

[REDACTED]

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

[REDACTED]
Student,

Case No: 2020 DP 0176

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer

[REDACTED] High School District [REDACTED]

School District.

FINAL DETERMINATION AND ORDER

JURISDICTION

The undersigned has subject matter 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.* The personal jurisdiction in this matter of the undersigned is limited to the parties to this matter, specifically Student, Mother, and [REDACTED] High School District [REDACTED]

The standard of proof in impartial hearings under the IDEA is a preponderance of the evidence. 20 U.S.C. § 1415(i)(2)(C)(iii). Under this standard, the party seeking relief must establish that the fact sought to be proved is more probable than not.

The District has a statutory duty to produce evidence that it has properly identified the student’s disability needs in terms of their nature and severity, whether the student has been determined as eligible for special education and related service and that it is providing or has offered a free appropriate public education (FAPE) to the student in the least restrictive environment (LRE). (See 105 ILCS 5/14-8.02a(g-55).) This obligation to present evidence does not place the burden of proof on the district. *Kerry M. v Manhattan Sch. Dist. #11*, 106 LPR 58547 (N.D. Ill. 2006).

BACKGROUND

[REDACTED] (“Mother”), Petitioner is the parent of [REDACTED] (“L.W.”), a seventeen-year-old student with a disability. L.W. is currently a seventeen-year-old, eleventh grade student who is eligible for special education and related service under the IDEA under

the category of emotional disturbance. L.W. is a resident of the District. Currently, L.W. is enrolled in [REDACTED] High School (“YA”) for her educational program and - [REDACTED] (YBGR”) to address her need for psychiatric residential treatment pursuant to her March 13, 2020 IEP. At L.W. receives special education services and related services in the form of therapeutic services delivered at YA and YBGR, including 565 mpw self-help/ independence in the regular education setting and 1000 mpw social/emotional/behavioral in special education setting. Her current IEP contains self-help/ independence, social/emotional/behavioral, and transition goals and short-term objectives. YA provides L.W. with a therapeutic setting, designed to prevent and respond to social/emotional/behavioral problems, that includes small class sizes, individual support, structure, consistent expectations, a school-based behavioral management program with a focus on de-escalation and problem-solving. L.W. has as accommodations breaks as needed and staff support for emotional support. L.W. is eligible for extended school year services during 2020 ESY period.

This hearing arises out of a dispute between [REDACTED] mother, [REDACTED] and [REDACTED] High School District [REDACTED] for the period between May 29, 2019 and August 23, 2019 concerning whether during that period, the District appropriately identified Lorraine’s need for special education and related services under the IDEA and whether [REDACTED] High School District provided Lorraine with a FAPE during that period. In addition, Ms. [REDACTED] also disputes whether from September 19, 2019 to present, the District’s placement location was/is appropriate for Lorraine in that it can appropriately implement her IEP goals, specifically her social/emotional goal. Finally, Ms. [REDACTED] asserts that [REDACTED] use of restraint and seclusion resulted in a denial of a free appropriate public education.

On March 25, 2020, Petitioner filed a Due Process Complaint (“Complaint”) against the [REDACTED] High School District [REDACTED] (“District”) pursuant to the Individuals with Disabilities Education Act (“IDEA”). This Hearing Officer was appointed to preside over this case on April 2, 2020 after IHO Schwartz was substituted by one of the parties pursuant to 105 ILCS 5/14-8.02(f-5). District filed its Response to the Due Process Complaint on April 6, 2020.

On May 18, 2020, a prehearing conference was held in the above matter. The conference was conducted by telephone from 11:00 a.m. to 1:04 p.m. Participating in the conference were: Kathleen C. Fuhrmann, Hearing Officer; [REDACTED] parent/Petitioner pro se; and, Teri Engler, Esq., Kristen Charkow, Esq. of Engler Callaway Baasten & Sraga, LLC with [REDACTED] Assistant Superintendent for Student Services and James Westphal, Assistant Department Chair, Special Education for District/Respondent.

On May 27, 2020, a second prehearing conference was held in the above matter. The conference was conducted by video conference through the Zoom platform from 1:00 p.m. to 3:36 p.m. Participating in the conference were: Kathleen C. Fuhrmann, Hearing Officer; [REDACTED] parent/Petitioner pro se; and, Teri Engler, Esq., Kristen Charkow, Esq. of Engler Callaway Baasten & Sraga, LLC with [REDACTED] Assistant Superintendent for Student Services for District/Respondent.

The parties participated in state-sponsored mediation on April 17, 2020 and May 6, 2020. The parties, however, did not reach an agreement.

On June 3, 2020, a third prehearing conference was held in this matter. The conference was initially conducted by video conference through the Zoom platform but was completed via telephone conference call. Participating in the third prehearing conference were: Kathleen C. Fuhrmann, Hearing Officer; [REDACTED] parent/Petitioner pro se; and, Teri Engler, Esq., Kristen Charkow, Esq. of Engler Callaway Baasten & Sraga, LLC with [REDACTED] Assistant Superintendent for Student Services for District/Respondent.

On June 4, 2020 Ms. [REDACTED] sent an email requesting leave to file an amended due process complaint. Ms. [REDACTED] was granted leave to amend by June 22, 2020. On June 8, 2020 the District filed a Motion For Continuance seeking to extend the 45-day timeline to August 31, 2020 to allow for the completion of the hearing activities as planned during the prehearing conferences. The continuance was granted.

On June 10, 2020 Ms. [REDACTED] tendered a document that she purported to be an amended due process complaint. On June 12, 2020, the Order Denying Filing of Parent's June 10, 2020 Submission As An Amended Due Process Complaint was issued. A Scheduling Order was issued on June 12, 2020 setting forth the agenda for the status conference of items that needed to be completed before the hearing.

On June 17, 2020, Ms. [REDACTED] tendered a document that was accepted as an Amended Due Process Complaint. The Order Allowing the Amended Due Process Complaint was issued on June 17, 2020. On June 17, 2020, the timeline was restarted. On June 18, 2020, the parties agreed to waive the resolution requirement and to proceed to hearing. The 45-day timeline began June 19, 2020.

On June 30, 2020, a status conference was convened by telephone conference call. The prehearing conference for the Amended Due Process Complaint ("ADPC") was scheduled and other matter were discussed.

The Prehearing Conference for the ADPC was convened on July 6, 2020 from 9:00 a.m. to 1:06 p.m. by telephone conference call. Participating in the Prehearing Conference were Kathleen C. Fuhrmann, Hearing Officer; [REDACTED] parent/Petitioner pro se; and, Teri Engler, Esq. of Engler Callaway Baasten & Sraga, LLC with [REDACTED] Assistant Superintendent for Student Services for District/Respondent.

On July 7, 2020 the hearing officer issued an ORDER QUASHING THE "SUBPOENA & ORDER" DIRECTED TO [REDACTED] MD after Mother drafted and signed the hearing officer's name to a document purporting to be a subpoena.

On July 7, 2020 a status conference was convened by Zoom to develop the witness schedule for the hearing.

On July 8, 2020 the District filed its Motion *In Limine* asking the hearing officer to bar the testimony of Ryanne Niedert or any other representative of [REDACTED] at the upcoming hearing for various reasons including the recent emails to the hearing officer with a narrative of her proposed testimony at the direction of Mother. A status conference was convened on July 9, 2020 and a briefing schedule was developed for the motion. Both parties complied with the briefing schedule and the hearing officer issued a decision barring the testimony of [REDACTED] and or any other representative of [REDACTED] due to the inappropriate and high prejudicial nature of the communications on July 13, 2020.

The Five-Day Disclosure Deadline was 5:00 p.m. on July 14, 2020. The District tendered its Five-Day Witness and Document Disclosures to the Mother and hearing officer in a timely manner. Mother did not. Mother tendered her disclosures to the District on July 15, 2020.

On July 15, 2020, a status conference was convened by videoconference to work on the witness schedule. During this conference, the parties requested that they be allowed to tender written closing arguments by Saturday, July 25, 2020 by midnight to allow the maximum amount of time for witness testimony during the scheduled hearing. The hearing officer agreed to this and issued an order containing specific specifications for the closing. The District made an oral motion to bar the Mother's witness testimony and documentary evidence at hearing due to her failure to timely tender her Five Day Disclosures. The hearing officer barred the Mother's documentary evidence but did not bar the testimony of her witnesses.

The final status conference was convened on July 20, 2020 to answer questions concerning the upcoming hearing process and review any objections to the Five-Day Disclosures.

THE DUE PROCESS HEARING

The hearing was held on the Zoom™ videoconference platform on July 21, 2020 from 9:00 a.m. to 6:30 p.m., July 22, 2020 from 8:30 a.m. to 6:00 p.m., and July 23, 2020 from 9:00 to 6:00 p.m. Present for the hearing were Mother, pro se, and [REDACTED] Assistant Superintendent of Student Services for District [REDACTED] with their attorneys Terri Engler, Esq. and Kristen Charkow, Esq. of Engler Callaway Baasten & Sraga, LLC. The proceedings were transcribed by Dillon Reporting Service, LLC of Chicago, with Tina Dillon transcribing on July 21, 2020, Lisa Kotrba transcribing on July 22, 2020 and Isaiah Roberts transcribing on July 23, 2020.

Testimony was received from the following witnesses: Mother, L. W., [REDACTED] Social Worker for [REDACTED] Medical Center, [REDACTED] [REDACTED] Case Manager for [REDACTED] Behavioral Hospital, New Lenox, Dr. [REDACTED] Psychiatrist for [REDACTED] Behavioral Hospital, New Lenox, [REDACTED] Social Worker for Amita Health Adventist Medical Center, [REDACTED] and [REDACTED] Clinical Program Therapist for [REDACTED] [REDACTED] School Psychologist for District [REDACTED] [REDACTED] [REDACTED] Program Supervisor of Day Treatment/Directory of Special

Services/School Psychologist for [REDACTED] [REDACTED] Dr. [REDACTED] [REDACTED]
Psychiatrist/Physician for [REDACTED] [REDACTED] [REDACTED]
Program Director for [REDACTED] [REDACTED] [REDACTED]
[REDACTED] CEO, [REDACTED] District [REDACTED] Superintendent, [REDACTED]
District [REDACTED] Assistant Superintendent of Student Services, [REDACTED] Social Worker
District [REDACTED] former [REDACTED] Therapist, Dr. [REDACTED]
[REDACTED] Executive Director of Residential Services [REDACTED] [REDACTED]
[REDACTED] Mental Health Worker, [REDACTED] [REDACTED]

At the close of the hearing the parties reviewed all documents offered into evidence and moved for the admission into evidence the following:

Joint Exhibits marked JE pages 9 – 80, 84 – 197, 213, 218 - 227, 229 -251, 264 - 268, 275 – 309, 311, 319 -404, 414 – 417, 427 - 472, 475 – 478, 483 - 486, 494 - 505, 508 – 511, 516 – 519, 524 – 543, 546 – 577, 579 - 581, 583 – 586, 594 – 597, 601 – 624, 635 – 686, 688 -693, 696 – 700, 703 – 720, 727 – 730, 739 – 742, 763 – 770, 809 – 816, 841 – 856, 879 – 920, 941 – 944, 970, 973 – 985, 989 – 1016, 1020 -1023, and 1068 – 1097, and

School District Exhibits SD pages 1 – 3, 8 – 24, 29 - 43, and 47 – 67.

The parties provided written closing argument and tendered via email before midnight on July 25, 2020. The hearing record closed on July 26, 2020 at 12:01 a.m.

ISSUES

The issues to be determined are as follows:

Issue One: Whether from May 29, 2019 to August 23, 2019 the District appropriately identify Student’s disability related needs, provided for Student’s special education needs through the provision of special education and related services with appropriate goals and services of sufficient intensity and duration to address those needs to enable Student to be involved in and progress in the general education curriculum in the least restrictive environment? If not, did this failure result in a denial of a FAPE? (20 U.S.C. §1414(d), and 34 C.F.R. §300.324(a).)

Issue Two: Whether on May 29, 2019 the District failed to consider the recommendations of Student’s physician(s) concerning her need for residential treatment? If so, did a denial of FAPE result by impeding Student’s right to a FAPE or significantly impede Student’s Mother’s opportunity to participate in the decision-making process regarding the provision of a FAPE to Student? (34 C.F.R. §300.320 and 34 C.F.R. §300.324(a).

Issue Three: Whether Student’s Mother requested residential placement for Student at the May 29, 2019 IEP meeting? If yes, did the District provide her with prior written notice (“PWN”) concerning their denial of this request? (20 U.S. C. §1415(c).) If PWN was not provided, did the denial of PWN impede Student’s right to a FAPE or significantly impede

Student's Mother's opportunity to participate in the decision-making process regarding the provision of a FAPE to Student? (34 C.F.R. §300.513.)

