

ILLINOIS STATE BOARD OF EDUCATION  
IMPARTIAL DUE PROCESS HEARING

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█, Student, by and through her guardian,

█,

Petitioner,

Case No: 2020 DP 0202

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer

█ Charter School,

Respondent.

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**FINAL DETERMINATION AND ORDER**

**BACKGROUND**

█ (“Student”), an eighteen -year-old, high school junior, student with a disability who is eligible for Individuals with Disabilities Education Act (“IDEA”) special education and related services under the categories of Intellectual Disability, Speech Language Impairment, and Other Health Impairment. On June 8, 2020, Petitioner filed a Due Process Compliant (“Complaint”) against the █ Charter High School (“█ or “School”) pursuant to the IDEA, its implementing regulations and relevant portions of the Illinois School Code and its implementing regulations. This Hearing Officer was appointed to preside over this case on June 9, 2020. █ filed its Response to the Complaint on June 18, 2020. The parties participated in state-sponsored mediation services on June 19, 2020. The parties, however, did not reach an agreement. Prehearing conferences for this matter were convened on July 8, 2020, and July 28, 2020.

The closed hearing for this matter was conducted via Zoom™ videoconference on September 28, 29, 30 and October 1, 2020. Student and Mother participated in the hearing and were presented by █ Esq. and █ Esq. of █ Law Clinic with █ Students █ █ █ █ █ and █ taking notes and observing the proceeds with Petitioners; and, █ Esq. of █, LLC with █ Principal of █ Respondent. The hearing was transcribed by Cynthia A. Good (on the 28<sup>th</sup> and 1<sup>st</sup>), Stephanie Apostolos (on the 29<sup>th</sup>), Carrie Vellenga (on the 30<sup>th</sup>), of Pavesich and Associates serving as the court reporters for this hearing. The following persons testified in this

matter: Student, Mother, [REDACTED] [REDACTED] [REDACTED] Dr. [REDACTED] Ph. D., ABPP-CN, [REDACTED] [REDACTED] LCSW, [REDACTED] [REDACTED] [REDACTED] LSW, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] Ph.D., NCSP. Joint Exhibits JE 1 to 3, 5 to 7, 9, 11 to 14, 16 to 28, 30 to 34, 36 to 37, 39 to 41, 43, 47, 49, 51 to 52, 54 to 56, 58 to 60 were admitted into evidence. Parent's Exhibits P 1 to 6, 10, 12, 15, 17, 24, 37, 52, 58 to 64, 69, and 72 to 73 were admitted into evidence. School's exhibits S 3, 9, 18 to 19, 22 pages 53 to 56 only, 32, 37 to 41, 43 to 45, 48, 50, and 52 to 59 were admitted into evidence. The parties presented oral closing arguments and presented points of authority documents in support of their respective cases were tendered after the hearing. Pursuant to 105 ILCS 5/14-8.02a(g-55), the decision is due on October 16, 2020.

### 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]

### ISSUES

The issues to be determined are as follows:

A. Whether [REDACTED] Charter High School improperly exited [REDACTED] from speech language services on June 7, 2018, without conducting a formal speech language evaluation?

B. Whether the IEP developed by [REDACTED] Charter High School on June 7, 2018, was reasonably calculated to provide [REDACTED] with her FAPE in the LRE when it did not include:

1. Measurable academic and functional goals properly tailored to [REDACTED] present levels of performance and in all areas of educational need resulting from [REDACTED] disabilities, including decoding; reading comprehension; encoding; writing content; writing mechanics/conventions; calculation; functional mathematical problem solving; academic vocabulary in science and social studies; receptive language; expressive language; pragmatics; executive functioning, with regard to materials management and completion of task; social skills; employment, post-secondary education/training, and independent living/self-care,

2. Specially designed instruction across academic subjects, based on peer reviewed research, appropriately tailored to address [REDACTED] unique needs related to her intellectual disability, speech language impairments, and emotional disabilities, including

a systematic, sequential, multi-sensory literacy program, such as Wilson Reading System or another Orton-Gillingham-based program,

3. Appropriate related services, including any speech language services; consultative nursing services; and sufficiently intensive social work services, to enable ██████ to benefit from her special education,
4. Appropriate supplementary aids and services including social-emotional supports to address the impact of ██████ depression and PTSD on her attention/learning and a behavior intervention plan (“BIP”) to target ██████ work refusal; paraprofessional support; testing adaptations; adequately slowed pacing of instruction; simplified presentation of subject matter; staff training on how ██████ intellectual disability, language impairments, and emotional disabilities impact her learning and functioning,
5. Any assistive technology to address ██████ intellectual disability and language impairments, (i.e. computer with text to speech and speech to text),
6. Extended school year services in core academics, speech language, social work and transition services,
7. Transition services based on ██████ needs, strengths, preferences, and interests, and
8. An appropriate special education placement.

C. Whether from March 2019 to present, ██████ Charter High School failed to timely investigate and respond to the Parent’s reports of ██████ disability-based harassment/bullying and to properly consider whether this bullying harassment changed ██████ FAPE needs, if so, to address her needs through the provision of a FAPE to her? (Parent asserts that as a result of bullying ██████ missed significant amounts of instruction in March and April 2019 as well as from January to March 2020 and she needed a nurturing, therapeutic placement with adequate staff supervision while also allowing for meaningful interaction with peers.)

D. Whether ██████ Charter High School failed to sufficiently revise ██████ IEP on August 1, 2019, in light of ██████ lack of progress and the findings of the School’s 2019 reevaluations when it did not provide:

1. Measurable academic and functional goals properly tailored to ██████ present levels of performance and in all areas of educational need resulting from ██████ disabilities, including decoding, reading comprehension, encoding, writing content, writing mechanics/conventions, functional mathematical problem solving, academic vocabulary in science, expressive language, pragmatics, executive functioning, with regard to materials management and completion of task, employment, post-secondary education/training, and independent living/self-care,

2. Specially designed instruction across academic subjects, based on peer reviewed research, appropriately tailored to address [REDACTED] unique needs related to her intellectual disability, speech language impairments, and emotional disabilities, including a systematic, sequential, multi-sensory literacy program, such as Wilson Reading System or another Orton-Gillingham-based program,
3. Sufficiently intensive related services, including speech language services and social work services, to enable [REDACTED] to benefit from her special education,
4. Appropriate supplementary aids and services including social-emotional supports to address how [REDACTED] depression and PTSD impact her attention/learning and a behavior intervention plan (“BIP”) to target [REDACTED] work refusal; testing adaptations; adequately slowed pacing of instruction; simplified presentation of subject matter; staff training on how [REDACTED] intellectual disability, language impairments, and emotional disabilities impact her learning,
5. Any assistive technology to address [REDACTED] intellectual disability and language impairments,
6. Extended school year services,
7. Appropriate transition services tailored to [REDACTED] needs, strengths, preferences, and interests, and
8. An appropriate special education placement where, given the severity of [REDACTED] disabilities, she could receive the specially designed instruction, related services, supplementary aids and services, AT supports, extended school year services, and transition services she required to make satisfactory progress while at the same time having meaningful access to peers?

