ P1-2.

⁴⁵ Mother testimony and P1-2.

⁴⁶ P1-4.

5. At some point prior to March 16, 2015,⁴⁷ Student was referred by the Doctor to a Clinical Psychologist⁴⁸ for a consultation. Clinical Psychologist did not testify. Clinical Psychologist issued a report based upon Student's past evaluations, Parent interviews, a school observation, interviews with Student's preschool teacher, and interviews with Student's private team therapists.⁴⁹ This report diagnoses Student with Autism Spectrum Disorder, Generalized Anxiety Disorder, and Communication Disorder.⁵⁰ Clinical Psychologist did not testify, however, on the signature page of the report, Clinical Psychologist makes school recommendations: 1) "Social work services that include one time per week of seeing the school social worker and one time a week of participating in a social group within the school setting; 2) Occupational therapy that includes one time per week of seeing the school occupational therapist, and on a weekly basis provides in class consult to support regulation; and 3) within the classroom context, continue goal of having high expectations to maintain a good work ethic, to support peer interactional skills and to supporting building academic skills."⁵¹ Student sees Clinical Psychologist to the date of hearing.⁵²
6. During the 2015-16 school year, Student continued in ██████'s pre-kindergarten program, which was two hours per day.⁵³ Student was provided with an IEP and had

⁴⁷ When this assessment took place cannot be ascertained with any certainty, and that was considered in this Determination. It is noted that the date on the front of P2 is March 16, 2014. The contents of the document indicate that Student is a 4 year, 6 month old, which would be consistent with a 2015 date, and the document is signed 3/16/2015 (P2-6). Additionally, the document refers to the "same excellent teaching staff she had last year," which would be consistent with either the second or third year in pre-K. There are no other dates within the document and no specific referrals to any teacher by name. Mother could not recall the date of the assessment.

⁴⁸ Personally identifiable information is in Appendix A.

⁴⁹ P2-1.

⁵⁰ P2-6.and SD5-002.

⁵¹ No minute per week recommendations are made, what type of social group is not specified, no specific goals are suggested. P2-7.

⁵² Mother testimony.

⁵³ Mother testimony and P1-2.

access to a special education teacher in class.⁵⁴ Parents were satisfied with Student's IEP services and education at [REDACTED].⁵⁵

7. On April 4, 2016, Parents privately requested a neuropsychological evaluation ("Neuropsych Eval") for Student from a Developmental Neuropsychologist ("Neuropsychologist"),⁵⁶ who did not testify. The Neuropsych Eval included background information on Student, based on information obtained through a clinical interview with Student's Parents, conversations with Clinical Psychologist, Parent-OT,⁵⁷ and Student's private ABA therapist. Student's IEP was also reviewed.⁵⁸ The evaluation notes that standardized questionnaires were administered to Parents. However, "based on parental request teacher questionnaires were not administered."⁵⁹ Further, it specifies that "tests administered were selected to address the specific referral concerns"⁶⁰ which are "to obtain an updated assessment of Student's neurocognitive strengths and weaknesses and to obtain recommendations to form her treatment and educational programming."⁶¹ The Neuropsych Eval provides the following information:

- a) The background states "when Student was two years and four months old, her parents brought her to [REDACTED] Medical Center... When Student was two years and eight months old, she received an Autism Spectrum Assessment through [REDACTED] Pediatric Psychology, based on that evaluation she met criteria for autistic Disorder."⁶²

⁵⁴ Mother testimony.

⁵⁵ Mother and Father testimony.

⁵⁶ Personally identifiable information is located in appendix "A". SD5-001.

⁵⁷ Personally identifiable information is located in appendix "A".

⁵⁸ SD5-001. Mother testified that she believed she had signed a release to contact Student's teachers.

⁵⁹ SD5-001.

⁶⁰ SD5-001.

⁶¹ SD5-008.

⁶² According to the age specified in this section, Student would have been diagnosed with autism in 2013. It appears, then, that the Doctor's evaluation P-1 may not have been the initial autism diagnosis.

- b) Developmental Neuropsychologist reviewed the report from Parent Psychologist.⁶³
- c) The evaluation makes the following observations: 1) in addition to the services provided in Student's IEP, Student receives intensive therapies outside of school, 1) Student sees the Parent Psychologist, Parent-OT and an ABA therapist;⁶⁴ 2) "Behaviorally, Student continues to have screaming fits and meltdowns at home. At School Student seems to be able to better regulate behavior,"⁶⁵ and 3) Parents report Student continues to be rigid in her behavior and thinking,⁶⁶ enjoys communicating with adults and possesses a large vocabulary and can talk like a "little professor."⁶⁷
- d) The Neuropsych-Eval included a number of assessments, including, but not limited to:
 - 1) Intelligence Testing: the Wechsler Preschool and Primary Scales of Intelligence, fourth edition, in which Student demonstrated an outstanding strength in her verbal cognitive abilities. Student's verbal comprehension score placed her in the very superior range when compared to other students her age, Student's Visual-Spatial Index placed her non-verbal, visual -spatial cognitive abilities in the average range, fluid reasoning in the high average range, working memory score at the lower limits of average, and processing speed index was

⁶³ SD5-002 refers to the Clinical-Psychologist report, and states that the consult occurred in March 2014, (P-2 and see FOF 5 above). No explanation was provided as to why Neuropsych Eval would rely on a report from Parent-Psychologist that had conflicting dates, when Student appears to be seeing Parent-Psychologist on an ongoing basis. (Mother testified, Student saw Parent -Psychologist between ages of 4-8).

⁶⁴ SD5-002.

⁶⁵ SD5-002.

⁶⁶ SD5-002.

⁶⁷ SD5-003.

in the high average range.⁶⁸ The estimated Student IQ at 112 (high average).⁶⁹

- 2) Learning memory: Student demonstrated an above average performance on a measure of her visual and verbal memory, and her ability to recall the same visual information earned her a score in the very superior range.⁷⁰
- 3) Attn/Executive Functioning: There was a strong indication of inattentiveness and poor sustained attention.⁷¹
- 4) Visual perception: Student was at the top of the high average range.
- 5) Language: Student performed above average on measures of language processing.⁷²
- 6) School Readiness skills were assessed using the Bracken Basic concept Scale, Third Edition (receptive form) and the Bracken Basic concept Scale: Expressive form. Student's school readiness skills on both assessments placed her in the above average range compared to other children her age. Student did not demonstrate any below average scores.⁷³
- 7) Social Perception/Social Cognition were assessed using subtest from the Nepsy-II.⁷⁴ On the affect recognition test, Student scored in the average range. On the Theory of the Mind⁷⁵ subtest, Student had an

⁶⁸ SD5-004.

⁶⁹ SD5-004

⁷⁰ SD5-(004-005).

⁷¹ SD5-006

⁷² SD5-006.

⁷³ SD5-006.

⁷⁴ NEPSY stands for a developmental NEuroPSYchological assessment.

⁷⁵ Theory of mind refers to a person's capacity to consider not only his or her perspective but also the perspective of others...children who exhibit a deficit in theory of mind would be expected to have a difficult time seeing things from any other perspective than their own.

above average performance, indicating that “she was able to interpret the figures of speech, process the language in a flexible manner and appreciate another person’s perspective within the context of that structured task.” Mother completed the Social Responsiveness Survey Second edition, where Mother scored Student consistently in the severe range (including social awareness, social cognition, social communication, social motivation and repetitive behaviors and restricted interests.”⁷⁶ The evaluation concludes that Student’s “general cognitive abilities placed her in the high average range.”⁷⁷

- 8) Emotion Functioning: Mother completed the Achenbach Child Behavior checklist, and her responses yielded clinically significant scores in the areas of withdrawn behavior, emotionally reactive behavior, and anxious depressed behavior.⁷⁸
- 9) Adaptive functioning: Student’s adaptive behaviors were evaluated using the Vineland II adaptive Behavior Scales. Mother provided the information. Student’s composite score of 65 placed her in the low adaptive level (1st percentile). With respect to communication skills, Student demonstrated consistent delays across all three domains, including her receptive, expressive and written language skills. In living skills, Student was reported to demonstrate delays in her personally and community living skills. Home skills were within the adequate range. Socialization skills delays in the areas of coping,

⁷⁶ SD5-006.