Issue Four: Whether the District's May 29, 2019 placement determination for Student was predetermined? If so, did a denial of FAPE result by impeding Student's right to a FAPE or significantly impede Student's Mother's opportunity to participate in the decision-making process regarding the provision of a FAPE to Student? (34 C.F. R. §300.116 and 34 C.F.R. §300.327.)

Issue Five: Whether from May 29, 2019 to August 23, 2019, the District failed to appropriately monitor Student's progress and needs? If so, whether from May 29, 2019 to August 23, 2019, the District failed to address Student's lack of progress and/or changed need for special education and related services? Is so, did the District's failure to address result in a denial of a FAPE to Student? (34 C.F.R. § 300.324(b).)

Issue Six: Whether the location of District's placement, from September 19, 2019 to present, at [REDACTED] was appropriate for Student in that is was able to appropriately implement Student's goals, specifically the social and/or emotional (social work) goal? Did Student progress in those goals? If not, did the lack of progress result in a denial of a free appropriate public education ("FAPE")?)

Issue Seven: Whether [REDACTED] use of restraint and/or seclusion with Student resulted in a denial of a FAPE?

Mother seeks as relief a change in the location of placement of Student to [REDACTED] Center in [REDACTED] Utah, a non-ISBE approved facility, at District expense. District seeks findings that at all relevant times it has provided Student with appropriate special education and related services programming that is reasonably calculated to enable her to make progress appropriate in light of her unique circumstances and for the hearing officer to deny the relief requested by Mother above. The District is seeking a finding that the location of Lorraine's special education placement is appropriate and an order denying the Mother's request for a change of the location of Lorraine's placement to [REDACTED]

FINDINGS OF FACT

After considering all the evidence, as well as the arguments of both parties, this Hearing Officer's Findings of Fact are as follows:

2018/2019 School Year

1. Prior to residing within the District, during the 2018-2019 school year, L.W. was enrolled as a regular high school student at Benet Academy until February 4, 2019 when she was dismissed due to her attendance. (Testimony of Mother, JE 233 -234.)

2. L.W. was experiencing social/emotional difficulties that resulted in multiple mental health hospitalizations and residential placements, including, but not limited to, ██████ Hospital (January 2018), Alexian Brothers (April 2018), LaGrange Hospital (September 2018), Rivers Edge Hospital (October 2018), AGI Lombard (November, 2018), ██████ Hospital (December 2018), Linden Oaks Hospital (January, 2019), Rosecrance residential treatment from January 18, 2019 to February 5, 2019, Chicago Lake Shore Hospital (February 6 to 19, 2019), ██████ Hospital (February 19, 2019, and February 27, 2019), Chicago Lake Shore Hospital (discharged March 5, 2019) ██████ Hospital (March 6, 2019, March 10 to 19, 2020, and March 20, 2019) Lake Hospital Behavioral (March 20, 2020 to March 29, 2020), ██████ Hospital (March 30, 2019) and Cedar Crest Hospital (July 20 – 24, 2019) and Cedar Crest Residential Treatment Center (July 24, 2019 to September 19, 2019). L.W. was frequently admitted to inpatient treatment and discharged to the care of her mother with recommendations for outpatient treatment. (Testimony of Mother, ██████ ██████ and ██████ JE pages 16-20, 21 – 28, 29 – 46, 47 -58, 59 – 62, 63 – 80, 87, 88 – 102, 103 – 109, 110 – 116, 118 – 128, 129 -132, 134 – 145, 146- 180, 181 – 196, 218 – 227, 218 – 227, and 427.)

3. On February 27, 2019, and March 6, 2019 ██████ made calls to DCFS (Department of Children and Family Services) from ██████ Hospital. L.W. was expressing frustration and isolation and reported emotional abuse by her mother and did not feel safe to go home. (Testimony of ██████ JE 105, JE 115, JE 116, .)

Enrollment in the District

4. On March 3, 2019, Mother requested a case study evaluation from District ██████ Mother summarized L.W.'s recent mental health hospitalizations and that she had not attended school since October 2019. The request state her belief that L.W. required the support of a therapeutic school. (JE 233.)

5. March 4, 2020 Mother began but did not complete the process of enrollment and registration of L.W. as a student in District. (JE 117)

6. March 8, 2019 - District began collecting information concerning L.W. significant social-emotional needs. (JE 133.)

7. The District checked in with Mother on March 13, 2019 concerning whether L.W. was in a placement. (JE 244.)

¹ ██████ is a Licensed Clinical Professional Counselor, with certification as a Domestic Violence Counselor who is employed by ██████ Behavioral Hospital as a program director since February 2019. ██████ has not provided any treatment to L.W.

² ██████ is employed by Amita Adventist Hospital as an assessment specialist for the past four (4) years. ██████ holds a Masters of Social Work but is not licensed. ██████ met L.W. and assessed her during 2019 visits to the ER.

³ ██████ is the District's school psychologist serving Central High School. ██████ is a Nationally Certified School Psychologist and an Illinois licensed school psychologist and has been employed by the District since 2013 and has worked as a school psychologist since 2008. (Testimony of ██████ and SD 8 – 10.)

8. Despite multiple inpatient hospitalizations of L.W. for a period beginning in L.W.'s freshman year "there has been a significant amount of non compliance [sic] in treatment plans with both patient and her mother." (Testimony of ██████ and JE 138.)

9. ██████ Hospital discharge note created on 3/19/2019 concerning a family meeting with her mother indicates that the meeting did not go well, especially when mother started talking about taking away patient's privileges, if the patient's behavior would not be adequate. It was seen during the family meetings that patient would get agitated easily. (JE 146.)

10. On March 21, 2020 ██████ school psychologist, checked on the status of L.W.'s registration. (Testimony of ██████ and JE 197.) ██████ school social worker, started to work with Mother as she provided him with background information verbally. ██████ felt that he had developed a good relationship with Mother. (Testimony of ██████)

11. On March 22, 2019, the District provided Mother with a link for Family Support Program from the State of Illinois which provides assistance to families for residential placement and indicated that after L.W. was fully registered the District would open a case study. The District's email indicated that it takes a couple of months to complete the evaluation. (JE 243.)

12. Mother responded to the District via email on March 22, 2019 at 10:50 p.m. requesting information concerning the "writing of the plan" that could take up to 30 days for the process and timeline. The District response came the evening of the next business day, March 25, 2019. It contained a link to the ISBE website information concerning the special education case study process. Next, the District responded that they are unable to do anything for L.W. until her residency is verified. The next step in the case study process would be the domain paperwork, parent granting permission to conduct a case study evaluation. After that the evaluation is conducted. The District has 60 school days to complete the evaluation. After the evaluation is completed, a meeting to discuss the results would be held and a determination if L.W. qualifies for special education services would be made and placement is determined. The District further explained that L.W. would be a regular education student and due to her lack of transfer credits they would need to be creative with her schedule. Mother replied two hours later asking how much longer it would take to enroll L.W. and informing the District that she had hired an attorney to represent her. The District special education department responded that someone would contact her concerning the registration process and reasserting that until the registration process was complete, legally everything was on hold. Finally, the District indicated that staff would return from spring break on April 1, 2019. (JE 241-242.)

⁴ ██████ is a social worker employed by Amita Adventist Hospital for the past 16years. He is a certified clinical trauma professional. ██████ is familiar with L.W. through his work at Adventist and was part of her treatment team for her December 2018 and March 2019 inpatient hospitalizations at Adventist.

13. Mother retained attorney Steve Glink to represent her in the registration process and to obtain a case study evaluation. Glink informed the District of his representation of Mother on March 26, 2019. (Testimony of Mother and JE 232.) Within three (3) minutes, District responded to Glink by email providing the contact information for the school registrar and indicated the registrar would be calling Mother to provide next steps in the registration process. (JE 213.)

14. On May 14, 2019, DCFS convened a clinical staffing on L.W. with representatives of ██████ Behavioral Health Hospital and the District. ██████ and ██████ were invited to participate in the meeting by DCFS. The purpose of the meeting was to assist DCFS in gathering information needed to make a decision on whether or not to take protective custody of L.W. DCFS pressed the District to place L.W. in a residential placement. District did not have any plans concerning the placement of L.W. as she was not yet enrolled and was not to their knowledge eligible for special education under the IDEA. (Testimony of ██████ ██████ and ██████ ██████ ██████ discharged L.W. straight to the airport to transport to Cedar Crest Residential Treatment. (Testimony of ██████

15. District provided Mother with a copy of the required physical examination and immunization record on April 1, 2019. (Testimony of ██████ JE 229.)

16. On April 2, 2019, Mother returned the immunization record form, unsigned. It had to be returned to Mother with instructions to complete and return. (JE 239.)

L.W. Enrolled in District

17. On April 4, 2019, Mother completed the enrollment process and was provided with a Request for Consent for Evaluation of L.W. (Testimony of ██████ JE 240-245.)

18. On April 4, 2019, District provided Mother with Parent/Guardian Notification of Decision Regarding a Request for an Evaluation which granted Mother's

⁵ ██████ is the District's social worker assigned to Central High School. He is a licensed clinical social worker who holds an Illinois Professional Educator License with endorsements in Social Work (K to 12th grade), LBS I (9th to 12th grade), English As A Second Language (PreK to 12th grade), and Secondary Education with endorsements in English Language Arts (9th to 12th grade). As District social worker for the past 4 years, ██████ has evaluated students suspected of having disabilities who were diagnosed with MDD, PTSD, ADHD, Cannabis Abuse, ODD, and parent-child relational problem and history of sexual abuse/trauma. ██████ has a BA in English Education and Cinema Studies, MSW from University of Illinois at Chicago, and completed endorsement programs in Learning Behavioral Specialist 1 at Western Illinois University and English As A Second Language at Dominican University. (JE 11 – 14.)

⁶ ██████ is currently the District's Assistant Superintendent of Student Services. ██████ holds a current Illinois Professional Educators License with endorsements in Director of Special Education, General Administration, and School Psychology. He has been employed by the District since 2019. Prior to employment with the District, ██████ has served as Assistant Director of Pupil Services, School Psychologist, problem solving coach and adjunct instructor. In the 2018-2019 school year, ██████ served as the Director of Student Services. (Testimony of ██████ and SD 21-24.)

request for a special education evaluation, including the Identification of Needed Assessments. [REDACTED] also provided parent with a copy of her procedural safeguards and rights. [REDACTED] offered, via email, to review the consent form and domain paperwork, in person or by phone. (Testimony of [REDACTED] JE 246, and 250-251.)

19. Mother signed and returned the consent for evaluation the next morning, April 5, 2019. (Testimony of [REDACTED] JE 247, 249,)

20. In mid-April 2019, [REDACTED] met Mother at [REDACTED] Hospital Emergency Room after a request for help. He spent the day with L.W. and Mother. Mother gave a family history and expressed concerns to [REDACTED] that L.W. needed substantial help due to concerns for her safety, running away and risky behaviors. Mother said L.W. needed residential therapeutic placement. L.W. was not eligible for special education and related services at that time and [REDACTED] made no comments regarding placement to Mother. (Testimony of [REDACTED])

21. [REDACTED] began providing L.W. with social work services immediately upon her attending school. He observed L.W. to be a bright, polite and engaged student. She never refused service and sought out social worker about 1/2 of the sessions without being prompted to do so. L.W. was open and shared easily with [REDACTED] (Testimony of [REDACTED])

22. Upon enrollment to the District, L.W. was placed in Program Success a study hall for students with emotional disabilities. L.W. was polite and respectful, worked on classwork online. [REDACTED] observed L.W. was observed to function well in the building, she moved through the building without problems and made friends with peers and adults. L.W. did not have discipline problems at school. L.W. had attendance problems, arriving late due to problems with Mother at home. (Testimony of [REDACTED] JE 320 - 384.)

23. On April 26, 2019, after school hours, Mother emailed the District including the Director of Student Services, another administrator, and the school social worker. The email provided a Mother's summary of an emergency room visit with L.W. the night before and was seeking help with L.W.'s refusal to take medication, her initial refusal to go home, police attempts to intervene, the behavior incident that ended with a police call to the home. Mother asked for help in getting L.W. to a psychiatrist and gaining L.W.'s compliance with medication. [REDACTED] acknowledged receipt of the email. (Testimony of [REDACTED] JE 264-265.)

24. On April 30, 2019, Mother emailed [REDACTED] an email containing a narrative describing L.W.'s conduct at home. Mother begins by asserting [REDACTED] made

⁷ [REDACTED] is the District Superintendent. In 2019, [REDACTED] served as the Assistant Superintendent of Student Services for the District. [REDACTED] holds current Illinois Educator licenses in Superintendent, Director of Special Education, Social/Emotional Disorders, Mental Retardation, Learning Disabilities, Learning Behavior Specialist I, Educable Mentally Handicapped, Elementary Education (Self Contained General Education, Language Arts (5th to 9th grade), Elementary Education (K to 9th grade), and General administration (K to 12th grade). (Testimony of [REDACTED] and JE 15- 20.)

arrangements for an escort for L.W. for pick up at school. Mother asserts that L.W. is out-of-control and needs a therapeutic residential school. [REDACTED] response to Mother denies having a conversation concerning any of the matters raised in the email. (Testimony [REDACTED] JE 265-266.)