E. Whether [REDACTED] Charter High School failed to sufficiently revised [REDACTED] IEP on May 6, 2020, in light of [REDACTED] lack of progress and the findings of the parent’s independent neuropsychological evaluation when the School did not provide:

1. Measurable academic and functional goals properly tailored to [REDACTED] present levels of performance and in all areas of educational need resulting from [REDACTED] disabilities, including decoding, encoding; writing content, writing mechanics/conventions, academic vocabulary in science, expressive language, pragmatics, executive functioning, with regard to materials management and completion of task; self-esteem, employment; and postsecondary education/training,
2. Specially designed instruction across academic subjects, based on peer-reviewed research, appropriately tailored to address [REDACTED] unique needs related to her intellectual disability, speech language impairments, and emotional disabilities, including a systematic, sequential, multi-sensory literacy program, such as Wilson Reading System or another Orton-Gillingham-based program,

3. Speech language services delivered in an appropriate setting in light of [REDACTED] deficits and attentional needs,
4. Appropriate supplementary aids and services including social-emotional supports to address how [REDACTED] depression, PTSD, and school refusal; testing adaptations; adequately slowed pacing of instruction; simplified presentation of subject matter,
5. Assistive technology embedded into the curriculum to address [REDACTED] intellectual disability and language impairments,
6. Extended school year services,
7. Appropriate transition services based on [REDACTED] needs, strengths, preferences, and interests, and
8. An appropriate special education placement where given the severity of [REDACTED] disabilities she could receive the specially designed instruction, related services, supplementary aids and services, AT supports, extended school year services, and transition services she required to make satisfactory progress while at the same time having meaningful access to peers?

F. Whether [REDACTED] Charter High School failed to properly implement [REDACTED] IEPs, including by providing instruction and texts across subjects that were tailored to [REDACTED] present academic and functional levels, and not implementing [REDACTED] transition services?

G. To remedy the issues identified above, the Parent requests the impartial hearing officer order the following:

1. [REDACTED] Charter High School shall be required to revise [REDACTED] IEP to include:
2.
  - a. Measurable academic and functional goals properly tailored to [REDACTED] present levels of performance and in all areas of educational need resulting from [REDACTED] intellectual disability, language impairments, and depression and PTSD, including decoding; encoding; writing content; writing mechanics/conventions; academic vocabulary in science; expressive language; pragmatics; executive functioning, with regard to materials management and completion of task; self-esteem; employment; post-secondary education/training,
  - b. Specially designed instruction across academic subjects, based on peer-reviewed research, appropriately tailored to address [REDACTED] unique needs including a systematic, sequential, multi-sensory literacy program, such as Wilson Reading System or another Orton-Gillingham-based program,
  - c. 90 minutes weekly of pull-out speech language services,

- d. Appropriate supplementary aids and services including testing adaptations; adequately slowed pacing of instruction; simplified presentation of subject matter; and staff adequately trained on how [REDACTED] intellectual disability, language impairments, and emotional disabilities impact her learning,
  - e. Assistive technology embedded into the curriculum to address [REDACTED] intellectual disability and language impairments,
  - f. Extended school year services,
  - g. Realistic and appropriate transition services based on [REDACTED] needs, strengths, preferences, and interests, and
  - h. An appropriate educational placement, which is a nurturing therapeutic day school, such as [REDACTED] Academic, with a focus on academics, post-secondary, and social-emotional supports to implement [REDACTED] IEP and provide her with the specially designed instruction, related services, supplementary aids and services, AT supports, extended school year services, and transition services she requires to attend school, engage in learning, and make satisfactory progress.
2. [REDACTED] Charter High School shall be required to provide a similar program and placement to [REDACTED] until the day before her twenty-second birthday.
3. [REDACTED] Charter High School shall be required to provide up to three additional years of similar placement and services at [REDACTED] Academy after [REDACTED] turns twenty-two, as compensatory education services including:
- a. Appropriate remedial academic instruction, including a peer-reviewed structured literacy program provided by a certified instructor and specific, measurable goals in all areas of need aligned to [REDACTED] present levels and deficits,
  - b. Appropriate remedial related services, including speech language and social work services,
  - c. Appropriate remedial transition services, including job training and independent living/self-care,
  - d. Door-to-door transportation to/from the compensatory education services,
  - e. Extended School Year services each summer, and
  - f. Any other compensatory education the impartial hearing officer deems appropriate.

4. Reimbursement for the parent's private neuropsychological evaluation; and
5. Any other relief deemed appropriate by the impartial hearing officer.

### **FINDINGS OF FACT**

This Hearing Officer did not have the benefit of a transcript when writing this decision. Therefore, the following is based upon this Hearing Officer's personal notes and recollection. The Hearing Officer carefully considered the testimony of all witnesses presented and all documents introduced and admitted into evidence whether specifically referred to or cited when making her final determination. After considering all the evidence and well as the arguments of both counsels, this Hearing Officer's Findings of Fact are as follows:

### **BACKGROUND**

1. Student, an 18-year-old student at [REDACTED] likes to dance, play basketball, take pictures and cook. She wants to learn to read and do other things for herself so that she can be independent. Student does not like school at [REDACTED] but she likes [REDACTED]. She feels safe and welcome at [REDACTED]. Student believes that there are other students like her and that she can and will learn at [REDACTED]. Student does not want to remain at [REDACTED]. She does not feel that she is being taught in the way she learns.

2. Student and her five (5) siblings were abused by their drug abusing parents prior to being abandoned approximately eleven (11) years ago. Mother adopted Student and her siblings with support from DCFS (Department of Children and Family Services). Mother and her family moved from [REDACTED], Illinois to [REDACTED], Illinois to be closer to the La Rabida therapy services that were needed by the children. Student was found eligible for special education and related services under the IDEA in third grade by the [REDACTED] (" [REDACTED] provided Student IEP pull out services due to a "severe learning disability" and PTSD ("post-traumatic stress syndrome"). Student began suffering from skin and hair loss conditions that were initially diagnosed as alopecia but later diagnosed as "Job's syndrome." As a result of this condition, Student is frequently tired, easily catches things, has skin lesions and severe skin problems. As a result of these conditions, Student has also suffered terrible treatment from her peers, especially after she completely lost her hair in her 6<sup>th</sup>/7<sup>th</sup> grade year. (Testimony of Mother.)

3. Mother placed Student and her sister at [REDACTED] upon the recommendation of a friend. Mother was told by the friend that the school did not tolerate bullying. (Testimony of Mother.)

4. Mother was working with LAF (Legal Assistance Foundation) lawyers in 2016 when they helped her get the DePaul evaluation. Shortly after the DePaul evaluation, Mother moved Student back to ██████ where she attended ██████ School. ██████ conducted an evaluation of Student. (Testimony of Mother.)

5. Mother changed her residence again. She moved Student back to ██████ recruited Student, stating that the school leadership had changed. The year went well for Student. ██████ reevaluated Student and changed her disability category. (Testimony of Mother.) Mother provided ██████ with Student's IEP and outside evaluations near the time of reenrollment. ██████ passed the IEP and outside evaluations on to ██████ the special education teacher, who, along with the principal set Student's class schedule. Student was in a general education English class of 15- 20 student with one teacher and a paraprofessional. ██████ provided Student with modified assignments. Student struggled more than the other special education students in her English class. (Testimony of ██████)

6. ██████ has a Bullying and Social Media Policy. The plan requires that all incidents of bullying including violations that occur through the use of social media are reported to the school. Investigations and notification of the parents of the alleged perpetrator and alleged victim are required. The determination of appropriate consequences is to be made on an individual basis. (SD53-512 to 517.)