⁷⁷ SD5-008

⁷⁸ SD5—(006-007).

leisure activities and interpersonal relationships. Motor skills were reported to be delayed in gross motor and fine motor ability.⁷⁹

- e) The summary acknowledges that Student continued to exhibit significant delays in her adaptive behaviors, symptoms of anxiety and challenges in social cognition. The summary states that “Despite these findings, a review of her school records suggests that she presents differently within the school setting than she does within the home setting.”⁸⁰
- f) Neuropsychologist recommendations include: 1) Student continues an Individualized Education Program to meet Student’s social-emotional and development needs associated with previously diagnosed Autism spectrum disorder, Generalized anxiety Disorder and co-morbid weaknesses in attention; 2) Student to continue to have access to paraprofessional assistance within the classroom, access to an aide in the classroom and unstructured time;⁸¹ 3) School based occupational therapy to employ a sensory diet⁸²; 4) Occupational therapy consults to Student’s teacher;⁸³ 5) teachers and team members to be sensitive to Student’s environment to avoid overstimulation (and modify environment/class participation accordingly)⁸⁴; 6) Sensory breaks throughout school day⁸⁵; 7) Social coach to assist with understanding social interactions⁸⁶; 8) preferential seating, limiting auditory and visual distractions, and providing orienting cues such as “listen now and

⁷⁹ SD5-007.

⁸⁰ SD5-008.

⁸¹ SD5-009.

⁸² SD5-009.

⁸³ SD5-009.

⁸⁴ SD5-009.

⁸⁵ SD5-010

⁸⁶ SD5-010.

“eyes on me⁸⁷; 9) pre-teaching and priming to maximize Student’s school performance.⁸⁸

8. The District conducted a triennial evaluation⁸⁹ of Student in the Spring of 2016. Student’s psychological evaluation dated May 20, 2016⁹⁰ found the following: 1) “There were no indications that Student’s cognitive functioning skills were delayed⁹¹, and further assessment was not considered to be warranted at this time.”; 2) all of student’s scores on the KTEA-3⁹² were in the upper limits of the average range of academic functioning;⁹³ 3) there were no indications that Student’s social emotional functioning skills were delayed.⁹⁴
9. On May 31, 2016, Student received a follow up examination from Doctor. Doctor’s pediatric resident completed a note, and Doctor interviewed Parents, Student, and the pediatric resident’s note before issuing the follow up note under his name.⁹⁵ The cover letter is dated June 12, 2016 and specifies that attached is a note for a visit on 5/31/2016.⁹⁶ Mother testified she did not follow up with Doctor after the examination because it is difficult to reach him and that Doctor never spoke to [REDACTED].⁹⁷ The note under interim history states: “The IEP meeting is this Friday June 3rd. The school psychologist (who did not review the neuropsychologist report) feels Student needs a 504 with no accommodations/support”.⁹⁸ The note states: “[REDACTED] determined

⁸⁷ SD5-010.

⁸⁸ SD5-011.

⁸⁹ The actual evaluation is not part of the evidence in this case and was not at issue.

⁹⁰ This evaluation was not an issue in this case.

⁹¹ This finding is consistent with the Neuro Eval, See FOF 7(d)(7) above.

⁹² Kaufman Test of Educational Achievement, which provides individually administered measures of achievement in reading, math and written expression.

⁹³ This assessment is in agreement with Neuro Eval, school readiness, see FOF 7(d)(6) above.

⁹⁴ SD25-004-005. See finding in Neuro Eval, FOF 6 (e) above.

⁹⁵ SD7-005. Doctors note indicates “Face-to-face time with patient was 30 minutes with greater than 50% of time spent in counseling or case management.”SD7-005.

⁹⁶ SD7-001. Neither Doctor or pediatric resident testified.

⁹⁷ Mother Testimony.

⁹⁸ SD7-002. How the Doctor knew this information prior to the date of the meeting was never addressed.

- that Student was not eligible for special education services during the eligibility meeting on 6/1/2016.”⁹⁹ The note recommends Parents request a review of Student’s IEP eligibility.¹⁰⁰
10. During Student’s triennial eligibility meeting (June 3, 2016), the team determined that Student no longer met the eligibility criteria for special education IEP services.¹⁰¹ This eligibility determination is not at issue in this case. However, on July 21, 2016, Student was made eligible for a 504 plan due to the diagnosis of food allergies, asthma, and outside diagnosis of Autism Spectrum Disorder and Generalized Anxiety disorder.¹⁰² Student was given accommodations/modifications, paraprofessional support, consultative social work and occupational therapy support¹⁰³, and direct social work support.¹⁰⁴
 11. During the summer of 2016, Parents’ filed a due process complaint.¹⁰⁵ The parties subsequently entered into a settlement agreement, which included the District providing the Psychological Evaluation which is the subject of this hearing.¹⁰⁶
 12. Student’s siblings attended ██████ Grade School.¹⁰⁷ For consistency in the family, parents requested that Student be placed at ██████ Grade School.¹⁰⁸ Student began Kindergarten at ██████ Grade School in September 2016. ¹⁰⁹

⁹⁹ SD7-004. This date is inaccurate and how the Doctor knew Student was found ineligible after the date of Doctor’s service was never explained.

¹⁰⁰ SD7-004

¹⁰¹ SD25-001 and SD37-085,

¹⁰² SD25-001

¹⁰³ SD27-002.

¹⁰⁴ SD25-001.

¹⁰⁵ HO1-d.

¹⁰⁶ HO1-c. and SD37-086.

¹⁰⁷ Personally identifiable information is located in Exhibit “A”

¹⁰⁸ Mother testimony.

¹⁰⁹ Mother, Father testimony.

13. On July 25, 2016, a diverse learner administrator for the District¹¹⁰ advised the Case Manager, by email, that she had completed a referral for an expedited evaluation of the Student and that an Assessment Planning Meeting must be held within 14 school days, and the evaluation within 45 school days, of Parent consenting to the assessment plan.¹¹¹ Mother requested a psychological evaluation from the Case Manager at █████ Grade school, during registration, in August of 2016.¹¹²

Kindergarten (September 2016 to December 2016)

14. Student started Kindergarten in September of 2016 in a general education classroom at █████ Grade School. The class consisted of 31 students.¹¹³ Student entered kindergarten under a 504 plan, dated July 21, 2016.¹¹⁴ Student had a shared Paraprofessional,¹¹⁵ who assisted with school work (making certain Student understood assignments), sensory breaks, sensory tools, and manipulatives. Student independently asked for sensory breaks and Paraprofessional prompted Student to take sensory breaks. Sensory breaks occurred approximately four times per day.¹¹⁶
15. █████ Grade School is a literature-based education that uses the Fountas & Pinnell Assessment system, a guided reading assessment system, throughout the school.¹¹⁷ The system levels from A (kindergarten) to Z (7th-8th grade). Each level of the program has certain benchmarks which must be met and include scaffold supports

¹¹⁰ Diverse Learner Administrator did not testify at the hearing. There was no allegation that any procedural violation took place regarding the assessment or re-evaluation.

¹¹¹ It appears the evaluation was agreed to as the result of a settlement of a previous due process case. The District's compliance with the settlement, including this request, is not the subject of this hearing, and this information is provided as background information only. There was no issue as to whether the District complied timely with the assessment or evaluation.

¹¹² Mother testimony.

¹¹³ K-Teacher testimony.

¹¹⁴ The implementation of the 504 plan is not an issue in this hearing.

¹¹⁵ Personally identifiable information is located in Exhibit "A"

¹¹⁶ Paraprofessional testimony.

¹¹⁷ SPED testimony.

depending on the level.¹¹⁸ SPED administered Student's reading assessments.¹¹⁹ Student's Fountas & Pinnell benchmark folder shows Student's benchmark independent level at the beginning of the year was rated "AA" and had progressed to level "F" by end of year, Student's instructional level progressed from level "A" to level "G",¹²⁰ and the longitudinal record of reading progress, which confirms this progress,¹²¹ shows Student's reading began at kindergarten level and progressed to level 1.6 (first grade plus).¹²² SPED¹²³ consulted with Paraprofessional regarding Student's sensory breaks and covered for Paraprofessional when unavailable.¹²⁴ Student's breaks were often taken in SPED's office and he provided general suggestions to Paraprofessional about building Student's capacity based on Student's needs during sensory breaks.¹²⁵

16. On September 30, 2016, Parent-OT inquired, by email, to SPED regarding Student's sensory breaks.¹²⁶ After obtaining Parent authorization to communicate with the Parent-OT, SPED responded by email that Student was taking sensory breaks and was being encouraged to use her sensory tools.¹²⁷ Parent-OT did no further follow up with █████ Grade School after this communication.¹²⁸ Parent discontinued private ABA therapy in November of 2016.¹²⁹

¹¹⁸ SPED testimony.