25. On May 3, 2019, Mother provided the District with a letter of recommendation from L.W.'s psychiatrist, Dr. [REDACTED] (JE 267- 268.)

26. Dr. [REDACTED] recommended a "residential therapeutic school" for L.W. to be "monitored on medication round the clock" and "a controlled structure environment with supervision would help stabilize her mood as she would be receiving mediations and therapy regularly." (JE 268.)

Eligibility determination

27. On May 8, 2019, the District convened an IEP team meeting to determine initial eligibility and secondary transition plans. During the meeting, the team, including Mother, reviewed L.W.'s academic achievement, functional performance, health history including her medical diagnosis of Major Depressive Disorder, Post Traumatic Stress Disorder, and Generalized Anxiety Disorder, and her social/emotional functioning. The team determined L.W. was eligible under the IDEA category of Emotional Disability. The team noted that L.W. had average and age appropriate academic skills. The team found that L.W. had weakness in executive functioning skills to regulate her behaviors and emotional responses to situations. The adverse effect of this disability and L.W.'s educational needs were found to be attendance, emotional regulation, social relationship building and coping skills development. The team determined that she needed support in these areas to be successful in general education curriculum. L.W. strengths included being a personable, polite student who appears to be motivated to complete schoolwork. The team identified L.W.'s need for supports to address consistent school attendance, emotional regulation, social relationship building and coping skill development. The team discussed with Mother the inviting of a HAVEN program team member to the IEP meeting. (Testimony of [REDACTED] [REDACTED] and JE 275 – 309.)

28. Mother provided a Medical Certification for Home/Hospital Instruction form completed May 16, 2019 by Dr. [REDACTED] and a second letter from Dr. [REDACTED] dated May 27, 2019, recommending residential therapeutic school for round the clock mediation monitoring, a controlled, structured environment with supervision to help stabilize her mood to the IEP team prior to the IEP meeting on May 29, 2020. (JE 311 and JE 319.)

May 29, 2020 IEP meeting

29. On May 29, 2020, the IEP team convened to develop an IEP for L.W. Mother participated in the meeting with her attorney, Glink. (Testimony of Mother, [REDACTED] [REDACTED] and JE 320 -384.)

30. The team asked Mother for her concerns. The IEP notes indicated that Mother believes L.W. can succeed with support. Mother provided an email to the team that outlined L.W.'s recent history and Mother's concerns for her. Mother expressed concern about peer influence and the wrong crowd, her fears that L.W. may enter the sex trade industry and/or begin to use illicit drugs if she were to leave home. Mother was concerned about L.W.'s lack of academic progress. Mother stated her belief that L.W.'s needs were so acute that she requires a more restrictive placement at a residential therapeutic school. Mother stated that L.W. needed more comprehensive care than what District could offer her due to all of her concerns. Mother's Attorney emphasized the severity of L.W.'s emotional disorder and his concern about her ability to function in a non-residential environment. (Testimony of Mother, JE 324, and JE 361-362.)

31. The team reviewed L.W.'s present levels of performance, including her strengths, Mother's educational concerns and input, health information, including letter from Drs. [REDACTED] and [REDACTED] and concerns including her medical diagnoses, medications prescribed, history of hospitalizations, and academic history which was limited due to her attendance at Central for 11/25 days since enrolling. The team considered her present levels of functional performance including her school attendance, multiple hospitalizations for social -emotional and substance abuse concerns, behavior rating scales, medical diagnoses, her performance at school when attending, and her interests/abilities for post-secondary education and employment. The team identified her needs to regulate her behaviors and emotional responses to situations, to develop coping skills, elopement from home and some at-risk cognitive skills areas. Mother and her attorney agreed these were L.W.'s current levels of performance and needs. (Testimony of Mother, [REDACTED] JE 320 – 384, and JE 354 - 356.)

32. While in attendance at Central, L.W. demonstrated that she was able to make transitions throughout the building and school day without an escort. L.W. exhibited age-appropriate social skills with her peers. L.W. reported that she was making friends and socializing with peers during lunch and in classes. The end of the school day was difficult for L.W. She was reluctant to get into the car with her mother to head home. L.W. was provided with an escort at the end of the day. The school was not seeing the anger and aggression from L.W. that as reported in the hospital reports. (Testimony of [REDACTED] and JE 325, and JE 353.)

33. The IEP team developed three goals for L.W., transition education, transition employment, transition-social emotional and independent living and social emotional. In response to the proposed attendance goal Mother stated that L.W. has been depressed since she was raped and that her not coming to school was not due to conflicts with mother. In response to the proposed coping skills goal, Mother indicated that the problem is not at home, but at school. [REDACTED] disputed Mother's assertion stating that L.W. returned to the school looking for emotional support after leaving at the end of the day three times. Mother accused [REDACTED] of "dangerous behavior" and trying to take L.W. from her by involving DCFS. (JE 355 – 356.) Ultimately, Mother and her attorney agreed to the draft goals. (Testimony of [REDACTED] JE 331- 338.) The team provide educational accommodations and supports for L.W. including alternate setting for assessments, access to a social worker as needed, regular check in, and breaks as needed

in classrooms and for assessments. Mother and her attorney agreed to the accommodations and supports. (Testimony of [REDACTED] and JE 339 – 343.)

34. The team considered the L.W.'s needs and whether they could be addressed without removal from the general education environment and whether supplementary aides and services could be used in the general education setting to achieve a satisfactory result. The team determined that L.W.'s need for support with emotional regulation required her removal from the general education classroom setting. (JE 320 – 384.)

35. The team discussed L.W.'s needs, especially her attendance problems and the level of support at Central was insufficient to address her needs. The team explored co-taught classes and resource supports and determined that this level of support was insufficient to meet her needs. (JE 320 – 384.)

36. The team discussed the District's Haven program. The HAVEN program, a therapeutic day program, offers supports, course offerings and course rigor. The HAVEN program is designed to address school-refusal behaviors and uses dialectical behavioral therapy through social work services, a level-systems and the IEP to support each student developing relationships and identifying and addressing barriers to success. The HAVEN has lower caseloads for social workers, smaller classrooms and provides a higher degree of rigor than off-site therapeutic day schools. Haven had the ability to work with L.W. and Mother on the relational problems and the impact on L.W.'s attendance and education. (Testimony of [REDACTED] [REDACTED] and JE 320 – 384.)

38. The team discussed residential placement for L.W. the team listened to Mother's concerns and fears as stated above. The team considered that L.W. had never been in special education before so the move to residential was highly restrictive without first attempting to provide special education and related services in a less restrictive setting. The team knew about the relational difficulties L.W. and her mother were experiencing but felt that L.W. would benefit from maintaining her connection to her Mother. (Testimony of [REDACTED])

39. The IEP team determined that L.W. would receive the special education services through Program Success in the special education setting for 1025 minutes per week and as related services social work in the special education setting for 200 minutes per month and 150 minutes per month in the general education setting with 45 minutes per month of social work consultation services for the remainder of the 18-19 school year at Central. (JE 320 – 384.)

40. The team determined that the Haven program would provide services to address L.W.'s need for individualized support, peer support and would be able to address the gap in her education from the past year. For the 19-20 school year, L.W.'s IEP team determined that she would be placed in the Haven Program to receive special education in chemistry, applied social communication, PE, geometry, entrepreneurial studies/FACS 2, English 3, and English 2/Civics each for 250 minutes per week with special transportation as necessary, social work services of 100 minutes per month pull out and 100 minutes per month in the Haven program. L.W. would be in the regular education

classroom less than 40% of her day to enable her to participate in a structured learning environment that provides a systematic behavior management system. L.W. would remain in the regular education classroom setting for 40% - 79% of her school day. (Testimony of Mother, ██████████ JE 320 – 384, and JE 354 - 356.) The team completed a functional behavior assessment and used it to develop a behavior intervention plan for L.W. to address her attendance. (JE 349-350.)

41. The IEP team determined that L.W. required extended school year services in June 2019 for the month-long summer program. The IEP provided for credit recovery and 30 minutes per week of social work services. (JE 345.)

42. Mother stated that delaying residential placement is denying L.W. right to education and individualized services. ██████████ responded that the school has moved quickly to make L.W. eligible for special education and has agreed to move past several levels of placement. Mother's attorney recommended a visit to the HAVEN program before they agree or disagree with the placement. (Testimony of Mother, ██████████ and JE 355 – 356.)

43. District provided Mother with the IEP (JE 320 – 38) and Parent/Guardian Notification of Conference Recommendations and Parent/Guardian Consent for Initial Provision of Special Education and Related Services on May 29, 2019 (JE 358 -359.)

44. The May 29, 2019 IEP contained statements summary of the discussion of L.W.'s needs for special education and related services, the goals developed to addressing those needs, and placement options for the deliver of the IEP goals and services and the LRE considerations discussed. The IEP states the reasons these factors were accepted or rejected. The Parent/Guardian Notification of Conference contains a statement concerning protection under the procedural safeguards of the special education regulation, the requirement that the District provides the parent with a copy of the Explanation of Procedural Safeguards once a year, and how to obtain a copy of the Explanation of Procedural Safeguards if needed. (JE 320 - to 384.)

45. The District does not have a policy of placing students in the Haven program before residential placement. ██████████ did not have any involvement in L.W.'s IEP team or the decisions made concerning L.W.'s May 29, 2019 IEP. ██████████ ██████████ and ██████████ were not told, directly or indirectly by ██████████ or any other District administrator, to agree to or refuse any placement option for L.W. (Testimony of ██████████ ██████████ and ██████████)

Post May 29, 2019 IEP Meeting/ Summer 2019

46. Mother toured the HAVEN program on May 31, 2019. (Testimony of ██████████ and JE 385 - 386.)

47. The 2018-2019 school year ended sometime in early June. (Testimony of ██████████)

48. On June 17, 2019 Mother emailed the District providing an update concerning L.W.'s recent hospitalization and requesting residential placement. As of June 18, 2019, Mother had not provided written consent for initial special education services or placement. The District informed her that L.W. was considered a general education student. (Testimony of ██████ and JE 385 - 386.)

49. Mother's June 19, 2019 response to District was argumentative, accusing wanting to save money and racial discrimination as their motives for denying L.W. a residential placement. District responded that Mother had not consented for special education service and that the District remains prepared to provide L.W. with schooling in the least restrictive environment. (JE 387 – 391.) District responded to Mother concerning the provision of special education services on June 20, 2019 stating that L.W. was a general education student without her consent to the provision of special education services. (JE 392.)

50. On June 21, 2019, Mother gave District written consent (back dated to June 5, 2019 and contained handwritten statements stating she gave consent for eligibility but that she did not agree with the "least restrictive environment the District provided her." Mother reasserted her believe that L.W. needed a therapeutic broadening school [sic]) for the initial provision of special education and related services. (JE 392 – 393.)

51. On June 21, 2019 Mother emailed the District. The email states that L.W. told DCFS and ██████ Hospital that she was raped again on June 12, 2019 and that she was used in sex-trafficking by the gang member that raped her. (JE 399- 400.)

52.. Later that day, the District requested that Mother tender consents with the written consent for the initial provision of special education and related services. (JE 402.)

53. At the end of July, Mother was in communication with ██████ asking for information about various residential or therapeutic boarding schools and whether or not they were on the ISBE approved list. (Testimony of ██████ and JE 414 and JE 415.)

54. On July 30, 2019 Mother provided the District with a letter dated July 24, 2019 from Dr. ██████ that contained a medical recommendation for residential therapeutic educational setting. (Testimony of Dr. ██████ and JE 416-417.)

55. A letter addressed to the Illinois State Board of Education dated August 8, 2019 from Cedar Crest was provided to the District. The letter indicated that L.W. had place in their residential treatment center on July 24, 2019 following a four (4) day hospitalization on the CCH acute unit following a hospital admission marked by physical aggression toward staff. The letter provided L.W.'s diagnosis including: Major Depressive Disorder, Recurrent, Severe, without psychotic features (to rule out Bipolar Disorder);

⁸ Dr. ██████ is a board-certified Child and Adolescent Psychiatrist employed by ██████ Behavioral Hospital for about one and a half years. Dr. ██████ recalled that L.W. was her patient in the past but did not recall the details of her history or treatment.