**2018/2019 SCHOOL YEAR**  
**Sophomore year**

7. On June 7, 2018 ██████ Charter School held an Eligibility/ IEP meeting for Student after the completion of a reevaluation and redetermination of eligibility for special education and related services under the IDEA categories of Intellectual Disability and Other Health Impairments. (Exhibit P3- 33 to 38 and P4-39 to 62.) ██████ stipulated that no speech/language evaluation was completed. ██████ reviewed Student's records and found that a cognitive assessment had been completed by DePaul within a year and there was no reason to believe there had been a change in cognitive function since that time, therefore only academic and functional performance assessments were needed for Student's triennial evaluation. (Testimony of ██████ and P 2-31 to 32.) DePaul administered the WISC-V and found that

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<sup>1</sup> ██████ was the Director of Student Recruitment and Teacher for ██████ Charter School from August 2009 to June 2018. She holds a MA in Curriculum and Instruction. ██████ also taught English at ██████ during the 2017-2018 school year due to a teacher shortage. (Testimony of ██████ and P60.)

<sup>2</sup> ██████ was the school psychologist at ██████ Charter School during the 2017-2018 school year. She was employed by Future and provided contractual school psychologist services two days per week. ██████ now holds a Ph. D. in clinical psychology. The parties stipulated that Dr. ██████ is an expert in school psychology. (Testimony of ██████ and P59-160 to 167.)

Student's FSIQ was in the Extremely Low range (FSIQ = 63) and that her verbal memory, visual memory as measured by the WRAML-2 were extremely low and her Attention/Concentration was in the very low range. (P3- 35 and JE 18-409 to 418.) The team noted no concerns in communication. (P3- 35.) Student's cognitive scores and her adaptive skills were consistent with the diagnostic criteria for Intellectual Disability. (Testimony of [REDACTED] and JE 18-409 to 418.) DePaul evaluation findings indicated that Student was in the extremely low range of academic achievement in the areas of reading, reading comprehension and fluency, mathematics, math fluency and written expression. (JE 18- 413 to 414.) [REDACTED] assessment yielded similar results. She found that Student's reading skills to be between the 4<sup>th</sup> and 8<sup>th</sup> percentiles and her math composite in the 1<sup>st</sup> percentile, the low range. Student was found to be in the low range in reading, spelling, and math. [REDACTED] recommended use of specific websites to develop Student's basic reading skills, Learning Ally, or other audiobook software to [REDACTED] access to grade level texts. (Testimony of [REDACTED] Exhibit P6- 74 to 75.) Student's academic performance is commensurate with her cognitive function. (Testimony of [REDACTED])

8. In the DePaul evaluation, Student's scores on the Vineland-II were in the low range. The ABAS-3 was completed by the special education teacher and Student's general adaptive composite was low, her conceptual functioning was extremely low, her social functioning was low, and her practical functioning was below average. (Exhibit P3-35.) [REDACTED] reported that Student's scores on the BASC were At-Risk or higher in almost all [REDACTED] Student's scores in School Problems, Attention Problems, Learning Problems, Behavioral Symptoms Index, Atypicality and Study Skills were all in the Clinically Significant Range. Student was struggling academically in all classes. The IEP noted That Student enjoyed socializing, wanted to succeed, was easily distracted, self-conscious, lonely, and fluctuated between refusing all help and asking for help with every detail of her classwork. Student had excessive absences (ranging from 2 to 22 per class) that negatively impacted her progress in school. (Exhibit P4-41, JE52- 732, P5-63 to 68, and Testimony of [REDACTED] and [REDACTED] Mother reported no concerns with bullying. (Testimony of [REDACTED] and Exhibit P5-67.)

9. The IEP team reviewed Student's poor performance in all of her classes, noting that she was trying to complete work and participate in class, had difficulty with distractions, disengaged at times, and that she struggles to stay organized, retain information and keep pace with the class. Attendance problems were noted. (P4-41 to 42.) Mother questioned whether Student was receiving the correct academic placement at [REDACTED] (Testimony of Mother, [REDACTED] and P3-36, P5-65.)

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<sup>3</sup> [REDACTED] was the school social worker at [REDACTED] Charter School during the 2017-2018 school year. He was employed by Future and provided contractual social work services two days per week. He holds a Master of Social Work and is a licensed social worker and school social worker. [REDACTED] has received training in Social Skills Improvement Systems, IMPACT & ASPEN, and Cognitive Behavioral Intervention for Trauma in Schools. (Testimony of [REDACTED] and P61-172 to 175.)

10. The team wrote three goals for Student, a social work goal to develop self-advocacy and self-awareness, a written expression goal for paragraph composition and a mathematics goal involving using graphs to write equations. The current levels of performance for the social work goal gave a summary of Student’s overall school performance reporting current grades, attendance, and health conditions. The writing and math goals indicated that the current academic achievement section was N/A. None of the goal gave any indication of baseline performance data. In addition, Student’s performance was to be measured by self-reporting, practicing, and discussing which was to be measured with various percentages of accuracy and evaluated through progress notes then reported quarterly. Similarly, the writing goal suffered from no baseline data and it either required her to utilize grade level writing prompts, which she clearly does not have the ability to [REDACTED] or it anticipates a curricular modification that is not provided for elsewhere in the IEP. The math goal was also lacking baseline data and did not address identified deficits in math computation or math application but requires the use of a “set of three line-graphs to write and equation of each line.” (P4-43 to 49.) No AT was provided for Student. No speech/language services were provided in the IEP. (P4-56 to 57.) The IEP provided general classroom and assessment accommodations and modifications such as extending time. (P4-50, 54 to 55.) A Secondary Transition plan was developed for Student that was based solely on interview of Student and Mother. It set forth an anticipated course of study for high school and anticipated that Student would attend a two-year college after high school. (Exhibit P4-51.) The Transition plan did note that Student needed to develop study skills for college entrance exams, social work services, learn to navigate public transportation, self-care at home, and would be linked to DRS at the end of high school. (Exhibit P4-53.) Placement of Student to begin the fall of 2018 was in pull-out English, Math and Life Skills for 250 minutes per week (“mpw”) each, pull out social work services for 30 mpw (an [REDACTED] of minutes) and 15 minutes per month (“mpm”) of social work consultation services, and 15 minutes per quarter (“mpq”) of nursing consultation services. The IEP box concerning ESY is checked no, with no explanation. (Exhibit P4-56 to 59.)

**2018/2019 SCHOOL YEAR**  
**Sophomore year**

11. On June 7, 2018, the IEP team revised Student’s IEP to include transportation to and from school and/or between buildings for the 2018/2019 school year because it was omitted from her IEP in error, the social work and speech/language goals were updated, and a paraprofessional was added as previously agreed, with the consent of Mother. (Testimony of Mother, [REDACTED])

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<sup>4</sup> [REDACTED] was the Director of Special Education/Assistant Principal at [REDACTED] from August of 2018 to July 2020. She holds a B.S. in Psychology, M.Ed. in Special Education, M.A. in Educational Leadership and is licensed as a Elementary Education K to 9 teacher, LBS1 PreK to 12 teacher, Principal and Director of Special Education.

[REDACTED] has experience as a teacher and coordinator prior to joining the [REDACTED] staff. (Testimony of [REDACTED] and SD37-425 to 426.)

JE1-1 to 21, SD9-23.) Student's goals were 1) to use self-advocacy to build better self-awareness and decision making skills in [REDACTED] 2) write a paragraph using a topic sentence, body sentences, and conclusion/transitional sentences, and 3) write an equation of each line on a graph. (JE1- 6 to 11.)