¹¹⁹ SPED testimony SPED 1 administered the assessments because he was familiar with student's with autism.

¹²⁰ SPED testimony and SD3-001 and SD-003.

¹²¹ SPED testimony and SD 3-002 and SD-003.

¹²² SPED testimony and SD-003.

¹²³ Personally identifiable information is located in Exhibit "A".

¹²⁴ SPED testimony.

¹²⁵ SPED testimony.

¹²⁶ Parent-OT testimony and P15-1.

¹²⁷ Parent-OT testimony and P16-1.

¹²⁸ Parent-OT testimony.

¹²⁹ Mother testimony.

17. Beginning on October 25, 2016 School Psychologist¹³⁰ completed a Psychological Special Evaluation of Student (“█ Eval”).¹³¹ School Psychologist considered the Parent concerns that Student had a diagnoses of autism spectrum disorder and generalized anxiety disorder and that the previous eligibility determination overlooked the likelihood that the effects of Student’s diagnoses do not manifest in the preschool setting but likely will manifest in the kindergarten setting and adversely impact Student’s educational progress.¹³²
18. During the █ Eval, School Psychologist observed Student in school, on various dates. The █ Eval included an academic history,¹³³ and a review of Parents’ outside provider information, including: 1) Initial Evaluation (February 7, 2014) and follow-up examination note (May 31, 2016);¹³⁴ 2) consultation report from Clinical Psychologist (March 16, 2015);¹³⁵ and 3) Neuropsych Eval (April 4, 2016).¹³⁶ School Psychologist also considered the █ triennial psychological evaluation of May 20, 2016,¹³⁷ reviewed the June 11, 2013 eligibility determination, reviewed the July 21, 2016 504 plan.¹³⁸ To obtain additional information about how Student’s autism diagnosis might affect Student’s functioning in the academic setting, School Psychologist requested that █ Consulting Psychologist¹³⁹ (who did not testify) who

¹³⁰ Personally identifiable information is located in Exhibit “A”.

¹³¹ School Psychologist testimony and SD25-001.

¹³² School Psychologist testimony and SD25-(001-002).

¹³³ SD25-001.

¹³⁴ School Psychologist testimony and SD25-004. School Psychologist could not recall why the review of the follow-up examination note was not included in the Psychological Evaluation. School Psychologist did not contact the Doctor regarding this evaluation.

¹³⁵ School Psychologist testimony and SD25-004. School Psychologist did not contact the provider regarding this evaluation.

¹³⁶ School Psychologist testimony and SD25-004. School Psychologist did not recall if she contacted the provider regarding this evaluation.

¹³⁷ School Psychologist testimony and SD25-004.

¹³⁸ School Psychologist testimony and she specified that she did not recall the specifics and was not involved in drafting the 504 plan.

¹³⁹ Personally identifiable information in in Appendix A.

- was more familiar with autism, conduct an Autism Diagnostic Observation Schedule (“ADOS”).¹⁴⁰
19. On November 7, 2016, the ADOS 2, Module 3 was completed, along with Student observations.¹⁴¹ The findings identified a low probability of Student having an Autism Spectrum Disorder,¹⁴² although Student did demonstrate poor eye contact as well as some atypical sensory seeking behavior in the form of repeatedly chewing on objects.¹⁴³ “However, Student presented with age appropriate communication and reciprocal social skills both during the ADOS-2 administration as well as during an extended classroom observation.”¹⁴⁴ The Mother testified that she requested the District use the Autism Diagnostic Interview-Revised (“ADI-R”) because the Doctor advised her that the ADOS was not a good measure for higher functioning girls.¹⁴⁵ However, the ADOS-2 was the same diagnostic tool used by the Doctor during the February 7, 2014 evaluation.¹⁴⁶ Student’s qualification for possible education services under the classification of autism was never removed.¹⁴⁷
20. In completing the [REDACTED] Eval, the School Psychologist used a variety of assessment tools¹⁴⁸, and provided information about why the specific assessment was selected. School Psychologist completed the Wechsler Individual Achievement Test-Third Edition (“WIAT-III”), Behavior Assessment system for children-third Edition (“BASC-3”), Gilliam Autism Rating Scale-Revised Third Edition (“GARS-3”), and Behavior Observation of Student in Schools (BOSS), Student interview and

¹⁴⁰ School Psychologist testimony.

¹⁴¹ SD23-002.

¹⁴² SD23-002. It is noted that the District did not remove the Autism disorder finding from Student’s eligibility or 504 plan.

¹⁴³ SD23-002.

¹⁴⁴ SD23-002.

¹⁴⁵ Mother testimony.

¹⁴⁶ P1-3.

¹⁴⁷ School Psychologist testimony.

¹⁴⁸ Parents did not question whether the assessments were racially or culturally biased, and did not challenge that the assessments were conducted in Student’s native language, which is English.

classroom observations, and reviewed records, teacher assessments, Paraprofessional assessment, and Parents assessment.¹⁴⁹ There was no testimony offered to contradict that the tools used were proper, administered correctly, and not biased, or to contradict the qualifications of the School Psychologist.

- a. School Psychologist testified that the WIAT-III tests Student's early reading skills, math, writing fluency, oral expression, receptive vocabulary and expressive vocabulary.¹⁵⁰ Average scoring for this test is between 85-115. Student's scores were in the average to above average range in all areas, which put Student in the same range as Student's kindergarten peers.¹⁵¹ On the WIAT-III Student obtained the following scores: early reading 108 (Student was able to identify letters and letter sounds, got the lower case b and d incorrect, was able to identify rhyming words, two words that begin with the same two sounds with a visual, identify two words that end with the same sound with a visual, read three items and identify corresponding pictures, identify some letter groups, and put some word together that she hears the part of); math 120 (found to be in the above average range, Student could identify numbers, a triangle, longest line, count pictured items, measure a pictured item in inches, identify which number is more or less, order number, add items with a visual and find a pattern. On numeric operations, Student could count pictured items, identify numbers versus letters, identify and write a missing number in a number line, and add single

¹⁴⁹ School Psychologist testimony and SD 25.

¹⁵⁰ School Psychologist testimony and SD25-002. (Test was not performed by the Neuropsychologist SD5-003.)

¹⁵¹ School Psychologist testimony and SD25-002. See Neuro-Eval findings. FOF 7(d)(6) above.

digit numbers);¹⁵² and Spelling was average (118).¹⁵³ Student was not ranked below average in any area assessed.¹⁵⁴

- b. The Behavior Observation of Students in Schools (B.O.S.S.) was used to complete Student observation. It was chosen because it provides concrete information about Student's on-task and off-task behaviors.¹⁵⁵ The observation included peer comparison. Observations were completed assessing different academic situations. There were four direct comparisons completed: 1) Student's total on task-69%/Comparison student 67%; 2) Student's total on task- 73%/Comparison student 75%; 3) Student's total on task-77%/Comparison student 83%; and 4) Student total on task 69%/Comparison student 75%.¹⁵⁶ Student's overall on task percentages were similar to her peers and Student was able to participate the same as peers.
- c. The BASC-3¹⁵⁷ was administered to Parents, K-teacher and paraprofessional.¹⁵⁸ K-teacher found no areas which were elevated. Scale completed by Student's Mother found anxiety, depression, behavioral symptoms index, atypicality, withdrawal, leadership, functional communication, developmental social disorders and resiliency were in the clinically significant range, while attention, adaptability, social skills, activities of daily living, emotional self-control, executive functioning, and negative emotionality were found to be in the at-risk range. Paraprofessional found anxiety, adaptability, anger control, developmental social disorders,

¹⁵² SD25-(003-004).

¹⁵³ School Psychologist testimony and SD 25-(002-003).

¹⁵⁴ School Psychologist testimony.

¹⁵⁵ School Psychologist testimony and SD25-012.

¹⁵⁶ School Psychologist testimony and SD25-(013-014).

¹⁵⁷ SD25-015. Behavior Assessment System for children, third Edition assessment tests behavioral functioning, similar to Achenbach completed during Neuro-Eval, see FOF 7 (d)(8) above.