Acute Stress Disorder (rule out Post Traumatic Stress Disorder; Oppositional Defiant Disorder; Intermittent Explosive Disorder; Cannabis Use Disorder – mild; Parent Child Relational Problem; and History of Childhood Sexual Abuse. The letter recommends a residential therapeutic boarding school for L.W. to ensure her continued participation in therapy and education. The letter states that “without the services of a residential boarding school, L.W. risks potentially losing another year of school, and risks decompensating further due to her reactive behavior to stressors and lack of control over her moods and impulsive behavior.” (JE 427.) On August 9, 2019, a Medical Certification for Home/Hospital Instruction was sent to [REDACTED] with a handwritten recommendation for residential placement. (Testimony of [REDACTED] and JE 428.)

56. The 2019-2020 school year began in mid-August, 2020. (Testimony of [REDACTED])

57. On August 19, 2019 District sent Parent/Guardian Notification of Conference to Mother for an IEP meeting on August 23, 2019 to discuss the IEP, Secondary Transition and Change of Placement. Mother waived the 10-day notice on August 22, 2019. (JE 429.)

58. During the August 23, 2019 IEP meeting the team reviewed outside reports, noting that L.W. is a flight and safety risk, that she has been hospitalized frequently and missed a great deal of school which has impeded her access to the educational setting at Center and South High School. The team discussed that L.W. needed the support of a residential placement to meet her education, social and emotional needs and to address safety concerning. Mother agreed. [REDACTED] noted that Diamond Oaks, a facility Mother requested, is not an ISBE approved site. [REDACTED] told the team that L.W.’s current treatment team and insurance provider review her placement and that any changes would likely occur at the Wednesday weekly meetings. The team told Mother that they would be exploring placement openings at [REDACTED] (a.k.a. “[REDACTED]”, Chadock, [REDACTED], and [REDACTED]. Other aspects of residential placement, such as transportation, were explained to Mother by [REDACTED] Mother had no questions regarding transportation or the placement search process. (Testimony of [REDACTED] 429- 464, at 458.)

59. Mother signed Authorization for Release/Exchange of Information for [REDACTED] [REDACTED] [REDACTED] Academy, [REDACTED], [REDACTED], [REDACTED] on August 23, 2019. Placement packets were sent to each. (Testimony of [REDACTED] and JE 465 – 470.)

60. The District offered placement at [REDACTED] [REDACTED] [REDACTED] Academy, [REDACTED], and [REDACTED] after searching the ISBE approved data base by age and disability. Then District made a quick contact with facilities that were gleaned from the search to screen for the services that were provided by those facilities. After Mother signed releases, packets were sent to the facilities she provided consent for and the facility reviewed the packets to determine if their services were appropriate for L.W. Each of the facilities that the District offered for L.W. offer students with emotional disabilities who require residential placement a therapeutic environment around the

clock. Treatment approaches are incorporated into school and residential milieus to assure that students consistently receive 24-hour care and support needed to address their social-emotional needs. (Testimony of Dr. ██████████ ██████████ ██████████ ██████████ ██████████ ██████████ and SD 49 – 67.)

61. Chadlock had an opening for L.W.’s age and grade level, in the past this facility rejected students with elopement concerns in part due to their downtown location. ██████████ initially appeared to be a good match for L.W. but could not be considered because Mother refused to sign the release. ██████████ Academy accepted L.W. but Mother declined. ██████████ accepted L.W. and had a trauma-based treatment model. Mother declined placement at ██████████ (Testimony of Verthien.)

62. On August 26, 2019 Mother emailed ██████████ requesting that a packet be sent to Yellowstone after speaking with Chris Meyers. Mother states, “I think they would provide the best opportunity for L.W.’s [redacted] success.” (JE 472.)

63. Mother rejected the offers of placement at all but Yellowstone. Mother continued to seek placement at ██████████ and Diamond Ranch Academy, both not ISBE approved facilities. (Testimony of ██████████ and JE 475, and JE 476.)

64. L.W. was approved for placement at ██████████ by the District. The District began coordinating transportation arrangements for L.W. with ██████████ Residential Treatment around September 10, 2019. The District was waiting for state approval for L.W.’s placement. (JE 475 – 478.)

2019/2020 School Year

Discharge from ██████████/Arrival at YBGR

65. On September 19, 2019, L.W. was transported to Billings, Montana airport under the supervision of ██████████ Residential Treatment staff. Two ██████████ ██████████ staff met L.W. and the Cedar Crest staff at the airport for handoff. (Testimony of ██████████ and ██████████)

⁹ Dr. ██████████ is the psychiatrist/physician for YBGR. He is licensed in Montana, Texas, and Kansas. He has worked as a physician/psychiatrist/medial director in various settings, including private practice, hospital and outpatient settings. (Testimony of Dr. ██████████ and SD 41 – 43.)

¹⁰ ██████████ is YBGR ██████████ Program Director. He has been employed by YBGR as a mental health worker since 2017. (Testimony of ██████████ and SD 29 – 30.)

¹¹ ██████████ was employed by YBGR as a clinical program therapist from 2019 to 2020. ██████████ was employed by YBGR in various capacities from 2015 to 2020. ██████████ has a Masters in Social Work from Walla Walla University and a BS in Christian Ministry with a minor in Behavioral Health from Arizona Christian University which was earned in 2014.

¹² ██████████ is currently a clinical program therapist at YBGR. She holds a MSW and LMSW in Texas. She has worked providing comprehensive case management services in residential setting since 2017. (Testimony of ██████████ and SD 38 -39.)and

¹³ ██████████ is the Director of Special Services/School Psychologist for YBGR/YA. He holds Montana license with School Psychologist and School Counselor endorsements. ██████████ has worked in a school cooperative setting as well as residential program setting since 1996. (Testimony of ██████████ and SD 47- 48.)

66. L.W. was admitted/enrolled at Yellowstone Boys and Girl Ranch (“YBGR” and [REDACTED] (“YA”) on September 19, 2019. (JE 483-484.) YA utilizes a standard high school curriculum, based on common core and ISBE standards. Class size at YA is small typically with 10 – 11 students, one teacher and one paraprofessional per classroom. Content classrooms are like typical classes. Students are monitored with grades on daily behavior ratings. The daily behavior ratings give a numeric value to student’s level of independence with class rules, class expectations, school rules, self-regulation, interaction with other and work completion. Currently due to COVID-19 shelter-in -place restrictions education is now with lodge mates temporarily. (Testimony of [REDACTED])

67. On September 19, 2019, YBGR psychiatrist/physician Dr. [REDACTED] completed an Admit Psychiatric Evaluation. L.W.’s mental status, diagnosis of Parent-Child relational, Cannabis abuse, MDD (major depressive disorder), recurrent severe, without psychosis, history of sexual abuse, Oppositional defiant behavior, chronic post-traumatic stress disorder and ADHD and a brief history were noted in the evaluation. (JE 485 – 486.) YBGR developed a Master treatment plan for L.W. that included treatment goals in the areas of Admit Responsible Behavior and Admit School. The plan described the goal, short term objective, and therapeutic intervention for each area. The plan had a monthly review schedule set. (Testimony of Dr. Quardi, and JE 485 – 486.)

68. L.W. became dysregulated during YBGR intake. On September 19, 2019, the day of admission, L.W. eloped from YBGR. During the elopement incident, L.W. resisted and refused efforts of [REDACTED] and [REDACTED] to redirect her, required intervention of the Emergency Support Team (“EST”) and was placed in a standing restraint for an hour. After about an hour, law enforcement was called. Law enforcement gave L.W. some options and time to consider those options. L.W. refused to cooperate with law enforcement. She was handcuffed and resisted the officers. L.W. was physical aggressive to the officers. Officers brought her to the ground for safety. L.W. was given time to think before the officers attempted to move her. L.W. resisted the next attempt to move her, kicking at the vehicle and spitting in an officer’s face. The officers used the force necessary to get her into the vehicle and transported her to the station due to assaulting a police officer. (Testimony of [REDACTED] and [REDACTED] and JE 499 – 501.)

Adjustment to milieu

69. Initially, L.W. had difficulty transitioning to YBGR. However, Dr. [REDACTED] did not believe that her adjustment was uncommon for children that need residential placement. (Testimony of Dr. [REDACTED])

70. During her first two months of residential placement L.W. received eleven (11) MIRs (Major Incident Report). During three of the incidents required physical restraint due to L.W.’s physical aggression and unsafe behavior (September 19, 2019, November 6, 2019, and November 10, 2019). She also received six (6) other MIRs where she was able to de-escalate with the support of the EST (September 21, 2019, September 24, 2019, October 7, 2019, October 12, 2019, and October 14, 2019). One incident records

a group incident involving the entire lodge and contraband (October 23, 2019). Finally, one MIR involved reporting information that was acquired during therapy concerning L.W.'s past involvement with gang members and in drug use. (Testimony of [REDACTED] and [REDACTED] JE 498 – 501, JE 502 – 505, JE 508 – 511, JE 516-519, JE 537 -540, JE 541 – 543, JE 546 -548, JE 574 – 577, JE 579 – 581, JE 594 – 597, and, JE 621 - 624.)

71. Mother emailed [REDACTED] on November 12, 2019 to thank him for his help and informing him that she was getting an attorney “because Yellowstone are manipulators.” (JE 635.)

72. The Psychiatric Evaluation and Management note entered on November 18, 2019 states that L.W. has been feeling good and motivated overall. L.W. feels hopeful. She wants to go home next semester to practice SAT and work on college applications. L.W. was worried about her IEP the next day. Her mother was not going to let her talk to her in the IEP tomorrow. L.W. reported that her Mother told her that she wants her to go to another residential facility. L.W. plans to stay at YGBR. L.W. observed that she was doing well at the lodge and was able to regulate and follow staff's expectations. L.W. was working on a trigger map and why she gets aggressive in therapy. (JE 677-678.)

November 19, 2019 IEP meeting

73. An IEP meeting was held at [REDACTED] on November 19, 2019 with Mother and District participation by phone. (JE 636 -673 at 668.) The YA and YBGR staff reviewed L.W.'s present levels of performance, noting her adjustment to and gains made at YBGR and YA in social relationship, emotional regulation, daily living skills, participation in school and lodge activities, and progress in therapy and on IEP goals. YA reported attendance and participation in school with A's in all academics except P.E. [REDACTED] reported gains in therapy where L.W. was learning coping skills, understanding escalation cycle, and processing body image issues. [REDACTED] reported that L.W. was open to therapeutic advice and the practice of skills learned in therapy. [REDACTED] noted that family therapy was not going well. After the first session, which was dominated by Mother, L.W. refused to participate in therapy with Mother the second and third weeks. Mother was offered family therapy to work with [REDACTED] but Mother declined to participate in any family therapy. Dr. [REDACTED] reported that L.W. tells him that she enjoys YBGR and is hoping that mother will give [REDACTED] a chance. Dr. [REDACTED] noted that L.W. had made significant gains at YBGR. Dr. [REDACTED] encouraged more positive engagement with treatment going forward. Dr. [REDACTED] and [REDACTED] stressed the need for Mother to engage in treatment and participate in family therapy for L.W.'s benefit. [REDACTED] reported that L.W. was well adjusted to the lodge. L.W. was on top of her daily living skills, making gains in peer and adult relationships, participating in lodge activities, and becoming a positive model for others. Goals were reviewed and the use of Cognitive Behavioral Therapy mapping and many accommodations and supports were added at the recommendation of YA staff. Placement was reviewed. L.W. was to receive 1565 minutes per week (“mpw”) of special education setting and counseling in special education settings for 50 mpw individual, 50 mpw family, and 100 mpw group. Sessions. L.W. 's placement for the 19-20 school year and extended school year remained an ISBE approved therapeutic setting/ school and the least restrictive environment code was

private residential facility - out of state. Meeting notes also indicate that the IEP meeting served as the YBGR intake meeting. (Testimony of ██████ Dr. ██████ ██████ and JE 636 -673.)

74. During the November 19, 2019 IEP meeting Mother stated several times that she wanted L.W. moved because she was not receiving therapeutic support. Mother also raised concerns about academics not being challenging enough for L.W. Mother asserted that sexual assault and trauma were not being addressed by YBGR. Dr. ██████ responded that the first stage of a therapeutic relationship is building trust. He indicated that once there is a trusting therapeutic relationship the patient can begin to undertake addressing trauma. Dr. ██████ encouraged Mother to engage in and support the treatment process at YBGR, including participation in family therapy. (Testimony of Dr. ██████ and JE 636 -673.)