12. School started on or about September 4, 2018 for the 2018/2019 school year. (JE54-738.) Student was enrolled in two periods of Occupational Preparation class and Algebra I, self-contained classes taught by Dobby.<sup>5</sup> The first course consisted of an occupational sequence of life skills and Algebra I was a significantly modified curriculum. Dobby worked with students in small groups and one-to-one, using think aloud, followed by step-by-step instruction and then independent skill practice. Dobby generated worksheets and materials for individual students at levels they could manage with support. Student did well in classes when she was engaged but required frequent prompts and redirection. [REDACTED] used Kickboard, a software program provided by [REDACTED] with Student to set goals, self-monitor her progress and earn rewards. Student responded well to Kickboard and obtained her goals consistently. Student did not struggle with adaptive functioning at school when compared to her classmates but noted that she did struggle to pick up on social cues. Dobby did not observe Student being teased or bullied but was aware of these concerns for Student. He had access to her IEP and evaluations. (Testimony of [REDACTED] JE 58-842 to 861, and JE 26-512 to 528.)

13. [REDACTED] stipulated that the prior IEP team did not do the records review that was contained on the May 2018 domains sheet. In October 2018 [REDACTED] and [REDACTED] reviewed Student's records and found that Student had been receiving speech services to address vocabulary deficits and was overdue for a reevaluation in speech because the speech/language reevaluation was not completed during the reevaluation in spring. (Testimony of [REDACTED], [REDACTED] and JE2-16 to 28.) [REDACTED] began seeing Student on October 4, 2018, despite the fact that the current IEP did not contain speech goals or services minutes. (JE34-661 to 690.) [REDACTED] characterized these services as compensatory education. (Testimony of [REDACTED] Mother signed consent for the speech/language assessment on November 15, 2018. (JE2-29.)

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<sup>5</sup> [REDACTED] has been employed by [REDACTED] or its predecessor since 2014 serving as a paraprofessional from 2014 to December 2018 and a Diverse learner teacher beginning January 2019. He holds an BS in Biology and a MBA. [REDACTED] has an Illinois paraprofessional educator and substitute teacher endorsements. [REDACTED] is the [REDACTED] Special Olympics Coordinator and Head Coach. (Testimony of [REDACTED] and SD 44-441.)

<sup>6</sup> [REDACTED] was the 2018/2019 speech pathologist providing contract services to [REDACTED] from October 2018 to November 2019. [REDACTED] is a licensed speech language pathologist with experience in clinical and school settings including 13 years at [REDACTED] [REDACTED] was at [REDACTED] part-time, providing assessments and services. (Testimony of [REDACTED])

## Speech-language Assessment

14. ██████ completed a speech/language evaluation of Student on January 23, 2019. ██████ found that Student's voice and fluency skills were within the normal range for her age. She has oral motor functioning with adequate strength and mobility to sustain speech. Her articulation skills were judged to be overall within functional limits. Student demonstrated receptive and expressive language abilities in the deficit range. Her vocabulary skills fell within the 3<sup>rd</sup>/4<sup>th</sup> grade levels. Student had language skills deficits in vocabulary, fund of knowledge, word retrieval skills, verbal processing, use of correct grammar, difficulty with verbal ██████ understanding question words, comprehension of inferential material, verbal absurdities, figurative language, etc. ██████ noted that Student has not made progress since her prior evaluation in 2015 and that the gap in vocabulary and language skills between her chronological age and age equivalency is not closing, it is increasing and has grown by approximately two years. ██████ stated "the general rule would be to dismiss from Speech Therapy (given her low cognitive functioning), I feel it is best practice to continue speech services in order to prevent this language gap from increasing and to help [Student] maintain her present level of language and vocabulary skills and possibly improve her overall linguistic functioning as it relates to academics and daily living. (Testimony of ██████ JE 19-419 to 434.)

15. ██████ the school nurse, reviewed Student's case and found that the school lacked current medical information regarding her medical conditions as the most recent physical examination report was from November 14, 2013 that was contained in ██████ records. (JE39- 699 to 701, and JE 40-702 to 703.) Mother interviewed and asked to provide updated medical/school physical to update medical conditions. ██████ recommended accommodations to decrease skin picking and ongoing school nursing consultation services to address and assess Student's immunological, neurological and integumentary status as related to Job's Syndrome, depression, PTSD, and alopecia areata. Student did not receive treatment or medications for any of these conditions at school. (Testimony of ██████ and JE20-435 to 437.)

16. Mother requested an IEP meeting in December of 2018 due to Student's grades, especially in Spanish. Mother did not understand how Student could have an A in Spanish but not know what the work "uno" meant. Mother was concerned that Student had a B in math but could not do her math work at home. Mother felt that Student was being passed along and was not learning to read, do math and write. (Testimony of Mother, ██████ and P10-81.) An IEP meeting was scheduled on January 24, 2019 to discuss Student's progress. Mother feels that Student is regressing. (P12-83.)

17. ██████ email to ██████ Director of College and Careers concerning need to change Student's scheduled because it is inappropriate on January 18, 2019, just before the IEP meeting.

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<sup>7</sup> ██████ a certified school nurse, providing contract services to ██████ during the 2018/2019 school year. ██████ has a BS in nursing and a MA in Educational Administration and Supervision. ██████ was at ██████ one day per week and mainly addressed IEPs and special education reevaluation cases. (Testimony of ██████

(Testimony of ██████ and P17-88.) Student's scheduled developed by the IEP team in June 2018 and revised in August 2018 did not include Spanish. (JE1-15.) ██████ enrolled Student in Spanish 2 without modifying her IEP. (JE51-730.)

18. ██████ worked on the transition surveys on January 17, 2019 with Student just before the January 23, 2019 IEP meeting after being notified that Mother was bringing a lawyer to the meeting. (P15-86.)

19. On January 23, 2019, the IEP team met to review the speech language assessment. The team found Student eligible for a speech/language Impairment on January 23, 2019. (JE 3- 30.)

20. On March 7, 2019, an IEP meeting was convened at the request of Mother due to her concerns about Student's lack of academic progress. Parent questioned why Student is receiving passing grades when she can not demonstrate mastery of the content and Student's lack of homework. (JE5-41.) Mother did not understand how Student could have an A in Spanish but not know what the work "uno" meant. Mother was concerned that Student had a B in math but could not do her math work at home. Mother felt that Student was being passed along and was not learning to read, do math and write. (Testimony of Mother.)