¹⁵⁸ School Psychologist testimony and SD25-008.

emotional self-control, and negative emotionality to be clinically significant, while depression, attention, atypicality, withdrawal, social skills, functional communication, executive functioning, and resiliency were found to be in the at-risk range.¹⁵⁹

- d. The GARS-3¹⁶⁰ was administered to the Parents, K-teacher and paraprofessional. The scale completed by the Parents found that Student was in the very likely probability of an Autism Spectrum Disorder (score 105),¹⁶¹ K-teacher's score was in the unlikely range (score 47) and Paraprofessional score in the very likely probability range (score 89).¹⁶²
- e. The diagnostic criteria for ADHD was reviewed: K-Teacher reported no (out of nine) characteristics of inattention; Parents reported five characteristics; and Paraprofessional reported two characteristics. K-Teacher reported one (out of nine) characteristics of hyperactivity/impulsivity; Parents reported three; and Paraprofessional reported three.¹⁶³
- f. The Vineland-II was completed by the Parents, K-teacher and Paraprofessional. Parent's responses were consistent with those found during the Neuropsych Eval,¹⁶⁴ placing Student in the below average range in all areas assessed, except for coping skills which was average.¹⁶⁵ K-Teacher and Paraprofessional found Student's overall adaptive behavior, communication skills and socialization skills in the adequate range.¹⁶⁶ K-Teacher found

¹⁵⁹ SD25-015.

¹⁶⁰ Gilliam autism Rating Scale, Third Edition.

¹⁶¹ It is noted that the explanation of scale for the GARS-3 provided in SD25-008 specifies that scores > 101 are level 3, which require very substantial support of the probability of autism spectrum disorder. (SD25-008). This discrepancy was not explained.

¹⁶² SD25-015.

¹⁶³ SD25-015.

¹⁶⁴ See paragraph 7(d)(9) above.

¹⁶⁵ SD25-015.

¹⁶⁶ SD25-015.

motor skills and daily living skills in the low range, while Paraprofessional found these to be adequate.

- g. During the Student observations, without prompting, Student appropriately used a chew necklace. School Psychologist was unsure if Student's other sensory items were available and did not witness them being used.¹⁶⁷

21. School Psychologist did not attempt to reconcile the varied perceptions of Student's functioning, pointing out that she gathered and presented the information collected for discussion at the eligibility meeting and then it becomes a team decision.¹⁶⁸

22. School Psychologist's findings are similar to those of the Neuropsychologist:¹⁶⁹ cognitive testing in the superior range with visual-spatial cognitive abilities in the average range; high average skills were found in fluid reasoning abilities and processing speed; working memory skills were in the low end of the average range; school readiness skills were found to be in the average range on both expressive and receptive measures; and Student performed above average on most language processing measures as well as visual perception, verbal and visual memory and rate of new learning.¹⁷⁰

23. School Psychologist made suggestions for the team's consideration, including but not limited to: 1) preferential seating away from distractions and near instruction; 2) use of verbal and nonverbal cues to increase attention; 3) high rates of positive feedback and reinforcement; 4) familiar routines; 5) frequent opportunities to move around; 6) quiet area in classroom; 7) sensory breaks in or out of room; 8) multimodal

¹⁶⁷ School Psychologist testimony.

¹⁶⁸ School Psychologist testimony.

¹⁶⁹ School Psychologist testimony.

¹⁷⁰ School Psychologist testimony and SD25-004.

instruction.¹⁷¹ Some of these recommendations were later incorporated into Student's January 2017 504 plan.¹⁷²

24. Social Worker participated in a special reevaluation of Student which is dated September 08, 2016.¹⁷³ The evaluation included interviews with both Parents,¹⁷⁴ K-Teacher, Paraprofessional,¹⁷⁵ Student interviews,¹⁷⁶ and observation of Student in the classroom on multiple occasions (including recess).¹⁷⁷ The stated reason for the re-evaluation was the Parents' concerns that the longer school day and increase in academic rigor from a half-day early childhood program to a full-day kindergarten program may cause challenges for Student and that her disability may adversely impact her educational progress.¹⁷⁸ Social Worker noted that Mother is concerned that at school Student is happy and engaged and then when she returns home Student states that she hates school. Social Worker has never observed a meltdown or rigidity in school.¹⁷⁹ In school, without prompting, Student appropriately uses fidgets, weighted lap blanket, scheduled breaks, ear tug signals with K-Teacher to indicate need for a break, and headphones to reduce noise. Student is social and interacts with both peers and adults, participates in class discussions, and completes assignments. Student is academically meeting standards.¹⁸⁰
25. Occupational Therapist evaluated student on three dates in November and December of 2016.¹⁸¹ During this evaluation she reviewed Neuropsych Eval¹⁸², the school

¹⁷¹ SD25-016

¹⁷² School Psychologist testimony.

¹⁷³ SD18-001. This evaluation was not at issue in this case.

¹⁷⁴ Social Worker testimony and SD18-002.

¹⁷⁵ Social Worker had ongoing communication about Student and checked in with Paraprofessional at least weekly.

¹⁷⁶ Social Worker testimony.

¹⁷⁷ Social Worker testimony.

¹⁷⁸ SD18-001.

¹⁷⁹ Social Worker Testimony.

¹⁸⁰ Social Worker testimony and SD18-005.

¹⁸¹ Occupational Therapist testimony. Previously during the summer of 2016, Occupational Therapist participated in the development of consultative occupational therapy services for Student's 504 plan.

¹⁸² SD27-(001-002).

evaluations from May 2016,¹⁸³ and interviewed K-Teacher and Paraprofessional. Her evaluation is based on the following standardized assessment, which she reviewed from the May 2016 evaluation:¹⁸⁴ Beery Buktenika Developmental Test of visual Motor integration 6th, standard score of 106, there was no concern in the area of visual-motor skills from teachers or per this evaluation.¹⁸⁵ This evaluation is not at issue in this case.

Eligibility and 504.

26. On December 8, 2016, an IEP Eligibility Determination Meeting was conducted at ■■■ Grade School.¹⁸⁶ Both Parents were present, along with the Parent-OT and a parent advocate.¹⁸⁷ Parent was previously provided a copy of Parental Rights.¹⁸⁸ Prior to the meeting, Parent was provided with copies of the Psychological Evaluation, Speech Language Evaluation, and the Occupational Therapy evaluation.¹⁸⁹ The following educators were part of the team and participated in the meeting:

A. School Psychologist was present. The ■■■ Eval she completed was submitted to the team, including Parents. The team reviewed the evaluation and determined that Student qualified for an IEP under the IDEA category of autism and this qualification was not disputed. The team then determined that the Student was functioning at an academic level which was high enough that special education was not warranted. Student was being successful

¹⁸³ SD27-002

¹⁸⁴ Occupational Therapist testimony and SD27-003. Occupational Therapist was unsure who did the original testing.

¹⁸⁵ SD27-003

¹⁸⁶ SD28-001.

¹⁸⁷ Parent attended Eligibility Determination Meeting but left before documentation was completed. Case Manager Testimony. SD28-004

¹⁸⁸ SD28-004.

¹⁸⁹ Mother testimony.

under the July 504 plan, with the accommodations which were provided.

School Psychologist agreed with the team's decision.¹⁹⁰

- B. Social Worker was present and agreed with the team's decision to find Student not eligible for special education services. She observed that Student's 504 plan supported Student's academic needs and that this was the appropriate program of support for this Student.¹⁹¹ Social Worker recalled that the Social Work evaluation was shared at this meeting. Social Worker knew that the Parents had concerns about Student's social interaction skills and meltdowns at home, where Student reportedly would be upset, yell, scream and hit. However, Student never acted this way at school.¹⁹² Additionally, Social Worker observed appropriate peer interactions and the development of friends at school.¹⁹³ Social Worker determined Student was successful socially and emotionally in the academic setting.¹⁹⁴
- C. Case Manager was present and agreed with the team's decision to find Student not eligible for special education services, because with accommodations and sensory tools and breaks, Student was able to work independently, goals were not necessary, and Student had everything she needed in a 504 plan.¹⁹⁵
- D. SPED was present as the special education representative. Each person was requested to give reports, Parents included, and SPED listened to the data presented to the team and provided his interpretation. Everything was presented at the eligibility meeting and SPED did not discuss or review

¹⁹⁰ School Psychologist testimony.

¹⁹¹ Social Worker testimony.

¹⁹² Social Worker testimony.

¹⁹³ Social Worker testimony.

¹⁹⁴ Social Worker testimony.