75. After the meeting, Mother emailed the District stating that she wanted L.W. to transfer from Yellowstone to the Grove School in Connecticut. (JE 674 – 676

November 20, 2019 to March 4, 2020

76. L.W. progress in treatment at YBGR was initially slow. Beginning in October, L.W. began to cooperate with treatment, build relationships with peers and staff, engage in lodge activities, structure, and routines. Although L.W. continued to be easily angered and frustrated, her resorting to physical aggression decreased, and she began to be able to process her emotions, albeit primarily after episodes of verbal aggression to staff and peers. In December, treatment team notes indicated moderate progress in most areas. By May 2020, the treatment team noted moderate to substantial progress in these areas. (Testimony of ██████ ██████ and JE 549 – 568, JE 601 – 620, JE 703 – 720, and JE 989 – 1007.) In December, Mother demanded that YBGR change L.W.'s therapist. ██████ YBGR COE, declined to do so. (Testimony of ██████

77. On November 22, 2019 ██████ and ██████ jointly authored a letter to the District outlining their concerns for L.W. ██████ and ██████ indicate that since L.W.'s arrival Mother has attempted to dictate L.W.'s care. Mother is characterized as being unable to and uncooperative with discussion, reasoning, and the best interest of L.W. For example, during an on-site visit in October 2019, Mother attempted to dictate the curriculum/books that L.W. used in the YA program. YA and YBGR spent four (4) hours trying to explain to Mother that the curriculum used by YA is newer than her choice and meets the academic standards of Montana and Illinois. The writers state that Mother has undermined and uncut YS ability to instruct L.W. through numerous phone calls to L.W. trying to convince her that school at YA is too easy and that she isn't learning anything. In therapy, Mother refused to participate in family therapy for four (4) consecutive weeks and the weeks sessions prior were dominated by Mother's anger and lack of faith in YBGR's ability to provide services to L.W. Mother "yells at the therapist, speaks over the

¹⁴ ██████ is the YBGR Chief Executive Officer. He has worked at YBGR since 2016 in that capacity. Prior to his employment at YBGR he served in various administrative capacities at other residential treatment facilities and as a clinical director. ██████ holds a master's degree in Professional Counseling. (Testimony of ██████ and SD 31-33.)

therapist, accuses the therapist of malpractice and it escalated to a point where Mother [redacted] is to participate in family therapy individually with the therapist before bringing L.W. [redacted] into the picture.” Mother refused therapy and denies any difficulty in her relationship with L.W. Mother has been hostile toward L.W. refusing to acknowledge any progress or achievement and by telling her that she isn’t coming home but is going to a new treatment. L.W. expressed feeling like a rag doll with no control over herself, her future or her own personal growth. [redacted] and [redacted] expressed concern that Mother is “purposefully sabotaging” L.W.’s placement. L.W. has made progress despite her mother’s attempts. Mother’s behavior with lodge staff was strained as well. Mother objects to restraints and asserts the lodge staff restricting her access to L.W. Mother will not admit that L.W. is refusing her phone calls due to hostility from her mother. The treatment team concludes stating that if Mother participates appropriately and cooperatively L.W. will be able to be successfully discharged, finish timely high school, make person gains in therapy, and grow in the area of social development. They believe that if L.W. is able to be successful in the program, she will have the tools to grow, have a successful life outside of treatment and be a productive member of society. If Mother is unable to make the changes needed to cooperate with YBGR for L.W. success, they are fearful for L.W.’s future and worried that the cycle will continue and L.W. will be unsuccessful. (Testimony of [redacted] [redacted] [redacted] and JE 688-689.)

78. During the period from November 20, 2019 to March 4, 2020 she received twelve (12) MIRs. Two (2) MIRs were informational. The first reported a disclosure to her therapist about being asked by mother to allege she had been touched by an ex-boyfriend if he tried to evict the family when she was 10 years old. (JE 698 – 700.) The second report concerned a report of a phone call with Mother the prior night (January 16, 2020). L.W. shared that her mother engaged in verbal attack during the call. (JE 809 – 816.) Two incidents involved L.W. becoming upset and leaving the area (January 19, 2020 and February 8, 2020). (JE 813 – 816 and JE 845 – 848.) Six incidents involved L.W. engaging in aggression or destruction of property (November 22, 2019, November 24, 2019, December 18, 2019, December 31, 2019, February 1, 2020, February 9, 2020, and February 12, 2020.) In all but one of these incidents, L.W. was able to return to baseline and process with EST or staff. The November 22, 2019 incident required seclusion due to safety concerns for L.W. and others. (Je 683 – 686.) Finally, an incident report from January 10, 2020 involved a group safety plan for all members of the lodge for unsafe behaviors at the lodge and school. (JE 763 – 770.) While these incidents were documented by YBGR as major incidents, they also demonstrate L.W.’s progress in developing coping skills and strategies through her school and treatment program. (Testimony of Dr. [redacted] [redacted] and [redacted])

79. On March 3, 2020, the day before her IEP meeting, L.W. was engaged in non-compliance, disrespectful and verbally aggressive speech to peers and staff. During the conflict, L.W. left the area, but did not require EST assistance to return to class. On March 10, 2020 there was further conflict between L.W., a peer and staff at school. L.W. engaged in inappropriate and disrespectful language use with peer and staff. No physical intervention occurred. The March 10 conflict carried over into the lodge that night. The EST was called due to L.W.’s throwing things and threats of harm to staff. The EST therapist was able to talk her down and L.W. was moved to another lodge for the night.

No physical intervention was needed. On March 16, 2020 there was verbal conflict at school between L.W. and a peer over race. After returning to the lodge, L.W. was non-compliant and verbally aggressive with staff when she did not get her demands and began destroying property. The EST was called. L.W. was able to process with EST. After processing and contracting a plan for the evening, L.W. was able to call her mother. (Testimony of ██████ JE 917 – 920, and JE 943 -944.)

March 4, 2020 IEP Meeting

80. An IEP meeting was convened on March 4, 2020 for the purpose of progress review. Mother participated in the IEP meeting. L.W.'s current grades were reviewed. L.W. was passing all classes. The teacher reported that L.W. can be disruptive to class by walking out but walk-outs have reduced. L.W. does not always follow class expectations and can be non-complaint. No physical aggression was reported at the meeting. It was reported that L.W. tends to walk, not run and flee the school. When frustrated, L.W. will seek out administrators and will walk out of class to get that support. The team notes that these are escape/avoidance behaviors. The trend in these walk-out behaviors has been connected to peer and staff interactions. L.W.'s daily behavior ratings reflected lower scores due to her inability to self-regulate and/or talk over staff. Overall, these ratings have decreased since L.W. started in September. YA continues to work on this with L.W. ██████ notes that the trend upward may be related to the upcoming IEP meeting. (Testimony of ██████ and JE 909.)

81. YBGR staff reported that L.W. had been working hard to be a member of the lodge community, demonstrated a willingness to try to work on issues that arise and has demonstrate her ability to be a peer leader and support other students. The YBGR staff felt L.W. was doing very well overall. ██████ reported that L.W. wants to return to her home school and to have a good relationship with her mother. ██████ reported that L.W. does not feel that returning home to her mother would be in her best interest. (Testimony of ██████ and JE 909.)

82. Mother told the team that she has concerns about L.W. participating in the IEP meeting because there is yelling and screaming during Mother's phone calls with L.W. Mother feels that L.W. may go against her during the meeting and there are no rules and regulations that she needs to follow. Therapist ██████ stated that it would be beneficial for L.W. to participate in her IEP meetings and that she has a stake in the decisions and has a voice and say about her future as she is 17 years old. L.W. has the emotional and cognitive ability to participate in her IEP meetings. (Testimony of ██████ and JE 909.)

83. Mother told the team that she was not comfortable with the level of educational and therapeutic support that L.W. is receiving. Mother is concerned that L.W. does not get homework, and that she as been restrained twice since being at YBGR due to aggression. (JE 881 and JE 909.)

84. The team reviewed L.W.'s present levels of performance, progress towards goals and determined that they were appropriate for her. They reviewed her current grades and progress in the YBGR program overall. The IEP team determined that YBGR

was meeting L.W.'s needs and that this setting was able to address her needs. (JE 973-974.)

85. The IEP team noted that L.W. is still having difficulty regulating her emotions and engages in avoidance and escape behaviors. They noted that these behaviors have decreased overall, but these still need to be worked on and are at times disruptive to the educational progress at YA. (JE 900)

86. On April 13, 2020 Mother requested that the District provide a CT scan of L.W.'s head. (JE 970.)

87. District reached out to YBGR in response to Mother's request for a CT scan. YBGR response by ██████ included notifying the District that Mother had not participated in the most recent Monthly Treatment Plan Review. He also reported that during the meeting L.W. expressed frustration regarding her discharge. L.W. said that the incident on Sunday (April 12, 2020) was triggered by a comment from her mother during a phone call. L.W. indicated that her mother said something to the effect that L.W. was not worth her time and the call ended abruptly. L.W. began acting out after the call. There were no reports of damage or self-harm to head reported. ██████ had been on the EST that responded to the incident. L.W. had been throwing things and ripping things off the walls. Staff told him that she had been threatening to run, but had not. ██████ thinks that L.W.'s response to the EST's disengaging from L.W. due to her threats to act in a way that requires police intervention was frustrating to L.W. as she was not in control of the situation and her tactics weren't working. L.W. did lock herself in the bathroom and pounded on the door but quickly stopped and came out crying. The nurse was called and ice applied to her hand. L.W. became quiet and processed with staff the remainder of the evening. ██████ also speculated that Mother may have been confusing several past incidents and linking L.W.'s complaint of a headache with those incidents. (Testimony of ██████ and JE 973-974.)

88. On April 27, 2020 Mother emailed the District and YBGR asking about the forms that L.W. was completing for YBGR. ██████ responded that they were interest inventories for the development of Post-Secondary Goals and Transition Services for the Annual Review of the IEP. Mother responded that she was surprised that ██████ said she had goals as in October there were no goals for L.W. ██████ responded clarifying that in October he told Mother that L.W. did not have "academic goals" due to deficits in learning and that she has had and continues to have social-emotional goals. ██████ indicated that L.W. has and continues to need Transition goals due to her age in school. (Testimony of ██████ and JE 982-983.)

89. The YBGR discharge planning with L.W. during Master Treatment Plan Reviews in April 2020 involved discussion of L.W.'s long-term plans and the possibility of discharge to a step-down facility, group home or to home with her mother. L.W. had plans to complete high school, get a job and go to college. In May, the treatment team notes indicate that YBGR and the District anticipate that L.W. would be referred to a step-down facility in August. (Testimony of ██████ and ██████ and JE 1004.)

90. On April 30, 2020 [REDACTED] emailed the District concerning L.W. response to the discharge plan. [REDACTED] described L.W.'s struggles concerning possible discharge and is flipping back and forth regarding investment in the program to demanding discharge. [REDACTED] indicated that L.W. told Dr. [REDACTED] and him that she was excited to leave in August and wrote the "Therapist letter." (Testimony of [REDACTED] and JE 975.)

91. In a letter to her therapist, L.W. advocates for herself. She says that it isn't a fit for her at YBGR and is not working out. She asserts her differences with the others at YBGR, pointing to cultural and racial differences between herself, a black girl from Chicago and the girls from Montana. L.W. states that she is nearly at her breaking point. L.W. asserts that she can get everything she needs at home, a job, a place to stay, and that she can function on her own. L.W. states that she is being limited in her abilities and she shouldn't have to do household tasks. L.W. asserts that she has a behavioral problem, not mental health issues. She argues that if she did have a mental health problem, it has almost diminished. L.W. asserts that she has to move to a new facility. She discusses YBGR wanting to see consistency. She asserts she has done this with a few hiccups. She ends stating that she is the only one who knows what is best for her and that she wants to be heard and taken seriously. L.W. ends the letter stating that the therapist is either with her or against her. (Testimony of [REDACTED] and JE 976 – 978.)

92. [REDACTED] and [REDACTED] met with L.W. after the letter and discussed it with her. They told her that as a treatment facility they have little control over her discharge, the school and her mother sent her here. They told her that they did not want to stifle her voice and encouraged L.W. to write a letter that would be sent to the District. (Testimony of [REDACTED])

93. L.W. wrote a letter to her team that summarizing the progress that she has made during her seven (7) months at YBGR. L.W. asked for information concerning her discharge plans. She states that "frankly I don't are who is getting sued." She states she has not had a MIR in weeks, no violent outbursts in a while, she has cooperated fully in the program. L.W. states she needs a discharge date, a place to go after discharge and for things to move quickly. L.W. says she has shown impulse control, is a peer leader, has developed coping skills, maintained her grades, regulated her emotions, processes her emotions, participates fully and openly, and she has had insight. L.W. closes that she expects answers at the end of this meeting. (JE 979 – 980.)

94. L.W. also wrote a letter to the District. L.W. says she feels that YBGR is not the best place for her any longer and she has accomplished everything that she can here. She asserts that she no longer needs this level of care and that it is important that she is discharged before August. L.W. asserts that she needs an independent living facility or group home setting. L.W. asserts that she needs more resources as she is nearly an adult. She voiced urgency and that she will "rot" if she remains. She requested a response to her letter as soon as possible. (Testimony of [REDACTED] [REDACTED] and JE 981.)