21. Student's performance in class, including grade reports and her most recent test results were reviewed by the IEP team. The team noted that Student struggles to stay focused and on task in class, she required redirection, use of proximity and one-to-one engagement, and her behavior can be a ██████ when surrounded by different personalities. Student's second quarter grades were Cs and Ds with one A- in Occupational Preparation. (JE 5-41 to 45.) In response to Mother's concerns the team added two functional goals, one to support the use of a planner and the other goal to support her bringing a backpack to class. (JE5-41.) Goals were developed in English/Writing, Mathematics/Geometry, Science, Social Studies/Vocabulary, Daily Living Skills/Backpack, Daily Living Skills/Planner, Social Work/Self-advocacy, Speech/vocabulary, syntax and grammar, Speech/following directions, and Social Work/ self-advocacy to build better self-awareness and decision making skills in treatment. These goals lacked baseline data or other indications of current levels of performance from which the goals and related benchmark progress could be measured. (JE5-46 to 68.) No assistive technology ("AT") was provided for Student. (JE5-70.) Accommodations and modifications, including a significantly modified curriculum, were provided for Student in the classroom and on assessments of all types. (JE5-69 to 70, 75 to 76, and 80.) A transition plan was created requiring the completion of four assessments to address post-secondary outcomes such as employment in the hospitality field and attendance at college or a certificate program. (JE5-71 to 72.) Transition services to be provided to Student included IEP services, community service hours, attendance at job fairs, job shadow events, and career and college fairs, interview skills, resume building and other "job development skills." (JE5-73 to 74.) Student was placed in

special education classes for English, Math, Social Science, Science, Job Training, Daily Living Skills, with pull- out Speech/Language (30 mpw) and social work (10 mpw) with participation in general education P.E. and elective classes with accommodations and modifications. (JE5-77 to 78.) The foreign language requirement was waived for Student. (JE5- 80.) The IEP provided for door-to-door transportation for Student. (JE5-79.) Student’s schedule was changed to comply with the IEP. (P24-99.)

22. In April, IEP progress reports indicated Student was “Making Expected Progress” in English/Writing, Mathematics/Geometry, Science, Social Studies/Vocabulary, Daily Living Skills/Backpack, Daily Living Skills/Planner, Social Work/Self-advocacy, Speech/following directions, and Social Work/ self-advocacy to build better self-awareness and decision making skills in treatment. This bald assertion was not supported by the reports or the evidence presented at hearing. There was no data or even anecdotal reports in support of this global statement. No progress update whatsoever was provided on the Speech/vocabulary, syntax and grammar goals. (JE25 - 488 to 506.)

23. Beginning in Student’s sophomore year, she experienced bullying on the bus and in school. Mother was not satisfied with [REDACTED] response to the bullying. Mother notified the administration that Student was being bullied many times. Mother felt that although there were investigations by the staff, the allegations were not taken seriously. As a result of the bullying, Student left class, hid in the bathroom or gym. (Testimony of Mother.)

24. There was a bullying incident at school on or about March 11, 2019. Student was bullied in the cafeteria by a boy who told Student to move, pushed a table into her and flipped a lunch tray on her. Student called home from the office. Mother took Student to the emergency room after the incident. Mother was frustrated with the school because they would not tell her the name of the boy involved in the matter and would not let her view the video recording of the incident. The next day, Mother brought the police to school. The police arrested the boy. (Testimony of Mother.)

25. After that incident Student did not want to return to school. She shut down, sleeping a lot and develops skin lesions. Mother let Student stay home after she refused to back to school. Mother asked the school for a teacher at home. (Testimony of Mother.) Student was absent from school between March 12 and April 22, 2019. (Testimony of [REDACTED] [REDACTED] JE6 -88, and JE 54-738 to 739.)

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<sup>8</sup> [REDACTED] was the School’s Director of Education during the 2018/2019 school year. [REDACTED] holds a Master of Arts in Educational Leadership and a type 75 administrative certificate as well as a type 9 English secondary teaching certificate. (Testimony of [REDACTED] and S38-427 to 429.)

26. The team met on April 22, 2019 to develop a safety plan for Student. Social work minutes were increased to 30 mpw. (JE6-124.) The safety plan provided for separation of Student from the perpetrator in all school settings, constant supervision and monitoring of the perpetrator (Mother did not want Student to be escorted in school), daily staff check in/out with Student, increased social work minutes, the requirement that any/all staff to intervene and report any further bully to designated administrative staff, home/school communication, emergency procedures and bullying prevention training for all staff. (Testimony of [REDACTED] and JE7- 128 to 131.)

27. In addition, the school developed a Reintegration plan to transition Student back to school. The plan called for the modification and reduction of make-up work for the third quarter and gave Student until the end of the fourth quarter to complete the make-up work. Teachers were alerted to the possible need for extra support by Student. A schedule for the check-in/out with the trusted staff was developed. The staff supervision for Student was reviewed and included. Finally, the plan required that teachers were notified of the reintegration and safety plans. (JE7 – 132.)

28. According to Mother, this plan lasted about two (2) months. In May, the school did not allow the perpetrator to participate in a field trip in compliance with the safety plan, despite teacher advocacy for the perpetrator. (Testimony of [REDACTED] [REDACTED] and JE41-704 to 708.)

29. Mother spoke with [REDACTED] weekly concerning Student. Mother expressed concern that Student was not growing and wanted to explore other options for Student in other schools. Mother and [REDACTED] discussed [REDACTED] Occupational School. Mother believed that [REDACTED] was going to set up a tour of [REDACTED] Occupational for her, but this never happened. (Testimony of Mother.)

30. Incident logs and investigation reports of allegations of bullying of Student contained five (5) incidents of alleged bullying. The investigation reports indicated that Student “instigated” the incidents. Student was noted to engage in behaviors with her peers that was not socially inappropriate and that she began arguing or threatening in each of these instances. (JE30-624 to 629.) One other documented incident in June involved Student and the March perpetrator in the same classroom, which neither student was supposed to be in. (Testimony of [REDACTED] JE43-712 to 716.)

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<sup>9</sup> [REDACTED] the [REDACTED] P.E. and Health teacher. [REDACTED] taught Student’s P.E. class during the 2018/2019 school year and her Health class during the 2019/2020 school year. He was also the trusted adult in the initial safety plan. (Testimony of [REDACTED])

31. On May 23, 2019, the IEP team met and added an additional social work goal to develop positive self-talk and effective coping strategies. (JE9 -169 to 170.)

32. IEP progress reports completed on or about June 12, 2019 indicate that Student was “not making expected progress” in writing. The progress reports state that Student was “making expected progress” in Geometry, Science, Executive function goals with her backpack and with her planner, job application skills goal, speech vocabulary goal, and speech vocabulary/activities of daily living goal. No progress notes were given for Social Studies, and for the three social work goals. (JE 25-488 to 511.) Each of Student’s teachers who testified at hearing stated that they believed Student was making progress on her goals and that she benefited from her education program. (Testimony of ██████████ ██████████ and ██████████ These bald assertions are the only evidence concerning progress. No data is reported or was provided in support of these assertions.

33. ██████████ began as the school social worker for ██████████ in November 2018. The first social work service log entry was on November 26, 2018, the ninth week of the school year, the week after the Thanksgiving break. The social work logs recorded seven (7) total social work session for Student for the entire school year. (Testimony of ██████████ and JE 34-661 to 690.) Student was to receive 30 mpw per her June 7, 2018 IEP (JE2-19), March 7, 2019 IEP (JE5-77), April 22, 2019 IEP (JE 6-124), and May 22, 2019 IEP (JE9-180). ██████████ claims that high caseload, lack of office space and emergencies along with other factors contributed to the failure to serve Student. (Testimony of ██████████ During the 2018/2019 school year the service logs reveal that Student was provided with 335 minutes of direct social work services and 162 minutes of social work consultation, (12 minutes consultation with mother and the remainder with staff, largely administrative or related services staff). (JE 34-661 to 690.) Attendance reports indicate there were 25 weeks of attendance during the 2018/2019 school year. (JE54-738-739.) Therefore, Student received an average of 13.4 minutes of social work services per week.