¹⁹⁵ Case Manager testimony.

anything prior to the eligibility meeting.¹⁹⁶ SPED questioned the Social Worker and School Psychologist for additional input to determine whether any social, emotional, or psychological goals could be written for Student. No goals could be identified.¹⁹⁷ SPED determined that there were no academic goals that could be written. Student was on track in math, reading and writing and did not need academic support or goals.¹⁹⁸ SPED testified that Autism students can be served under a 504 plan. Autism is the way the brain is manifesting information. If behavior does not interfere with access to the academic curriculum, then it is best not to interfere. Additionally, schools want students educated in the least restrictive environment. Despite Student's autism diagnosis, this Student was able to access and be successful in the general education curriculum.¹⁹⁹ SPED agreed with the team's decision to find Student not eligible for special education services.²⁰⁰

- E. Occupational Therapist was present. Occupational Therapist recalled that the team discussed social work services to Student and occupational services being provided to the adults who worked with Student, but did not know whether these were ultimately provided.²⁰¹
- F. K-Teacher participated in the eligibility meeting. She agreed with the team's decision to find Student ineligible for an IEP based upon her observations that when Student was in the classroom Student functioned well. K-Teacher credibly testified that Student was friendly, an active participant in class, was academically at grade level and was progressing. Student had friends and

¹⁹⁶ SPED testimony.

¹⁹⁷ SPED testimony.

¹⁹⁸ SPED testimony.

¹⁹⁹ SPED testimony.

²⁰⁰ SPED testimony.

²⁰¹ Occupational Therapist testimony.

displayed age appropriate friendships, responses (asking to play, taking turns, suggesting games), and Student was able to partner up with other students. Student did not exhibit unexpected behaviors in the classroom. Student did have sensory needs for which Student independently used a number of sensory tools, including: 1) a weighted vest and blanket; 2) a basket containing a number of fidget tools; and 3) a chew necklace.²⁰²

G. Paraprofessional participated in the eligibility meeting, and he was in agreement that Student's academic needs were being met using accommodations provided in the July 504 plan.²⁰³ There were no supports Student needed that she did not have in order to access the academics in the general education classroom.²⁰⁴

H. The Parents, their educational advisor, and the Parent-OT²⁰⁵ were present according to the sign in sheet.²⁰⁶ Parent-OT did not discuss any concerns about sensory breaks or sensory diet with the team.²⁰⁷ There is no record of Parents' remarks, if any, at the eligibility meeting.²⁰⁸

27. Based on the eligibility team's analysis, it was determined the Student did have a disability, Autism,²⁰⁹ that Student's disability adversely affects education performance,²¹⁰ that Student does NOT (emphasis was present) require special education and/or related services to address the effect of the disability on educational performance (e.g. the student's disability can be accommodated in the

²⁰² K-Teacher testimony.

²⁰³ Paraprofessional testimony.

²⁰⁴ Paraprofessional testimony.

²⁰⁵ Parent-OT could not recall if she was present at the eligibility meeting. Parent-OT is not a license school based Occupational Therapist.

²⁰⁶ Sd28-(001-002)

²⁰⁷ Parent-OT testimony.

²⁰⁸ SD 28.

²⁰⁹ SD28-009.

²¹⁰ SD28-009

- general education classroom without the services of a special education teacher),²¹¹ and Student was found not eligible for special education services.²¹² The team did schedule a 504 meeting to discuss accommodations and supports through a 504 plan.²¹³ No Parent dissent was recorded.
28. On December 16, 2016, Father emailed the Case Manager, indicating Parents ‘disagreed with the team’s determination on December 8, 2016 that Student is not eligible to receive special education supports and services with an IEP, and stating that Parents do not agree that a 504 plan meets the District’s FAPE obligation.²¹⁴
29. On December 19, 2016, Father sent an email to the Case Manager alleging that Student has been self-soothing by rubbing her hands against her legs/body to cope during the school day.²¹⁵ Three photos accompanied the email.²¹⁶ Previously, on November 30, 2016, Father had reported similar behavior by email.²¹⁷ This behavior was not observed in the academic setting.²¹⁸
30. On January 9, 2017, the Case Manager emailed Parents the Notice of Conference for 504 Plan. A copy of the previously provided 504 plan was resent for parental review.²¹⁹
31. On January 20, 2017, Father emailed the Case Manager a letter rejecting the December 8, 2016 determination finding Student not eligible for an IEP.²²⁰ The letter outlines three major objections:

²¹¹ SD28 (009-010).

²¹² SD28-010 and SD28-011.

²¹³ SD28-011.

²¹⁴ Case Manager testimony and SD37-001

²¹⁵ Mother and Case Manager Testimony, P12-(1-2).

²¹⁶ P12-(1-2)

²¹⁷ Father testimony and P18-1.

²¹⁸ K-Teacher and Paraprofessional testimony. SD32-005. Father denied this behavior happened at home.

²¹⁹ Case Manager testimony and SD37-003.

²²⁰ Father and Case Manager’s testimony and SD31.

- a. Failure to adequately incorporate the Parents' perspective and insight and specifically referencing Student's alleged self-injuring behavior.
- b. Conducting unnecessary, biased tests, which do not address girls with autism, and specifying the ADOS test conducted on November 8, 2016.
- c. Failure to incorporate outside experts reports, specifically identifying the reports of Neuropsychologist and Doctor.²²¹

The letter concludes "we will discuss our concerns at the meeting on January 24".²²²

32. On January 24, 2017, at 11:00 a.m. a 504 conference took place at [REDACTED] Grade School. Both the Mother and the Father deny being present for this conference.²²³ The sign in sheet reflects that Mother, Father and advocate were present and left the meeting before signatures were collected.²²⁴ During the 504 meeting Student was provided with the following academic accommodations and modifications: 1) give verbal directions in clearly stated steps; 2) provide visual cues and guides; 3) preferential seating near teacher; 4) ask student to summarize information to check for understanding; 5) provide motivation and verbal rewards on a daily basis.²²⁵ Student was also provided with other accommodations: breaks outside of classroom with an adult for 8-15 minutes, after approximately 90-120 minutes of academic instruction and after recess; breaks in a separate space, additional breaks will be provided in the classroom; paraprofessional support during music; per parent report Student has shown signs of scratching at home, the paraprofessional will monitor and report to school team and Parent if any similar behaviors occur at school; if Student begins peaking rapidly or appears flushed, Student will be prompted for a break; Student

²²¹ Father testimony and SD31-002.

²²² SD31-003.

²²³ Mother and Father's testimony. SD32-001.

²²⁴ SD32-001.

²²⁵ SD32-004.

will have access to fidget objects at her table and a fidget box accessible in the classroom; teacher to prompt use of fidgets; allow use of headphones, weighted lap pad and weighted vest; Student will be allowed to use a stress/ball/fidget throughout the day; teacher will use the emotion cards provided from home to help Student identify feelings, and they will be on Student's table; eye contact should not be required; teacher will review the daily schedule with Student in the morning. Student to receive 60 minutes of direct social worker services per month, and Student was provided collaborative/consultation services for occupational therapy, social work, special education teacher, and nurse.²²⁶

- A. K-Teacher participated in the 504 meeting.²²⁷ K-Teacher agreed with the accommodations provided in the 504 plan.²²⁸
- B. SPED participated in the 504 meeting. He was there to consult on various aspects of the 504 plan. SPED felt the supports/accommodations in the 504 plan were sufficient to allow Student to access the program.²²⁹
- C. Social Worker participated in the 504 meeting.²³⁰ Parent concerns with self-injurious behavior were discussed.²³¹ Social work accommodations were discussed, and the team agreed that Social Worker would collaborate/consult with K-teacher for 15 minutes monthly on the creation/implementation of social-emotional interventions and coordination with Parents so Student was receiving the same message at school and home. Student to receive direct services for 60 minutes monthly to address Parent report that Student is having physical or behavioral responses to stress and anxiety, although this

²²⁶ SD32-005.

²²⁷ SD32-001 and K-teacher testimony.

²²⁸ K-teacher testimony.

²²⁹ SPED testimony.

²³⁰ SD32-001 and Social Worker testimony.