95. On May 12, 2020 L.W. wrote a letter to her IEP team. The letter reviews her progress at YBGR in program participation, relationships, grades, and a month with no incidents. L.W. explains that her plan while at YBGR is to get a job, an apartment on

campus and learn independence skills. L.W. states she would work hard in school. L.W. states she would like to be discharged in August to an independent living facility or group home. She states that she is aware of the litigation with her mother and that “I disagree completely.” L.W. reports that she recently called DCFS concerning her mother. (JE 984 - 985.)

May 13, 2020 IEP Meeting

96. The team reviewed L.W.’s present levels of performance, progress towards goals and determined that they were appropriate for her. ██████ noted her improvement in the lodge in emotional regulation and peer interactions. ██████ noted that family conflict continues to be a major concern for L.W. He notes that she is able to cope and redirect with staff support. ██████ notes that L.W. has touched on past trauma in therapy but she is unwilling to address it at this time. The team reviewed her current grades and progress in the YBGR program overall. The team noted that L.W. is a different person than when she arrived. She manages her emotions and anxiety much more appropriately than she did at the time of intake. (JE 1008 – 1016 at 1015.)

97. Mother asked about restraints and seclusions for L.W. while at YBGR. ██████ ██████ summarized L.W.’s history. ██████ read L.W.’s letter to the IEP team. (Testimony of ██████ and JE 1015.)

98. The team reviewed the LRE considerations for L.W. The IEP team determined that YBGR was meeting L.W.’s needs and that it was the only setting that was appropriate for her while she continued in psychiatric residential treatment. The IEP stated that it hoped that L.W. would continue to make progress and “step-down” to a less restrictive setting in August. IEP notes state that Mother stated that “there is no way she will be ready for discharge in August and she (i.e. Mother) will hold District [redacted] and Yellowstone accountable if that happens.” (JE 1012 and JE 1015.)

99. Mother stated that L.W. has not had family therapy to address past issues. ██████ asked Mother if she would participate in family therapy if a new therapist was assigned. Mother refused. Mother states all she wants is L.W. in a different placement. (JE 1015.)

100. The IEP also notes that Mother discussed multiple issues with the placement and noted that she is in due process with the District. Mother is unhappy with the current placement and disagrees that L.W. is making progress at YBGR. (JE 1015.)

High School Grades and Transcript

101. L.W.’s transcript shows that at the end of the 2019-2020 school year she earned 16.00 high school credits. (JE 1023.) L.W. May monthly summary from YA shows her attendance is good and she is an A/B student. (JE 1021 - 1022.)

Summer 2020

102. The YBGR master treatment plan review team convened on July 6, 2020 reports L.W. regressed in all areas, including behavior, use of coping skills, communication, social interactions, values and belief, family communications, depression, irritability, and interpersonal relationships. (Testimony of Dr. [REDACTED] and [REDACTED] JE 1068 – 1086.)

103. L.W. experienced many changes from the end of May to July including the loss of her therapist and getting a new therapist, increased interactions with her mother, moving to an apartment on campus and having a grocery budget, the lodge manager going on paternity leave. (Testimony of [REDACTED] L.W. was working with her new therapist on developing responsibility. They brainstormed things she would work on like moving into an apartment on campus, removing escort as she walked on campus, participating in a work crew (i.e. job on campus) and getting to school independently. L.W. attempted to move to an apartment but she didn't feel safe staying alone. L.W.'s plan was changed. She successfully moved back to the lodge and her relationships with staff and peers. (Testimony of [REDACTED]

104. In June and July there were several major incidents involving L.W.'s physical aggression to staff and self-harm. [REDACTED] continued to work with L.W. towards independent living using CBT and future templating to think how behaviors help or hurt her progress towards discharge. [REDACTED] is concerned that while L.W. showed insight, she also demonstrated a lack of remorse as evidence by her comments that she would not be held accountable for her recent acts if they occurred in Chicago as police would not catch up with her. [REDACTED] is concerned about these thinking errors and believes that L.W. needs more time to build stronger relationships and more time with CBT, developing coping skills, goal setting and finding motivation for change. [REDACTED] believes it is important for L.W. for her mother to be "on-board" with L.W.'s treatment. (Testimony of [REDACTED]

105. L.W. wrote a letter to the IEP team to advocate for herself. L.W. says her two recent MIRs were mistakes and not representative of her progress. She notes she has been doing good work since arriving at YBGR. She feels that [REDACTED] is being biased toward her and wants a timeline for getting off restrictions. She states that she realizes that what she did was wrong but asserts that she is not supposed to have repercussions. L.W. says that her mother is using information that [REDACTED] refused to give her and that he did not give to the school. (JE 1085.)

July 8, 2020 IEP Meeting

106. The IEP team met on July 8, 2020. After reviewing the purpose of the meeting, [REDACTED] stated his recommendation that L.W. as a high school student be allowed to participate in her IEP meeting. Mother refused to allow L.W.'s participation. [REDACTED] indicated that when the meeting was scheduled the intention was to discuss step-down plans for L.W. L.W. experienced regression since the offer of independent housing and the team is no longer recommending a less restrictive environment for L.W. (JE 1087 – 1097.)

107. ██████ noted that L.W. did not adjust to more freedom and independence available through independent housing on campus. She only stayed a few nights there. She identified that she was scared and felt isolated. The apartment was kept for her to give the staff time to work with her to overcome her fears. However, L.W.'s behaviors deteriorated to the point that this level of independence is not longer appropriate for her. After about two months with no MIRs, she became aggressive to staff and peers on June 30, 2020 and July 3, 2020. The July 3, 2020 incident involved her assaulting a staff member and glorifying their afterward. (JE 1094.)

108. ██████ noted that in June and July L.W. was more behaviorally dysregulated, struggled more with staff expectations, and was demeaning of peers. L.W. denies mental health concerns and asserts these are behavioral choices she has made. L.W. is resistant to therapy, she states she is not willing to change and discusses running away from YBGR. She participates in conversations only when there is a reward attached to doing so. In school, L.W. is participating and meeting all expectations except in VoAg class. (Testimony of ██████ and JE 1087 – 1097.)

109. The team, except Mother, agreed that YBGR remains an appropriate placement. Mother disputes that L.W. has made improvements reported by staff. The team tried to discuss changes that could be made to better support L.W. Mother was stuck on the July 3 incident and repeated brought it up. The team discussed the need for Mother and L.W. to participate in family therapy. Mother states that L.W. isn't suffering for a lack of family therapy but is suffering because she needs to process her trauma. Mother then dominated the IEP meeting, repeating L.W.'s history of trauma and not allowing others to speak. ██████ took control of the meeting, silencing the speakers to allow each participate to speak in turn. At the close of the conversation, Mother said she would participate in family sessions. ██████ and ██████ noted that when L.W. is engaged with her mother she is disengaged in therapy. When she is engaged in therapy she is disengaged with her mother. The team stressed that L.W. needs all adults in her life working for and with her. It is hoped that family therapy can result in a common goal and treatment plan for L.W. Mother then stated she wants L.W. moved to ██████ to because she believes it is more appropriate for L.W. and she has identified this place as more helpful for L.W. to process her trauma and Mother believes it is better equipped to support L.W. (JE 1087 – 1097.)

Other Information:

110. YBGR implements physical restraint and seclusion with residents/students only as a last resort when the safety of the resident or others is at risk. All YBGR and YA staff are trained extensively using trauma informed training techniques, and the policies and practices are designed for the safety of everyone. During emergency situations when these interventions are needed, the staff works with EST, emergency support teams. Records are maintained concerning the incidents entitled MIRs. MIR are provided to the psychiatrist, therapist, lodge manager or school director of special services. (Testimony

of ██████ Dr. ██████ Dr. ██████ did not know of any harm caused to L.W. using restraint or seclusion. (Testimony of Dr. ██████ ██████ worked with Mother to help her understand how and why restraint and seclusion are used at YBGR and why it is important for the safety and security of all in the event of an emergency. (Testimony of ██████ JE 696 and 697.)

111. District has repeatedly offered to move L.W. to another ISBE approved residential treatment facility but Mother, despite her protestations of the inappropriateness of YBGR and her demands for L.W.'s change of location, refused to sign releases to allow L.W.'s information packet to be released to various ISBE approved facilities to secure a new location that could implement L.W.'s IEP. (Testimony of ██████

112. On July 8, 2020 ██████ lodge staff, overheard L.W.'s end of a phone conversation with her mother. ██████ heard L.W. become excited and state "I get a new car and iPhone?" ██████ heard L.W. negotiating the price of the car. L.W. settled on \$25,000 for the car. Later L.W. told ██████ about her mother's asking her to testify against YBGR. ██████ documented the statement and reported the incident to overnight staff. On July 14, 2020, L.W. became verbally and physically aggressive with ██████ over the report and plan for ██████ to testify at the due process hearing concerning the incident. (Testimony of ██████ and SD 1, SD 2.)

113. L.W.'s testimony at hearing was not credible. Her testimony concerning her lack of progress was inconsistent with her own writings and reports of her comments concerning the same in various progress notes discussed above. (Testimony of L.W. and JE 72, JE 73, JE 93, JE 95, and JE 105.) In addition, the alleged offer to get a new car and phone in exchange for this testimony is viewed as highly motivating to a child who also desires a positive relationship with her mother who is unwilling to work on their relationship in family therapy.

██████████ in Utah

114. Mother testified that she believes that ██████ is a better placement location for L.W. because it provides trauma informed therapy which L.W. needs to help with her self-destructive behaviors. Mother believes that if L.W. doesn't get help soon she will get involved with the law and will lead an unhealthy life.

CONCLUSIONS OF LAW

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

¹⁵ Dr. ██████ is the Executive Director of Residential Services at YBGR. He is a licensed clinical professional counselor and has worked in various capacities with youth since 1993.

Issue One: Whether from May 29, 2019 to August 23, 2019 the District appropriately identify Student’s disability related needs, provided for Student’s special education needs through the provision of special education and related services with appropriate goals and services of sufficient intensity and duration to address those needs to enable Student to be involved in and progress in the general education curriculum in the least restrictive environment? If not, did this failure result in a denial of a FAPE? (20 U.S.C. §1414(d), and 34 C.F.R. §300.324(a).)

IDEA eligible students receive special education and related services under an Individualized Educational Plan or IEP. This plan is a written document created by the District IEP team and Parents. It outlines the student’s educational needs and the educational program to address those needs. 20 U.S.C. 1414(d)(1)(A)(i); 34 C.F.R. § 300.320(a). The special education and related services offered to the student in an IEP must be “reasonably calculated to enable a child to make progress in light of the child’s circumstances.” *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. Re-1*, 137 S. Ct. 988, 999 (2017).

Mother began requesting residential placement for L.W. from the District due to L.W.’s frequent conflict with her that resulting in multiple frequent hospitalizations well before she became a resident of the District. (FF 1,2, 4, and 5.) District began working with Mother immediately. (FF 6, 7, 10, 11, 12, and 13.) Mother did not complete the registration process until April 4, 2019. (FF 15, 16, and 17.)

District provided Mother with prior written notice concerning her request for a case study evaluation of L.W. for IDEA eligibility granting her request for the evaluation and provided the Identification of Needed Assessments with the consent form on April 4, 2019, the day she finally completed the registration process. (FF 18.)

Mother signed and returned consent for the evaluation on April 5, 2019. (FF 19.) The District quickly gathered information for the case study evaluation, even going to a local hospital to complete interviews. (FF 20.)

District provided L.W. social work services immediately when she began attending school and L.W. was supported in the District’s Success Program. (FF 21 and 22.) Mother continued to reach out to the school for support with L.W. (FF 23.)

District convened an eligibility meeting for L.W. and found her eligible for special education and related services about one month after L.W. was enrolled in the District. (FF 27.) The initial IEP meeting was convened for L.W. on May 29, 2019. (FF 29.)

When determining whether an IEP design is reasonable, the determination must be made on what the District knew or could reasonably have known at the time the IEP was drafted. *M.B. v. Hamilton Southeastern Schools*, 668 F.3d 851, 863 (7th Cir. 2011).

IDEA and its implementing regulations require that during the development of an IEP the IEP team must consider the strengths of the child, parent concerns for enhancing the

education of their child, the results of the most recent evaluations and the academic, developmental, and functional needs of the child. 34 C.F.R. §300.324 (a).

Here, as a result of the case study evaluation, the District identified L.W.'s average age appropriate academic skills, her need for executive functioning skills to regulate her emotions and behavior, social relationship difficulties and attendance problems. (FF 27.) The team solicited and considered Mother's concerns for L.W. and reviewed the new information Mother provided before the IEP meeting. (FF 30, and 28.) The team reviewed the evaluation results and developed present levels of performance and goals to address her need to regulate her behaviors and emotions, develop coping skills, and address her attendance and elopement from home. (FF 31 and 33.)