34. During the 2018/2019 school year related service logs indicate that Student was provided with 1,015 minutes of speech language service. Logs note that Student was absent for 4 sessions, provider not available for 3 sessions and that school was not in session for 4 sessions. (JE 34-661 to 690.) Here, it appears that Student received an average of 40.6 mpw of speech/language services during the 2018/2019 school year. There is no evidence that the school provided compensatory services for the services denied in the 2017/2018 school year or from the first day of school to October 4, 2018 the date of the first speech session. (JE 34-690.)

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<sup>10</sup> ██████████ provided social work services to ██████████ as a contract provider from October 2018 to November 2019. She has a BA in Finance and a Master of Social Work and is a licensed clinical social worker and holds a type 73 School Social Work Certification with experience in school and residential settings. ██████████ worked at ██████████ two (2) days per week and had 20 – 25 students on her caseload. (Testimony of ██████████ and SDP62-168.)

35. Student was given the Easy CBM reading in the fall and spring of the 2018/2019 school year. The CBM scores indicate that Student gained in reading moving from the 3<sup>rd</sup> grade level at 35% to 45% at the 5<sup>th</sup> at the 5<sup>th</sup> grade level. Math was assessed with the Easy CBM in spring 2019 and fall 2019. Student was assessed at 3<sup>rd</sup> grade level in math. She moved from 47% to 63%. (JE 27-529 to 581.)

36. Student's semester grades ranged from B- to D+ on her semester grades, her unofficial transcript reflects that she earned 7 credits toward graduation during the 2018/2019 school year. (JE51 – 730.) Student's attendance for the 2018/2019 school year problematic. Student did not attend all classes each day that she was in attendance. In addition, Student did not attend school at all from March 11, 2019 to May 13, 2019. After she returned to school in May, she missed one full day each week. (JE54-738 to 739.)

### SUMMER 2019

37. Mother suffered a stroke in the summer of 2019. Mother's stroke became a reality check regarding Student's future. Mother realized that Student was unable to advocate for herself, take the bus, make change or work at a job to support herself. Mother felt that Student was going to be an eight-year-old trapped in a nineteen-year-old body. (Testimony of Mother.)

#### July 2, 2019 Psychological Report

38. On July 2, 2019, a psychological evaluation and report of Student was completed by ██████<sup>11</sup> ██████ completed a records review, including records beginning with the 2011 referral for special education. ██████ summarized the 2016 DePaul evaluation noting that Student was diagnosed with Intellectual disability, Major Depressive Disorder and Job Syndrome. ██████ reported Student's WISC-V and Vineland-II scores as falling in the impaired range. ██████ interviewed Student and observed her in two classes. The Weschler Abbreviated Scale of Intelligence – Second Edition (WASI-II), Kaufman Test of Educational Achievement, Third Edition (KTEA-2), the Vineland Adaptive Behavior Scales, Third Edition (Vineland-3) and BASC-3 TRS and PRS were used to assess Student. Cognitive testing results for Student were consistent with past results placing Student in the Impaired Range in Full Scale IQ, Verbal Comprehension, Fluid Reasoning and Processing Speed. Her Visual Spatial was found to be in the borderline range and her Working Memory was in the Low Average Range. Academic Achievement testing was also fairly consistent with past measures. Starting with third grade level text in testing sessions, Student performed in the impaired range in all reading subtests,

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<sup>11</sup> ██████ a school psychologist employed by Kaleidoscope Education Solution to work at ██████ from 2016 to 2019. ██████ has a Specialist in School Psychology and holds an Illinois Professional Educator's License as a School Psychologist ██████ has 27 years experience as a school psychologist. He worked at ██████ two days per week.

Mathematics composite and writing. Several of Student's achievement score fell from 2016. Oral reading fluency, phonetic decoding and essay composition scores fell. Similarly, several of Student's achievement scores fell since 2018. Student's scores in reading comprehension, pseudoword decoding, and oral reading fluency range fell. Student's adaptive behavior assessment was in the impaired range overall. Student's Vineland-3 scores in communication and socialization were in the borderline range. Her Daily Living Skills were in the impaired range. BASC-3 results indicate that Student's composite scores were elevated in Externalizing Problems, Internalizing Problems, School Problems, Behavior Problems and Adaptive Skills. ██████ notes Student needs in hyperactivity, aggression, and conduct problems, depression, attention problems, withdrawal, and study skills. Mother's rating scales put Student in the clinically significant range in adaptability, social skills, leadership, and attention, with conduct problems as an emerging concern.

(Testimony of ██████ and JE 21-438 to 451.)

#### July 5, 2019 Transition Report – ██████

39. ██████ completed a Transition Report summarizing the transition assessments completed by and for Student on July 5, 2019. The report was based on a review of surveys completed in 2016 and 2019 and on interviews of Student and Mother. Notably both Student and Mother identified Student's attendance in college as a goal. Student is interested in working within the restaurant industry but does not know how to proceed to achieve this goal. The report concluded that Student should engage in investigation of colleges and build skills towards college admission. It recommends that she has the capacity and confidence to pursue her goals in the restaurant industry but needs to explore the training and skills needed to identify the role that will match her skills and interests. Need in the development of communication, job application skills and financial literacy skills were also identified in the report. (Testimony of ██████ and JE22-452 to 462.)

#### August 1, 2019 Social Work Report

40. A social work report was completed by ██████ on August 1, 2019. ██████ completed an update on Student's academic performance, a summary of teacher and parent reports made throughout the school year. ██████ recommended that social work services continue to support her in development of needed independent living skills, employment skill and to maintain positive and long-standing family relationships. (Testimony of ██████ and JE 23-463-464.)

## **2019/2020 SCHOOL YEAR**

### **Junior year**

#### August 1, 2019 Eligibility and IEP meetings

41. At the beginning of the 2019/2020 school year, Student had completed her graduation requirements in Algebra I, Social Science, Career (Drafting) and P.E. She needed a half credit in Geometry and Health, one credit in U.S. History/Constitution, and Science, one and a half credits in Math, two and a half credits in English and four and a half credits of electives. (JE 52-731 to 735.)

42. Eligibility and IEP meetings were held on August 1, 2019. Student was found eligible under the intellectual disability, and speech language impairment. The IEP notes Mother's concerns that it is easy for others to take advantage of Student. Mother voiced concerns regarding Student's reading, math, telling time, using money, communication skills, social skills, vocational skills, motor skills and safety skills. Mother stated that Student does not have knowledge of and is not able to utilize community services. Teachers from the 2018/2019 school year provided summaries for Student's performance in her Math, Reading, occupational preparation, science, physical education, and drafting classes. Notably, Student required high levels of support in classes to complete work, high levels of off task behavior, being unprepared for class, difficulty with peer interactions, and inappropriate social skills. Student had attendance problems, initially from getting off the bus and leaving the school, then later in response to bullying. Student needed to develop numerous life and vocational skills. The team determined that Student would benefit from a shared paraprofessional in all areas for academic and behavioral support and data collection. Student's social emotional needs were summarized as the need to develop self-awareness, self-management, social awareness, and relationship management. (JE11-201 to 208.)