²³¹ Social worker testimony.

was not observed in school. Social Worker will monitor for this behavior. ²³²

She implemented the social work services provided in the plan and

coordinated with Mother on the feeling cards.²³³

D. A. Occupational Therapist was present and specifically recalled Parents being present and leaving before signatures were attached. She reviewed the consultative services provided, 30 minutes per month and was in agreement with those services.²³⁴

E. Case Manager was present as the 504 Coordinator. Case Manager testified that Parent and their advisor were present at the 504 meeting and left in the middle of the meeting, she wrote next to the Parents' names and the advocate name the words: "Left before signature".²³⁵ Case Manager was unsure when the signature page was printed and passed around for signature. The 504 meeting was documented in the District's Student Services Management ("SSM") portal.²³⁶ The Events page reflects that on Tuesday, January 24, 2017, at 1:08 PM, the following entry was made: "Team met to discuss 504 plan 1/24/17. Parents and advocate attended the meeting. Parents and advocate indicated that they do not agree with the 504 plan and still dissent the student's eligibility. We offered the parent and advocate time to review a most recent draft of the 504 plan to discuss at the meeting. Team allowed parent and advocate to review privately for 15-20 minutes... Parents left meeting before the team had completed the meeting. The school staff

²³² Social worker testimony and SD32-005.

²³³ Social worker testimony.

²³⁴ Occupational Therapist testimony.

²³⁵ Case Manager testimony and Sd 32-001.

²³⁶ Case Manager Testimony.

continued the meeting with the District Representative and finalized the plan.”²³⁷

Kindergarten (January 2017-June 2017)

33. After the January 504 plan, Paraprofessional was assigned outside of Student’s classroom but still assisted with Student’s sensory breaks. Sensory breaks were taken four times per day and Student received them even if Paraprofessional was unavailable. From February 6 to June 16, 2016, Paraprofessional kept a log of the Student’s breaks because he felt it was the best practice to document them.²³⁸

Paraprofessional never observed Student having any “temper tantrums”.

Paraprofessional did observe marks on Student’s body, but never observed Student engage in any self-injurious behavior at school.²³⁹ In his opinion, Student made academic progress under the 504 plan.²⁴⁰

34. The entire team was monitoring for self-injurious behavior at school and none was observed.²⁴¹ Social Worker was unaware that Student was refusing to attend school.²⁴² Following the January 504 meeting, Parent requested increased regular communication about Student.²⁴³ Beginning on approximately February 13, 2017, K-Teacher began sending Parents an individualized email every week regarding Student’s academics, sensory breaks, and eating habits.²⁴⁴

²³⁷ Case Manager testimony and SD4-002.

²³⁸ Paraprofessional testimony and SD-38.

²³⁹ Paraprofessional testimony.

²⁴⁰ Paraprofessional testimony.

²⁴¹ Social Worker testimony. Social Worker may have seen scratch marks but was unsure.

²⁴² Social Worker testimony.

²⁴³ K-Teacher and Mother testimony.

²⁴⁴ K-Teacher testimony and SD34.

35. On May 7, 2017, Mother communicated with District representatives²⁴⁵ regarding Student's self-harming behavior. Attached to the email was photos provided in the Father's email of December 19, 2016.²⁴⁶
36. Parent's listed their house on the market in the Spring of 2017.²⁴⁷
37. On May 16, 2017, Mother demanded, by email, that the District take away Student's 504 services.²⁴⁸ Later that day, Mother by email advised the district that Student is not receiving services/accommodations provided on her 504 plan, informing the District that Student would not attend any [REDACTED] school after June, and advising that Student would be homeschooled for first grade.²⁴⁹
38. Student report card, for the first quarter, shows Student as developing or beginning to develop in all areas except math and social sciences, where she is shown as proficient and exemplary. By the end of the fourth quarter, Student is proficient or exemplary in all academic areas.²⁵⁰ Student made academic progress during the school year.
39. The report card seems to show an increase in days absent, from 1.5 to 8.5, although the Case Manager pointed out that unexcused absences, listed as 6.5 in the fourth quarter could merely indicate that Student arrived after the second bell and it was counted as an absence.²⁵¹
40. Mother testified Student made academic progress during Kindergarten, with the caveat that Student would dysregulate when arriving at home.²⁵² Mother testified that beginning in the third quarter, Student began refusing to go to school, causing

²⁴⁵ Named parties positions at [REDACTED] were not identified. They did not testify.

²⁴⁶ Mother testimony, SD37-040 and FOF 29 above.

²⁴⁷ Mother testimony.

²⁴⁸ Mother testimony and SD37-049.

²⁴⁹ SD37-049.

²⁵⁰ SD1-002.

²⁵¹ Case Manager testimony and P1-001.

²⁵² Mother's testimony.

- dysregulation in the family, as two other children needed to go to school, and the refusals intensified during the fourth quarter.²⁵³
41. All District witnesses and Mother testified that Student made academic progress between 2016-2017 at District Grade School. Parent-OT thought Student's grades were normal based on Student's peers.²⁵⁴
 42. Mother testified Student had a rough summer because Student was terrified to go back to District Grade School.
 43. Mother emailed the District on August 9, 2017 that neither Student or her sisters would be attending District Grade School for the upcoming year.²⁵⁵
 44. On August 24, 2017, the District received a request from Wilmette Public Schools, signed by the Father, requesting Student's records be forwarded to Wilmette Public School District 39.²⁵⁶
 45. Student did not return to District Grade School after June of 2017.

Parent privately paid providers

46. From 2013 to the date of hearing, Parents have continuously provided the outside services recommended by the Doctor, Clinical Psychologist, and Neuropsychologist, to the Student.²⁵⁷ Those outside services continue to be provided to Student through the date of hearing.

²⁵³ Mother testimony and P1-001. See SD18-003. Social worker notes during Mother interview on 9/27/16, that Student often does not want to go to school and says she hates school. (SD18-003) and (SD18-004)

²⁵⁴ Parent-OT-testimony.

²⁵⁵ Mother testimony and SD37-070.

²⁵⁶ Mother Testimony and P-29.

²⁵⁷ Mother testimony and Parent-OT testimony.

47. Student's outside services have been paid through Father's medical insurance.²⁵⁸

The Parent-OT has billed, and been paid through the Father's insurance.²⁵⁹ Parent-OT testified that there were no costs billed to the Parents.

DISCUSSION AND CONCLUSIONS OF LAW

Issue One: Whether Student was denied FAPE when the District failed to properly conduct a psychological evaluation of Student during the fall of 2016

Parents contend that the District's psychological evaluation of Student administered in the fall of 2016 was improper and denied Student a FAPE. The evidence in this case indicates otherwise. The evidence clearly shows that the District's 2016 psychological evaluation of Student was appropriately administered by personnel trained and knowledgeable in the subject matter of the evaluation, who used a variety of tools and strategies to gather pertinent data and information about Student that could aid in planning educational programs to meet Student's educational needs.

A. The Applicable Law

The Individuals with Disabilities Education Act ("IDEA") requires States receiving federal funds to make a free appropriate public education ("FAPE") available to all children with disabilities residing in the State. *Forest Grove School District v. T.A.*, 557 U.S. 317, 230, 129 S.Ct. 2484, 2492 174 L. Ed.2d. 168 (2009). In order for a school district to meet its FAPE obligation under the IDEA, it must "offer an independent educational plan ("IEP") reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

²⁵⁸ Father's testimony and P-32.

²⁵⁹ Father -OT testimony.

Andrew F. v. Douglas County Sch. Dist. RE-1, 137 S. Ct. 988, 999 (2017). “The goals may differ, but every child should have the chance to meet challenging objectives.” *Id.*

“The IEP is the means by which special education and related services are ‘tailored to the unique needs’ a particular child.” *Andrew F.*, 137 S. Ct. at 994 (quoting *Bd. Of Educ. v. Rowley*, 458 U.S. 176, 181 (1982)). The IEP must describe the special education and related services that will be provided so that the child may advance appropriately toward attaining annual goals and, when possible, be involved and make progress in the general education curriculum. 20 U.S.C. 1414(d)(1)(A)(i)(IV).

Related services in a special education case are the developmental, corrective, and other support services required to assist a disabled child to benefit from special education. 34 C.F.R. § 300.34(a). Psychological services, which is a related service specifically listed in Section 300.34(a), includes: 1) “administering psychological and educational tests, and other assessment procedures,” 2) “interpreting assessment results,” and 3) “consulting with other staff members in planning school programs to meet the special education needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations.” 34 C.F.R. § 300.34(c)(10)(i), (ii) and (iv).