Next the District determined the amount of services needed, and the setting where those service would be provided. The team considered L.W.'s functioning at Central, noting that she was able to function effectively in the school setting. (FF 32.) The team reviewed and discussed available placements from resource to residential and determined that L.W. would need the level of support available in the District's public therapeutic day program, the Haven Program at South High School. This program would provide L.W. with the social emotional and attendance supports in a program with academic rigor and exposure to non-disabled peers for the 2019-2020 school year. (FF 34, 35, 36, 39, and 40.) The team considered Mother's concerns and fears and the requirement to educate students with disabilities with their non-disabled peers to the maximum extent appropriate and based on L.W.'s performance since enrollment, the IEP team had no indication that she required residential placement for educational purposes. (FF 32, and 38.) The team provided for ESY services for L.W. (FF 41.)

Mother and her attorney agreed with the goals, but Mother disagreed that the services could be provided at Haven program. (FF 42.) The District provided the IEP at the end of the meeting. (FF 43.)

The May 29, 2020 IEP offered 100 minutes per month of social work services in the special education (pull out) setting and 100 minutes per month of social work services within the Haven program. The Haven program would provide a structure program, including a behavior management system and attendance support. (FF 40.)

At the time of the May 29, 2019 IEP meeting, L.W. had just transferred into the District about a month before. The IEP team considered the hospital report which indicated that hospitalizations centered around parent-child conflict and L.W. psychiatric diagnosis. L.W. had never been in a special education setting before but had missed nearly an entire year of school due to frequent multiple hospitalizations. The District observed L.W. transitioning in the school, forming relationships with peers, working with online courses and seeking out adult assistance when she encountered problems. The District noted her attendance problems and recommended a program that was designed to support students with attendance problems. For these reasons, I find that the District's May 29, 2019 IEP for L.W. was reasonably calculated to enable L.W. to make progress in light of the child's circumstances

by providing her with the services and supports to address her identified disability related needs with sufficient intensity and duration.

Issue Two: Whether Student’s Mother requested residential placement for Student at the May 29, 2019 IEP meeting? If yes, did the District provide her with prior written notice (“PWN”) concerning their denial of this request? (20 U.S. C. §1415(c).) If PWN was not provided, did the denial of PWN impede Student’s right to a FAPE or significantly impede Student’s Mother’s opportunity to participate in the decision-making process regarding the provision of a FAPE to Student? (34 C.F.R. §300.513.)

Mother made multiple requests for residential placement for Student, even before she had moved into the District and enrolled L.W. in the District, including during the May 29, 2019 IEP meeting. (FF 4, 10, 12, 20, 24, 28, 30, and 38 .) As discussed above, the District moved swiftly to obtain consent for an evaluation of L.W., completed the evaluation IEP team and to meet to develop an IEP. (FF 15, 16, 17, 18, 19, 27, and 29.)

PWN

IDEA requires the District to provide parent with prior written notice or PWN that includes a description of the action proposed or refused by the agency, an explanation of why the agency propose or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement of the procedural safeguards available to parent, a means for parents to obtain a copy of those procedural safeguards, sources for parent to contact to obtain assistance in understanding the procedural safeguards and rights, a description of other options considered by the IEP team and the reason why those options were rejected, and a description of the factors that are relevant to the agency’s proposal or rejection. (20 U.S. C. §1415(c).)

Here, the May 29, 2019 IEP provided to Mother, including the Notification of Conference, Conference Summary and Parent/Guardian Notification of Conference Recommendations, contained all of the PWN components. (FF 43, and 44.)

I find that the District provided Mother with PWN concerning their refusal of Mother’s request for residential placement of L.W. at District expense on May 29, 2019 when it provided her a copy of the May 29, 2019 IEP.

Issue Three: Whether on May 29, 2019 the District failed to consider the recommendations of Student’s physician(s) concerning her need for residential treatment? If so, did a denial of FAPE result by impeding Student’s right to a FAPE or significantly impede Student’s Mother’s opportunity to participate in the decision-making process regarding the provision of a FAPE to Student? (34 C.F.R. §300.320 and 34 C.F.R. §300.324(a).

The preponderance of the evidence presented at hearing shows that the District considered the statements of Dr. ██████████ and Dr. ██████████ concerning their opinion that L.W. required residential treatment when developing the May 29, 2019 IEP. (FF 28 and 31.)

District reviewed and considered the opinion found in these letters. (FF 31.) A medical expert witness cannot prescribe educational placements (*See e.g. Marshall Joint School District No. 2. v. C.D. ex rel. Brian D.*, 616 F.3d 632, 638-642 (7th Cir. 2010).

Issue Four: Whether the District’s May 29, 2019 placement determination for Student was predetermined? If so, did a denial of FAPE result by impeding Student’s right to a FAPE or significantly impede Student’s Mother’s opportunity to participate in the decision-making process regarding the provision of a FAPE to Student? (34 C.F. R. §300.116 and 34 C.F.R. §300.327.)

Parent alleged the District predetermined the outcome of the May 29, 2019 IEP for Student and denied Parents meaningful participation in the IEP meeting which resulted in a denial of a free appropriate public education to Student. Parents assert that the District staff participated in a “secret meeting” with DCFS and that placement for L.W. was determined at that meeting. Parent also alleges that ██████ then Assistant Superintendent of Student Services directed members of the IEP team to deny L.W. the residential therapeutic placement she was seeking.

The “secret meeting” was a DCFS staffing. (FF 3, and 14.) DCFS was in the process of assessing what resources were available to L.W. as they were making a determination as to whether they needed to take protective custody of L.W. (FF 14.) DCFS requested the District participate in the staffing to enable DCFS to understand what L.W.’s resources were immediately available to L.W. ██████ and ██████ participated in the meeting by phone. (FF 14.) The District had not completed its initial evaluation of L.W. and had not yet scheduled an IEP meeting. (FF 14)

I find that the “secret meeting” was not an IEP meeting and that the District did not make any placement determinations as a result of its participation in the DCFS meeting.

Next, Mother alleged that ██████ then Assistant Superintendent of Student Services directed members of the IEP team to deny L.W. the residential therapeutic placement she was seeking for L.W.

██████ did not participate in the decision-making for L.W. ██████ did not direct any member of the IEP team to come to any decision concerning L.W.’s needs, services or placement. (FF 45.) ██████ only involvement with Mother and L.W. was to respond to Mother’s request for information concerning whether or not specific residential facilities were ISBE. (FF 23 and 53.)

I find that the ██████ did not predetermine the outcome of the May 29, 2019 placement determination for L.W. either directly, through her own decision or indirectly, through the direction of other District employee to assure a specific outcome through their participation in the IEP meeting.

The May 29, 2020 IEP meeting

The IDEA guarantees the rights of parents to participate in, and receive notice of meetings concerning the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child. 20 U.S.C. §1414(e), 34 C.F.R. §300.300, 34 C.F.R. §300.321, 34 C.F.R. §300.321, and 34 C.F.R. §300.501. Parents and team members and districts must assure their participation in IEP teams. 34 C.F.R. §300.321(a). The IDEA assures that parents are active participants with a meaningful role in the development or modification of their child's IEP. *Hjortness v. Neenah Joint Sch. Dist.*, 507 F.3d 1060, 107 LRP 65900, 48 IDELR 119 (7th Cir. 2007). Predetermination may be the type of procedural defect that deprives a child of a FAPE. *M.B. v. Hamilton Southeastern Schools*, 668 F.3d 851, 861 (7th Cir. 2011).

Predetermination occurs when district personnel, including IEP team members, unilaterally decide a student's placement in advance of the IEP meeting. (See *Deal V Hamilton County Board of Education*, 42 IDELR 109 (6th Cir. 2004).) This IDEA requirement does not prevent IEP team members from preparing for IEP meetings or preparing draft goals and other documents. The district must be willing to listen to the parent's concerns. The fact that the IEP team does not incorporate every request from the parent does not mean that the parent was merely an observer or that the placement was predetermined by the district. (See *J.E. and C.E. v. Chappaqua Central School District*, 68 IDELR 48 (S.D.N.Y. 2016), *aff'd*, 70 IDELR 31 (2nd Cir. 2008, *unpublished*.) The team members must enter the IEP with an open mind and meaningfully consider the parents' input. *T.P. v. Mamaroneck Union Free Sch. Dist.*, 151 IDELR 176 (2^d Cir. 2009). *R.L. and S.L. v. Miami-Dade County Sch. Bd.*, 63 IDELR 182 (11th Cir. 2014). District asserts that is what the IEP team did.

Mother and Glink, her attorney, participated in the May 29, 2020 IEP meeting. (FF 29.) Meeting notes reflect and testifying team members recalled the active participation of Mother and Glink in IEP meeting. (FF 29, 30, 31, 33, 38, and 42.)

The IEP team reviewed all existing information concerning L.W. at the May 29, 2019 IEP meeting. The team reviewed the recent evaluations, school transcripts, and considered the letters Mother provided from L.W.'s doctors Dr. [REDACTED] and Dr. [REDACTED] (FF 31.) The team members provided input concerning their observations of L.W. in the school setting. (FF 32.) Team members recalled in detail discussions of the options considered and the IEP did contain notes and a narrative summarizing the discussions held during the IEP meeting. (34, 35, 36, and 38.) At the end of the meeting, the team determined that L.W. would participate in a District program designed to address the attendance and social emotional problems that were identified during the evaluation and were clearly impacting L.W.'s ability to benefit from school. The District selected the HAVEN program that was designed to provide attendance and social/emotional support with a rigorous academic curriculum at South High School, the least restrictive environment. (FF 39.)

For the reasons discussed above, I find that the District's May 29, 2019 IEP team did not predetermine the outcome of the IEP or placement for L.W. I find that Mother and her attorney were active participants in the IEP meeting, and their input was considered by the IEP team.

Issue Five: Whether from May 29, 2019 to August 23, 2019, the District failed to appropriately monitor Student's progress and needs? If so, whether from May 29, 2019 to August 23, 2019, the District failed to address Student's lack of progress and/or changed need for special education and related services? Is so, did the District's failure to address result in a denial of a FAPE to Student? (34 C.F.R. § 300.324(b).)

IDEA requires that the districts periodically review a child's IEP, but not less than annually to determine if whether the annual goals are being achieved and to address any lack of progress, review evaluations, and information provided to or by the parents and to revise the IEP as appropriate to address items reviewed. (20 U.S.C. §1414(d)(4), and 34 C.F.R. §300.324(b).)

The District's 2018-2019 school year was nearly over at the time of the May 29, 2019 IEP as it ended in early June. (FF 47.) Student was eligible for summer 2019 ESY services. (FF 41.) Mother visited the Haven program but did not consent to the provision of special education and related service until June 21, 2019 well after the June 6, 2020 ESY start date. (FF 48, 49, 50, and 52.)

On June 21, 2019 the District was notified of L.W.'s hospitalization at [REDACTED] (FF 51.) On July 30, 2019, the District received a letter from Dr. [REDACTED] recommending residential therapeutic educational setting. (FF 54.) District was notified of L.W.'s placement in residential treatment at Cedar Crest on August 8, 2019. (FF 55.) On August 19, 2019, the District arranged for an IEP meeting to review L.W.'s needs and determine if a change of placement was needed. The meeting was scheduled on August 23, 2019. (FF 57.) On August 23, 2019, the IEP team met and updated her IEP and changed her placement to a residential placement. (FF 58.)

In addition, the District acted quickly to find an appropriate location for the implementation of the August 23, 2019 IEP in a therapeutic residential facility. (FF 59, 60, 61, and 62.)

I find that the District had limited opportunities to provide services and monitor progress of L.W. between the May 29, 2020 IEP meeting and the August 23, 2019 IEP meeting due in large part to Mother's denial of consent for the initial provision of special education and related service and L.W.'s hospitalization from at least June 21, 2019 to some time after the August 23, 2019 IEP meeting. I find that the District responded timely and appropriately to the information concerning L.W. changing needs. Accordingly, there was no denial of a FAPE to L.W. between May 29, 2019 and August 23, 2019.

Issue Six: Whether the location of District's placement, from September 19, 2019 to present, at [REDACTED] was appropriate for Student in that is was able to appropriately implement Student's goals, specifically the social and/or emotional (social work) goal? Did Student progress in those goals? If not, did the lack of progress result in a denial of a free appropriate public education ("FAPE")?)

Here, Mother is not challenging the IEP goals and services contained in the various IEPs developed by the District for L.W. since September 19, 2019. Mother is challenging whether the location, YBGR is able to appropriately implement the various IEPs. Mother alleges that L.W. has not made any progress during her placement at YBGR. She claims that social work goals were not being address, social work services were not being provided and L.W. was not making progress toward achieving her goals due to the failure of YBGR to address the trauma L.W. experienced as a victim of rape.

L.W arrived at YBGR in mid-September 2019. (FF 65 and 66.) L.W. got off to a rough start. (FF 68, 69, and 70.) By November she was adjusting to YBGR, feeling good and motivated overall. (FF 72, 73.) At the November 2019 IEP meeting YBGR noted that L.W. was making gains in her social work goals as demonstrated by her social relationships with peers and staff, increased emotional regulation, daily living skills, participation in school and lodge activities and therapy. In therapy L.W. was understanding the escalation cycle, identifying her triggers and learning coping skills. L.W. was making moderate progress on her social work goals. By December, progress on social work goals was noted as moderate to substantial. (FF 73 and 76.)