43. Goals were developed in reading comprehension, written expression, money, applied chemistry, U.S. History, vocational (career path), vocational (college selection research), vocational (resume building), Speech/Language (vocabulary, fund of knowledge and comprehension), Speech/Language (vocabulary, fund of knowledge and simple ADLs), social work (positive self-talk and coping strategies), and social work (social awareness and interpersonal skills). (JE11-209 to 233.) No AT was provided. (JE11-234.) Accommodations and modifications for classroom and assessments such as extended time, readers, calculators, visuals, notes, extended time, use of manipulatives, and a significantly modified curriculum were provided. (JE11-234 and JE 11-243.) The safety plan was included as an accommodation. (JE 11-234.) The transition plan developed for Student contained college attendance, restaurant industry employment, and life skills outcomes. (JE 11-236 to 238.) Student was placed in special education classes for all of her classes. She was to receive 30 mpw of social work and

speech language services and a shared paraprofessional. (JE 11-241.) Special transportation was provided to Student to address documented wandering and safety concerns. (JE 11-242.) None of the goals had clear baseline data and lacked clear statements of the desired outcomes and as a result were not measurable. The speech goals were so complex and required so many skills to be utilized that they were not attainable as written.

#### September 3, 2019 Safety Plan

44. Staff was to complete the Stopbullying.gov training on August 29, 2019. ██████████<sup>12</sup> completed the training. (Testimony of ██████████)

45. Student, Mother, Ivy<sup>13</sup>, ██████████ and ██████████ participated in the renewal of the Safety plan for Student at the meeting on September 3, 2020. The plan was nearly identical to the prior plan except there was a change in the trusted adult and the addition of a shared paraprofessional. (Testimony of ██████████ Mother, and JE 12-250 to 252.)

46. Student reported to ██████████ that she had been bullied on October 24, 30 with no details. Staff members were alerted to these allegations, but investigation could not be completed without more information. On November 15, 2020 Student was refusing an escort and recanted that she had been bullied. (Testimony of ██████████ and SD 57-527.)

47. IEP progress reports for the period ending November 4, 2019 indicate that Student was making progress on the reading, money, chemistry, U.S. History, Occupational career path and post-secondary education path, speech, functional and social work goal benchmarks. (JE28-582 to 615.)

48. Student was enrolled in ELA 10, a special education class with ten (10) students that used a modified curriculum, instructed by ██████████<sup>14</sup> ██████████ implemented reading and writing goals for Student. ██████████ reported that in class, Student read aloud and wrote paragraphs with clear beginning, middle and end using capital letters and periods. In class, Student understood material, participated in class, completed assignments and had needed materials for class. ██████████ did not observe teasing or bullying in class. ██████████ feels that Student benefitted from her class

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<sup>12</sup> ██████████ is the counselor for ██████████. She is a licensed clinical professional counselor and registered art therapist with a BA in sociology and MA in counseling. Her prior work experience was in clinical, private school and charter school settings. (Testimony of ██████████ and S41- 436 to 437.)

<sup>13</sup> Ivy is the principal/acting superintendent of ██████████ since August 2018. He holds a BA in Sociology and M. Ed. In curriculum and instruction with IIT teacher academy of Mathematics and Science certification. ██████████ has prior experience as a principal for ██████████ and at other charter schools since 2003. (Testimony of ██████████ and SD 48-448 to 449.)

<sup>14</sup> ██████████ was the lead special education teacher at ██████████ from 2015 to 2020. She has a BA in English and a Master of Education in Special Education. ██████████ holds an Illinois LBS1 license and an Arizona K-12 Cross-Categorical Special Education license. She has been teaching nearly continuously since 2007 except for a year when she worked as a transition specialist for the Marriott Bridges Foundation. (Testimony of ██████████ and SD45-442 to 443.)

and was progressing toward meeting her goals when she stopped attending school after the winter break. Student did not participate in ELA 10 during the remote learning period. (Testimony of ██████ JE 11-211, JE31-630, SD 32-155 to 157, and SD58-533.) ██████ was Student's Applied Chemistry teacher. Student was able to complete course work and was working to achieve her goal using the class textbook/materials (3<sup>rd</sup>/4<sup>th</sup> grade reading level) until she stopped attending in January 2020. (Testimony of ██████ JE 58-811 to 824, SD32-158 to 160 and JE31-630.) ██████ provided students with modified content Health texts and supported them with reading materials aloud, power point presentations, worksheets and class activities related to the content. Student was attentive and engaged in class, rarely required redirection and was especially interested in the nutrition unit. Student was able to complete classwork with support provided in class. (Testimony of ██████ JE 58-825 to 841.)

#### November 7, 2019 IEP

49. The IEP meeting on November 7, 2019 was convened to review Student's progress for the first quarter of the school year, to review the private evaluation provided by parent and to discuss a change in placement requested by Mother. (Testimony of ██████ and JE 13-344.) Mother voiced her concerns about Student's grades not reflecting what Student is learning. Mother feels that she does not have any more time to waste on her education and acknowledge that she spent years ignoring Student's disability but has come the realization that Student has a disability and needs more help. Mother felt that the school should have offered homebound services the prior year when Student was out of school related to bullying. Mother's attorney indicated to the team that bullying was not an issue and that Student feels safe at ██████ (Testimony of Mother and JE13-345.) Mother, through her attorney, stated that Student's test scores were down in the most recent testing. It was asserted that Student's reading in the 1% will result in her not being able to work in a job that is not school supported. Mother does not feel that Student has made meaningful progress at ██████ Her attorney stated that ██████ it doesn't provide Student an appropriate reading program and that the transition goal for college attendance is unrealistic. Wilson reading was requested for Student. ██████ stated that ██████ had appropriate academic programs for Student and she believes that Wilson Reading is not appropriate for Student. (Testimony of Erikson and JE13-345.)

50. The team was told that Mother and Student recently toured ██████ and Student was accepted for admission. Student liked ██████ would be able to give Student lots of reading development and prepare her to function in a work program not related to the school. (JE13-345.)

51. ██████ social worker, reported that Student was "voicing" more independence, wanting a job, drivers license and doing a better job working with her peers. ██████ reported that Student was more willing to resolve conflict rather than run from it. (Testimony of ██████ and JE13-345.) ██████ reported that Student was making good progress towards obtaining her

speech goals but suggested that speech minutes be increased to allow more time for the life skills activities they were doing in speech. (JE 14-345.)

52. ██████████ the new social worker at ██████████ met with Student on December 6, 13 and 20, 2019. (Testimony of ██████████ and SD 54-518.)

53. Student's progress was reported by staff on a form entitled, ESY Regression/Recoupment Form. All reports of Student's progress were largely anecdotal. There was no indication of what skill levels were at the beginning of the period of measurement and therefore there was no way to determine whether or not progress had been made. Teacher reports were largely reports of assignment completion and work habits. (JE 32-632 to 650.)

#### December 20, 2019 bus incident

54. On December 20, 2019 there was an incident on the bus. The School's investigation of the incident revealed that Student had been arguing with another student throughout the day and had been given directives to stay away from each other by several staff members, ignore the other student and report to an adult if the taunting continued. Student was reported to have engaged in threatening behaviors toward the other student when she was at her drop-off location. A physical altercation resulted. Student ran off the bus and into her home. Student's family members ran out to the bus and followed the bus. The police became involved in the incident and questioned both students. (SD57-531.) Statements taken by ██████████ from witnesses and other students involved in the incident were taken after winter break, however she did not prepare the report until some-time in March at the direction of ██████████ (Testimony of ██████████ and SD55-519 to 521.) The students' statements taken in connection with the December 20, 2019 bus incident clearly indicate that Student and the other students need social skills instruction, including but not limited to social communication and non-violent conflict resolution.