The responsibility to conduct an evaluation is enumerated in the IDEA at 34 CFR §§300.301(a) and 300.303(a) and implemented in the Illinois Administrative Code, at Section 226.110. An appropriate evaluation is one which complies with the pertinent federal and state regulations. *Krista P. v. Manhattan School District*, 255 F.Supp.2d 873, 887 (N.D. Ill. 2003). An evaluation must assess a student in all areas related to the suspected disability, and be sufficiently comprehensive enough to identify all of the student’s special education and related service needs, whether or not linked to the disability category in which the child has been classified. 34 C.F.R. § 300.304(c)(4) and (6). When conducting an evaluation, such as the Psychological Evaluation conducted here, the school district “must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information

about the child, including information provided by the parent.” 34 C.F.R. § 300.304(b)(1). The evaluation process “must not use any single measure or assessment as the sole criteria for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.” 34 C.F.R. § 300.304(b)(2). The evaluator must review existing evaluation data on the child, including “(i) evaluations and information provided by the parents of the child; (ii) current classroom-based, local, or State assessments, classroom-based observations; and (iii) observations by teachers and related services providers.” 34 C.F.R. § 300.305(a)(1)(i) – (iii). Also, the evaluator “must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical and developmental factors.” 34 C.F.R. § 300.304(b)(3). In addition, the school district must ensure that the assessments and other evaluation criteria: “(i) are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) are provided and administered in a language...and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer; (iii) are used for the purposes for which the assessments or measures are valid and reliable; (iv) are administered by trained and knowledgeable personnel; and (v) are administered in accordance with any instructions provided by the producer of such assessments.” 34 C.F.R. § 300.304(c)(1)(i) – (v).. The Illinois School Code identifies a “qualified professional” as an individual holds credentials to evaluate the child in a domain or domains for which an evaluation is being sought. 105 ILCS 5/14-8.02(g-5).

B. The District’s Psychological Evaluation of Student was Appropriate

After considering all the evidence presented by both parties at hearing in this case, it is clear that the District’s Fall 2016 psychological evaluation of Student complied with all the pertinent federal and state regulations, in that it was appropriately administered by personnel trained and knowledgeable in the subject matter of evaluation, who used a variety of tools and

strategies to gather pertinent data and information about Student that could aid in planning educational programs to meet Student's educational needs.

The District completed Student triennial evaluation in the Spring of 2016, which included a Psychological assessment which is not at issue in this case. However, it must be acknowledged that the psychological evaluation which is at issue was provided to Student pursuant to the settlement of the prior due process complaint filed in June of 2016.²⁶⁰ As a result, there is no challenge that Student was not assessed in all areas of suspected disability.

The psychological examination was administered by a "trained and knowledgeable" psychologist who holds credentials to evaluate Student in the domain for which the evaluation is being sought. The School Psychologist has nineteen (19) years of experience, is nationally certified, and has the appropriate certification from the Illinois State Board of Education to conduct the evaluation.²⁶¹ Her credentials were not challenged.²⁶²

In conducting the evaluation, the School Psychologist was aware of and considered Parents' concerns.²⁶³ She knew that the Student had previously been found eligible for IEP services under the category of autism,²⁶⁴ and had reviewed Student's academic history and outside provider evaluations.²⁶⁵ In order to assist in determining Student's educational needs, the School Psychologist used a variety of assessment tools and strategies to gather information about Student, including: reviewing existing evaluations, completing classroom observations of Student, and reviewing questionnaires provided to Parents and educators.²⁶⁶ Parents' did not challenge the School Psychologist's selection of the assessments, credibility of the assessments,

²⁶⁰ FOF

²⁶¹ See Appendix "A".

²⁶² FOF 20.

²⁶³ FOF 17.

²⁶⁴ FOF 18.

²⁶⁵ FOF 18.

²⁶⁶ FOF 18.

or the manner in which they were administered. The assessments used were not alleged to be discriminatory nor were there any language issues.

Finally, out of consideration for Parents' concerns, School Psychologist requested an autism evaluation from another [REDACTED] psychologist.²⁶⁷ Parents did challenge this assessment and the psychologist's use of the ADOS-2 assessment for autism.²⁶⁸ However, the entirety of the challenge was that Mother was allegedly told by the Doctor that the assessment was not appropriate for high functioning girls.²⁶⁹ Mother's testimony is contradicted by the fact that the Doctor used the ADOS-2 assessment when he diagnosed Student's autism in 2014.²⁷⁰ Rather than present a challenge to the use of the ADOS-2 assessment, Parent's evidence confirms that the use of this assessment was appropriate for this Student. Ultimately, this assessment did not impact the team's determination that Student was not eligible for special education services.

School Psychologist preformed testing similar to the assessments preformed in the Neuro-Eval and she testified her results were similar,²⁷¹ finding that academically Student was at or above average in all academic areas assessed.²⁷² School Psychologist's review of on-task educational behavior found that Student's on-task responses were approximately equal to Student's peers.²⁷³ Interestingly, both the Neuro Eval and School Psychologist conclude that Student does not present the negative or anti-social behaviors reported by Parents in the academic setting.²⁷⁴ The Neuro-Eval made recommendations for educational services,²⁷⁵ which appear to have no educational foundation, because Parents prevented the Neuropsychologist

²⁶⁷ FOF19.

²⁶⁸ FOF 19.

²⁶⁹ FOF 19.

²⁷⁰ FOF 4 & 19.

²⁷¹ FOF 7, 20, and 22.

²⁷² FOF20a and FOF 22.

²⁷³ FOF 20b.

²⁷⁴ FOF 22.

²⁷⁵ FOF7 f.

from contacting Student's teachers,²⁷⁶ and therefore the Neuro Eval had no academic context to allow the Neuropsychologist to form an opinion on whether Student needed an IEP and what other educational services Student needed in the classroom setting. It is not known whether the Neuropsychologist understood that her recommendations could be provided to Student as part of a 504 plan. In fact, many of the School Psychologist's recommendations were in line with those suggested by the Neuropsychologist and ultimately were incorporated into Student's 504 plan.²⁷⁷

The testimony of the School Psychologist was credible and persuasive. Based on the testimony of the School Psychologist and the [REDACTED] Evaluation, this IHO finds that the District's Fall 2016 psychological evaluation was appropriate and met the requirements of IDEA. I therefore find in favor of the District on this issue.

Issue Two: Whether Student was denied FAPE when the District allegedly failed to consider reports and test data from private medical experts when it denied Student an IEP in January 2017.

Initially, it must be acknowledged that the evidence presented at hearing fails to support this issue. There was no IEP meeting in January of 2017. The evidence presented shows that on December 8, 2016 the educational team, including Parents, Parent-OT and advisor, met and reviewed all the evaluations. The team then determined that based on their review, the Student's autism disability did not impact her ability to access academics. Student was making progress in the curriculum, and Student's behavior in the academic setting did not impact Student's ability to access her education. Student was found not eligible for special education services. The only meeting in January 2017 was a 504 plan conference which took place on January 24, 2017. This Hearing Officer has no jurisdiction over 504 plans or their implementation. To address this confusion, the Hearing Officer has determined that it is

²⁷⁶ FOF 7.

²⁷⁷ FOF23.

reasonable to consider whether the educational team failed to consider reports and test data from private medical experts when it determined that Student was not eligible for special education services at the December 8, 2016 conference.

A. The Applicable Law

Under the IDEA, “schools must follow a two-step process in order to determine whether a student is a ‘child with a disability’ and thereby eligible for special education services. 20 USC §1401(3)(A). First, the student must have one of the ailments listed in the statute. Second, if the child’s condition does not adversely affect his educational performance, then the team must determine whether as a result he ‘needs special education.’” *Marshall Joint School District No. 2 v. Brian D.*, 616 F3rd 632, 54 IDELR 307, p. 3 (7th Cir. 2010).

The law defines a child with a disability as a child evaluated in accordance with 34 §§300.304 through 300.311 and having one or more disabilities specified at 34 CFR §300.8 (a)(1), Autism is one of the specified disabilities. As defined in the IDEA, autism is a developmental disability that affects verbal communication and social interaction. 34 CFR § 300.8(c)(1)(i). “A medical diagnosis of autism will not in itself entitle a student to receive special education and related services. In order to meet the IDEA’s definition of autism, the ‘developmental disability affecting verbal and nonverbal communication and social interaction’ must have an adverse effect on the child’s educational performance...A student does not qualify as a child with autism for purposes of the IDEA simply because he exhibits some traits of autism outside of the educational setting. A student with a medical diagnosis of autism must show that the disability has an adverse effect on his educational performance.” *In re: Student with a Disability Illinois State Educational Agency*, 114 LRP 43641, 43656, (SEA IL 08/04/14).