Between November and March, L.W. continued to demonstrate progress in her goals and in therapy. Her incidents of verbal and physical aggression decreased. She was processing with staff, seeking them out before becoming aggressive or eloping and was able to bring herself back to baseline. Her attendance and grades at school were good. YBGR staff reported her hard work and progress. In April, L.W.'s YBGR treatment team began exploring discharge plans. (FF 78, 80, 81, 84, 85, and 89.) L.W. began self-advocacy with YBGR staff and the District by writing letters. (FF 91, 93, 94, and 95.) L.W. recognized her progress at YBGR and outlined it in her letter to the District on May 12, 2020. (FF 95.)

In May the team noted that L.W. was a different person due to her accomplishments at YBGR. (FF 96.) Her progress was such that the team anticipated that L.W. would be ready for discharge to a step-down facility. (FF 98.) L.W. earned 16 high school credits and was on track to graduate on time. (FF 101.)

Mother has disputed any and all progress that L.W. has demonstrated at YBGR since November. Mother has claimed that YBGR was not able to address L.W. needs and that the academic program was insufficient at nearly every meeting and contact with YBGR. It appears that Mother is seeking perfection rather than progress. Mother appears to be unable or unwilling to celebrate or even acknowledge L.W.'s achievements and hard work that L.W. has invested in at YBGR. Further, evidence presented at hearing suggests that Mother has sabotaged L.W.'s progress and undermined L.W.'s sense of accomplishment and success during phone calls that leave L.W. in a state of distress which is often followed by her decompensation. (FF 9, 73, 74, 75, 77, 82, and 83.) Mother has refused to acknowledge any of L.W.'s accomplishments and the YBGR staff has been concerned that she has been sabotaging L.W.'s treatment and progress. (FF 77.)

Particularly distressing is a recent phone call in which Mother reportedly promised L.W. a new phone and car if she provided testimony at the hearing consistent with Mother's position concerning YBGR. After this phone call, L.W. understandably experienced distress and decompensated. (FF 112.)

Mother has also refused to participate in family therapy for most of the time that L.W. has been at YBGR. Dr. [REDACTED] [REDACTED] and [REDACTED] all state that family therapy is an important component of L.W.'s treatment and have encouraged Mother to participate in it. (FF 9, 73, 74, 77, 96, 99, and 109.) Mother is suspicious of all information from YBGR. (FF 86, 87, 88 and 105.)

In June, after a series of changes, L.W. regressed. The YBGR was working toward independent living housing and increasing independence and responsibility. L.W. regressed and disengaged from treatment. The YBGR adjusted living arrangements to provide L.W. with more support as the team found that she had regressed in all areas. (FF 102, 103, and 104.) In July, the IEP team made adjustments to L.W.'s IEP to provide her with the supports that she needs to recover her prior gains and progress to independence. (FF 106, 107, 108 and 109.) The team, except Mother, agreed that YBGR was an appropriate placement for L.W. (FF 109.)

The District has repeatedly offered to move L.W. to another ISBE approved therapeutic facility. Mother refuses to work with the District and insists that the District fund the non-ISBE approved placements of her choice. (FF 111.)

I find that District's placement, YBGR, was and is appropriate for L.W. I find that YBGR appropriately implemented L.W. social work goals and that L.W. demonstrated moderate to substantial progress on those goals until the time when she was being transitioned to an environment requiring more independency and responsibility. I find that the District adjusted to L.W.'s changing needs through the regular review of her treatment plans and IEPs and by making appropriate adjustments to those plans to support L.W.'s growth or unfortunately her recent regression.

Issue Seven: Whether [REDACTED] use of restraint and/or seclusion with Student resulted in a denial of a FAPE?

IDEA does not contain any provisions or regulations governing the use of restraint and/or seclusion.

Here, YBGR and YA are ISBE approved facilities and programs. (FF 58.) YBGR and YA policies and practice concerning the use of restraint or seclusion provide that both are to be used as safety measures, and then only as a last resort. YBGR and YA staff are provided with training in de-escalation techniques and safe restraint and seclusion. YBGR utilizes emergency support teams that are activated when safety concerns arise for students. These teams intervene with seclusion and/or restraint as a last resort and only to the extent needed for safety. (FF 110.)

From September 19, 2019 to the hearing dates, L.W. has required the use of restraint or seclusion on a few occasions. On these occasions her safety and/or the safety of others around her was at risk and then only after other de-escalation techniques failed to diffuse the situation. Further, the progress that L.W. made on her social emotional goals and attendance following the use of restraint or seclusion do not support Mother's

assertion that use of restraint and seclusion by YGBR resulted in a denial of a FAPE to L.W. (FF 70, 78. And 107).

I find that YBGR use of restraint and/or seclusion with L. W. from September 19, 2019 to July 21, 2020 did not result in the denial of a FAPE to L.W.

FAPE

IDEA guarantees students with disabilities a free appropriate education or FAPE. 20 U.S.C. §1412(a)(1). Districts must comply with the procedural and substantive requirements of IDEA to provide a FAPE to a student. *Board of Education of the Hendrick Hudson Central School District, Westchester County et. Al v Rowley*, 458 U.S. 176, 206, 102 S. Ct. 3034 (1982). Recently, the Supreme Court clarified that a school fulfills its substantive responsibility to provide a FAPE by offering the student “an IEP reasonably calculated to enable a child to make progress in light of the child’s circumstances.” *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.*, No. 15-827, 137 S. Ct. 988 (U.S. Mar. 22, 2017.) “An IEP is reasonable calculated to confer educational benefit when it is ‘likely to produce progress, not regression or trivial educational advancement.’ *Alex R. ex rel. Beth R. v Forrestville Valley Cmty. Unit Sch. Dist. No. 221*, 375 F3d. 603, 615 (7th Cir. 2004.)

Here, Mother alleged various procedural violations, but none were found to have occurred in this matter as discussed above. The same is true for the substantive violations alleged by Mother, as discussed above, none of Mother’s allegations and conclusions were supported by the evidence presented at hearing. The evidence presented at hearing overwhelmingly presented the picture of L.W. a very student with significant emotional difficulties who, when placed in a structured and supportive environment was able to be successful in her educational pursuits, emotional regulation, and relationships with peers and most adults. Evidence presented at hearing supports that conclusion that Mother’s failure to acknowledge and support L.W.’s progress towards accomplishing her goals is an ongoing source of stress that L.W. continues to need the structure and support of her current IEP and educational placement in the location where she has established relationships and has thrived within its structure. Accordingly, for the reasons discussed above, I find that the District did not violate L.W.’s right to a FAPE.

Relief Requested:

IDEA empowers a hearing officer or court to grant relief that is appropriate, as determined by the hearing officer or court. (34 C.F.R. §300.516(c)(3).) Here, Mother is seeking an order requiring the District to place L.W. at [REDACTED] Center in [REDACTED] Utah, a non-ISBE approved facility, at District expense.

The first determination that must be made in the consideration of this request for relief is whether the student’s IEP and/or placement is appropriate. When a parent is challenging the location of a placement, proof that the district’s choice of location cannot appropriately implement the IEP must be shown. (*T.Y. v N.Y.C. Dept. of Educ.*, 584 F,3d 412, 419-420 (2d

Cir. 2009). *Brad K. v. Bd. of Educ. of the City of Chicago*, 787 F.Supp. 2d. 734, 739-740 (N.D. Ill. 2001).)

Mother failed to demonstrate that the District's IEP, the placement resulted in a denial of a FAPE or that the location could not implement the IEP. Mother also failed to produce evidence that [REDACTED] was able to address L.W.'s needs.

Finally, the Illinois State Board of Education requires that school districts place students with disabilities only in nonpublic special education programs that are approved by it pursuant to the specific criteria set forth in 23 Ill. Admin. Code part 401. Here, Mother did not dispute that [REDACTED] was not approved by the Illinois Board of Education.

Mother's request for relief is denied.

District's Burden of Production under Illinois School Code

Illinois law requires the school district to present evidence that the special education needs of the child were appropriately identified and the special education program and related services proposed are adequate, appropriate and available to meet the needs of the child, that is providing or has offered those services in the least restrictive environment, consistent with procedural safeguards and in accordance with an Individualized Educational Program (IEP). (105 ILCS 5/14-8.02(a)(g-55).)

As discussed above, I find that the District appropriately identified the needs of L.W. for special education and related services beginning with its Evaluation and Eligibility Determination on May 8, 2019 and continuing to the present. I find the District proposed special education and related services that were reasonably calculated to enable L.W. to make progress appropriate in light of her unique circumstances. I find that the District had appropriate instruction and related services available to meet the needs of L.W. beginning on May 29, 2020 and continuing to present. I find since May 29, 2019 the District has provided and continues to provide those services in the least restrictive environment and in accordance with L.W.'s current IEPs.

I find that Mother failed to meet her burden of persuasion on all counts as discussed in detail above.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered that Mother's request for placement of L.W. at [REDACTED] Center in [REDACTED] Utah, a non-ISBE approved facility, at District expense is denied.

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: August 4, 2020

/s/ Kathleen C. Fuhrmann _____,
Hearing Officer

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APPENDIX A

ISBE Case No: 2020 DP 0176

[REDACTED] v. [REDACTED] High School District no. [REDACTED]

L.W.	[REDACTED] Student
Mother	[REDACTED] Mother/Pro se Petitioner
YBGR or YA	[REDACTED] [REDACTED] facility/School Attending
District	[REDACTED] High School District no. [REDACTED] Home School District
[REDACTED]	[REDACTED] case manager, [REDACTED] Behavioral Hospital
Dr. [REDACTED]	Dr. [REDACTED] Psychiatrist, [REDACTED] [REDACTED] Behavioral Hospital
[REDACTED]	[REDACTED] social worker, Amita [REDACTED] Hospital
[REDACTED]	[REDACTED] social worker, Amita [REDACTED] Hospital
[REDACTED]	[REDACTED] High School District [REDACTED] Superintendent, former Assistant Superintendent for Student Services
[REDACTED]	[REDACTED] Assistant Superintendent for Student Services, former Director of Student Services, and [REDACTED] High School District [REDACTED]
[REDACTED]	[REDACTED] School Psychologist, [REDACTED] High School District [REDACTED]
[REDACTED]	[REDACTED] School Social Worker, [REDACTED] High School District [REDACTED]
[REDACTED]	[REDACTED] CEO [REDACTED] [REDACTED]
Dr. [REDACTED]	Dr. Syed [REDACTED] Psychiatrist/Physician, [REDACTED]
Dr. [REDACTED]	Dr. [REDACTED] Executive Director of Residential Services, [REDACTED] [REDACTED]

[REDACTED]	[REDACTED] Program Supervisor of Day Treatment/Director of Special Services/School Psychologist, [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] Program Director, [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] f. k. a. [REDACTED] former [REDACTED] clinical program therapist
[REDACTED]	[REDACTED] clinical program therapist, [REDACTED]
[REDACTED]	[REDACTED] Mental Health Worker, [REDACTED]

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

[REDACTED]

Student,

Case No: 2020 DP 0176

v.

Kathleen C. Fuhrmann, Impartial Hearing

Officer

[REDACTED] High School District [REDACTED]

School District.

CERTIFICATE OF SERVICE VIA CERTIFIED MAIL

I, the undersigned Kathleen C. Fuhrmann, certify that on August 4, 2020, a copy of FINAL DETERMINATION AND ORDER was served upon the following persons via certified US Mail delivery by depositing the same in the United States Mail, in an envelope securely sealed, postage prepaid, return receipt requested and legibly addressed to the addresses set forth below:

[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

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

Andrew Eulass
Due Process Coordinator
Illinois State Board of Education
Division of Special Education Services
100 N. 1st Street
Springfield, IL 62777

Date: 8/4/2020

Signed: /s/ Kathleen C. Fuhrmann

[REDACTED]
[REDACTED]
[REDACTED]

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

██████████

Student,

Case No: 2020 DP 0176

v.

Kathleen C. Fuhrmann, Impartial Hearing

Officer

██████████ High School District ██████

School District.

CERTIFICATE OF SERVICE VIA EMAIL

I, the undersigned Kathleen C. Fuhrmann, certify that on August 4, 2020, a copy of FINAL DETERMINATION AND ORDER was served upon the following persons via email transmission by attached said document(s) in pdf format to the email addresses set forth below:

██████████

████████████████████

██

██

██

██

Andrew Eulass
Due Process Coordinator
Illinois State Board of Education
Division of Special Education Services
100 N. 1st Street
Springfield, IL 62777

Date: 8/4/2020

Signed: */s/ Kathleen C. Fuhrmann*

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