In this case there is no dispute that Student has been diagnosed with autism and therefore has one of the qualifying ailments listed in the statute.²⁷⁸ The issue, then, becomes

²⁷⁸ FOF 19.

whether Student's condition adversely affected her education performance. Student began receiving services related to her disabilities as early as fifteen months old.²⁷⁹ At two and three-quarters years old she was eligible for an IEP.²⁸⁰ In addition to the IEP and services provided therein, Parents were able to provide all additional services recommended by Student's medical providers.²⁸¹ The accumulation of the early intervention and years of services, clearly allowed Student to apply learned strategies and regulation techniques in the school setting, without prompting from her K-Teacher and Paraprofessional.²⁸² There was not one report, from Parents or educators, regarding Student displaying a behavioral issues or tantrums in school.²⁸³ The reported meltdowns at home were not being manifested in the educational setting.²⁸⁴

During the eligibility meeting, the team reviewed Student's evaluations, outside providers' evaluations, and even discussed possible IEP goals, (academic, emotional, and psychological).²⁸⁵ The team concluded that Student no longer exhibited behavior which impacted her ability to access academics and progress in the curriculum, and that the services previously provided under Student's IEP were no longer needed. Any additional supports or services could be met through a 504 plan with accommodations, and in fact Student was being successful under a 504 plan. The team also considered the positivity of having Student educated in the least restrictive environment.²⁸⁶

Parents' disagreed with the eligibility determination and expressed this disagreement in writing more than once.²⁸⁷ One of the reasons cited was the teams alleged failure to incorporate the Parents' insights, including Student's self-harming behavior.²⁸⁸ However, there was only

²⁷⁹ FOF 1.

²⁸⁰ FOF2.

²⁸¹ FOF 2, 4, 5,

²⁸² FOF 20(g), 24, 26(f).

²⁸³ FOF 26.

²⁸⁴ FOF 26.

²⁸⁵ FOF 26.

²⁸⁶ FOF 26.

²⁸⁷ FOF26, 31.

²⁸⁸ FOF 31.

one report of self-harming behavior prior to the eligibility meeting,²⁸⁹ and there was no testimony from either educators or Parents that Student self-harmed while in the academic setting. While this behavior, had it manifested itself in school, might have affected Student's educational performance, "it is not whether something, when considered in the abstract, can adversely affect a student's educational performance, but whether in reality it does." Marshall, 54 IDELP 307, pp. 4-5. (citing, 34 CFR §300.89C)(9)(ii)). Any self-harming behavior Student displayed at home was not displayed in school and did not impact her ability to access and progress in this curriculum.

Parents' also allege that the District's failure to find Student eligible and provide her with IEP services caused a regression which made it necessary for Parents' to provide additional supportive services and ultimately move to a new District. However, no testimony was presented regarding an academic regression. In fact, Parents and educators agreed that Student had made academic progress during the 2016-17 school year. Also, the outside services Parents chose to provide were initiated years prior to the Student being denied eligibility by the District in December of 2016. These services were provided even when Parents were happy with Student's IEP services.²⁹⁰ There was no link presented between the failure to find Student eligible for IDEA services and the Parent private provider services.

The testimony of the District witnesses was credible and persuasive. Conversely, the Mother's testimony was contradicted by supporting documentary evidence. Parents' documentary evidence was limited by unexplained inconsistencies in many of the documents, and by no foundational testimony to the documents by the documents authors. Parent-OT was credible, however she had never observed Student in school, is not a licensed school occupational therapist, and her base of knowledge regarding Student's behaviors, in the academic setting, was derived solely from information provided by the Parents. Based on the

²⁸⁹ FOF26.

²⁹⁰ FOF 6.

totality of testimony presented regarding the determination at the eligibility meeting on December 8, 2016, this IHO finds that the team's determination that Student was no longer eligible for IDEA services was appropriate. I therefore find in favor of the District on this issue.

CONCLUSION

Based on the evidence, the Hearing Officer makes the following conclusions of law.

- A. The District has established by a preponderance of the evidence that the Psychological Evaluation signed by [REDACTED] Psychologist on November 29, 2016 was appropriate.
- B. The Parents have failed to prove that the District failed to consider reports and test data from private medical experts when it denied Student's eligibility in December of 2016.

IT IS ORDERED THAT:

The District does not need to take any further action.

NOTICE OF RIGHT TO REQUEST CLARIFICATION

Pursuant to 105 ILCS 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 shall specify the portions of the decision for which clarification is sought. A copy of the request shall 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: February 15, 2019

/s/Mary Jo Strusz
Mary Jo Strusz, Impartial Hearing Officer
4113 N. Paulina St.
Chicago, IL 60613
maryjostrusz@gmail.com

EXHIBIT A

██████████ Elementary School (“██████████ Grade School”) K-8th grade school located at ██████████, Illinois.

Witnesses:

Parents:

- 1) ██████████, **Mother.**
- 2) ██████████, **Father.**

Professionals (in alphabetical order):

- 3) ██████████ PhD. (“**Neuropsychologist**”) was not present, did not testify, her credentials are unknown.
- 4) ██████████ (“**Case Manager**”), has been employed with ██████████ for twenty-two years. She has been with ██████████ Elementary School since August 2011. She is a Counselor and Case Manager. She has Type 73 license with endorsements.
- 5) ██████████, PHD, licensed clinical psychologist (“**Clinical Psychologist**”), she was not present and did not testify, her credentials are unknown.
- 6) ██████████, (“**K-Teacher**”), is a certified teacher and holds a LBS-1²⁹¹ endorsement, she taught in a special education classroom, and has taught and supported students with autism. She has been employed for sixteen years with ██████████, and was assigned to ██████████ for the 2016-17 school year, holds a type 10 reading certificate, previously was a SPED teacher and mentor teacher at ██████████ Academy.
- 7) ██████████ (“**School Psychologist**”), is a nationally certified school psychologist and holds a type 73 certification in school psychology from the Illinois State Board of Education. She has been with ██████████ for 19 years. She supports three ██████████ schools and this is her 9th year at ██████████ Elementary School. She provides crisis intervention, consultations with parents and teachers, and evaluations for special education services.
- 8) ██████████ (“**Paraprofessional**”), he holds a Paraprofessional license, has a Bachelor degree from Marquette University in Psychology and is in a Masters Program for special education from the University of Illinois at Chicago. Received his LBS1 in the fall of 2018.
- 9) ██████████, MD, Developmental-Behavioral Pediatrician (“**Doctor**”) at ██████████ hospital, Section of Developmental & Behavior Pediatrics. He was not present and did not testify.
- 10) ██████████: (“**SPED**”), holds a Master’s in Education from Northeastern Illinois. He hold a PEL License, LBS with endorsements in: 1) elementary education; 2) special education; 3) music education; 4) ESL; and 5) a bi-lingual endorsement. Special education at Burley Elementary School since 1989.
- 11) ██████████, (“██████████ **Consulting Psychologist**”), was not present, his credentials are unknown.
- 12) ██████████ (“**Parent-OT**”), has a Master’s in occupational therapy and is licensed by the State of Illinois as an occupational therapist with early intervention credentials. She is not a licensed school based occupational therapist.

²⁹¹ LBS-1 is a learning behavior specials 1 endorsement for Illinois.

13) [REDACTED] (“**Social Worker**”), is a licensed clinical social worker and holds a type 73 certificate. She has been with [REDACTED] for 17 and ½ years and is assigned to [REDACTED] elementary School and [REDACTED] Elementary School. She has a type 73 certificate.

CERTIFICATE OF SERVICE BY EMAIL AND
CERTIFIED UNITED STATES POST OFFICE MAIL

I the undersigned, Mary Jo Strusz, certify that on February 15, 2019, a copy of the FINAL DETERMINATION AND ORDER, was served upon the following persons via email transmission by attached document in pdf format to the email addresses below and a copy of the printed documents with original signatures were placed in the United States Postal Service, Certified Mail and address to the parties at the addresses below:

Ms. Katie Ilijic Esq.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Mr. Edward Kenney, Esq.

[REDACTED]
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February 15, 2019

/S/Mary Jo Strusz

Mary Jo Strusz, Impartial Hearing Officer

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]