55. Student did not return to school after the winter break. Student's absences from after winter break to the school closure due to the pandemic were to be coded as unexcused absences per ██████████. (Testimony of ██████████, and P52-142, JE -740 to 741.) Overall Student's attendance was

#### Dr. ██████████ Neuropsychological Report March 27, 2020

56. On March 27, 2020 Dr. ██████████ completed a Neuropsychological Evaluation of Student. Dr. ██████████ conducted an interview and testing of Student on December 19, 2019 at the request of

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<sup>15</sup> ██████████ was the ██████████ social worker beginning in November 2019 as a contract employee for two (2) days per week. She holds a master's in social work and a professional educator license as a school social worker. She is also a Licensed Clinical Social Worker. (Testimony of ██████████)

<sup>16</sup> Dr. ██████████ is a private pediatric neuropsychologist. The parties stipulated to Dr. ██████████ qualification as an expert in pediatric neuropsychology at the hearing. Dr. ██████████ is a board-certified clinical neuropsychologist licensed in Illinois. She has been a full-time pediatric neuropsychologist in private practice since 2008. (Testimony of Dr. ██████████ and P58-156 to 159.)

Mother. Dr. [REDACTED] individually administered evaluation was comprehensive, including assessments/tests of various types of processing, language, vocabulary, academic, memory and functional/adaptive behavior rating scales. Dr. [REDACTED] also completed an interview with Mother, Student and a records review of records provided by Mother. Dr. [REDACTED] discusses Student's history in developmental, psychosocial, psychiatric and educational history as provided by Mother. Dr. [REDACTED] reviewed the 2016 DePaul Family and Community Services evaluation and the 2018 psychological evaluation completed by Dr. [REDACTED] and the 2019 school psychological completed by [REDACTED] for [REDACTED]. No classroom observations were included in the evaluation. (Testimony of Dr. [REDACTED] and JE 24-465 to 470.)

57. Dr. [REDACTED] found that Student overall nonverbal intellectual abilities were in the very low ("borderline") range. Dr. [REDACTED] notes that Student's scores on the Leiter-3, a nonverbal intelligence test, were in the average to low average range which indicate that Student has a somewhat higher cognitive potential than would be expected based on previous IQ tests. Dr. [REDACTED] states that Student is capable of learning and making progress in other domains if provided with appropriate level, intensity, and quality of interventions and educational supports. Student's adaptive skills are in the extremely low range. Dr. [REDACTED] confirmed Student's diagnosis of Intellectual Disability (Intellectual Developmental Disorder, Mild) and added the diagnosis of Other Specified Neurodevelopmental Disorder (i.e. Neurodevelopmental Disorder Associated with Prenatal Alcohol and Cocaine Exposure). (Testimony of Dr. [REDACTED] and JE 24-475.)

58. Dr. [REDACTED] notes that Student's academic scores are extremely low in all tests of reading, writing and mathematics achievement falling at or below the 1<sup>st</sup> percentile rank. Dr. [REDACTED] notes that Student's academic tests have generally declined over time. Student's underlying deficits in phonological awareness, phonological memory, and language-based deficits contribute to her difficulty with reading decoding, spelling, and other literacy skills. Student needs a systematic, sequential, multisensory, and evidence-based literacy intervention that includes direct and explicit instruction in phoneme awareness, phonics, vocabulary, reading fluency and comprehension such as Orton-Gillingham based programs. Dr. [REDACTED] notes that research support use of these programs with students with lower IQs for the development of reading and literacy skills. Student's social emotional functioning indicates some symptoms of depression and anxiety/fearfulness. Dr. [REDACTED] listed her prior diagnosis of Major Depressive Disorder and Posttraumatic Stress Disorder as previously diagnosed. (Testimony of Dr. [REDACTED] and JE 24-475 to 476.)

59. Dr. [REDACTED] recommended that Student remains enrolled in special education activities and transitional programming until her 22<sup>nd</sup> birthday. She endorsed the maintenance of Student's special education primary eligibility remain Intellectual disability and the secondary eligibility category of Speech/Language Impairment and recommended that the team consider the addition of Other Health Impairment as a tertiary eligibility category. Dr. [REDACTED] asserts that Student

requires one-to one instruction in Wilson Reading System with a Wilson certified instruction five days per week with 180 mpw instruction in sessions of not less than 45 minutes in duration to address her reading deficits. Dr. ■■■ recommended that Student's IEP contain separate goals for reading decoding, encoding/spelling, phonological awareness, vocabulary, reading comprehension and reading fluency skills. Goals for writing should be developed to improve the content and structure, organization of thoughts for writing and mechanics of written language with the use of assistive technology. Goals to reinforce basic math skills, number sense, and applied math/problem solving skills with a functional skill focus should be provided to transition to adulthood such as cooking related math application. Dr. ■■■ noted the appropriateness of the goal to count and verify money/change for Student. Due to Student's significant language-related deficits the foreign language requirement should be waived. Speech/Language goals and services should address intensely and directly Student's language skills in expressive and receptive language to minimize the impact of her speech/language difficulties on her academic achievement, social interactions, and overall functioning. Dr. ■■■ recommended 90 minutes per week for speech/language services based on deficits seen in the testing she completed with Student. Similarly, Dr. ■■■ recommended that social work services increase to at least 60 mpw in a combination of individual and group settings to address her depression, anxiety, and social skill awareness. Dr. ■■■ recommended an OT evaluation to assess noted impairment in visuomotor integration, fine motor coordination skills, adaptive skills, planning/organization, alertness and attention. Dr. ■■■ states that Student's intellectual disability and other neurocognitive skill deficits place her at high risk for regression with regard to academic skills and extended recoupment and recommends that extended school year (ESY) services are and have been warranted. Dr. ■■■ indicates that an assistive technology assessment is warranted by Student's profile and recommended the same. Transition planning recommendations included goals to address daily living skills and that Student undergo a formal vocational evaluation for additional information to inform transitional and vocational planning. Dr. ■■■ recommended that Student receive support in attention and executive functioning including a shared paraprofessional, direct instruction in planning/organization and study skills, including time management, prioritizing, breaking down tasks, goal setting, planning and executing steps to accomplish goals, double time on tests, testing in a separate room, workspace with needed materials and use of organizers, study guides, highlighted key words and concepts, chunking of long term assignments. (Testimony of Dr. ■■■ and JE 24-476 to 479.)

60. Dr. ■■■ stated that Student requires a highly individualized therapeutic day school due to her neurocognitive and academic skill deficits that pose a significant barrier to accessing the curriculum in all areas. Student needs a nurturing therapeutic environment, year-round services, transition services for students aged 18 to 21 years that includes intensive training in vocational and independent living skills, Wilson reading by certified instructor, related services as discussed above, AT embedded in the curriculum and consistently utilized by teachers and staff in all classes. Finally, Student should be provided with cognitive behavioral approach individual

psychotherapy to address symptoms of depression, anxiety, and recent psychosocial stressors. (Testimony of Dr. [REDACTED] and JE 24-476 to 480.)

61. Dr. [REDACTED] endorsed the [REDACTED] Academy program as an appropriate placement for Student and able to address all her recommendations for Student. (Testimony of Dr. [REDACTED] and JE 24-476 to 479.)

62. Dr. [REDACTED] asserted that since 2016 Student has needed placement in a therapeutic day school. After review of her IEPs from the 2017/2018 school year Dr. [REDACTED] asserts that it has been clear due to teacher statements of need for additional support, declining standard scores between spring 2018 and spring 2019 and the lack of reading goals in her IEP and the failure to provide ESY that Student is entitled to compensatory education services in reading and math. Dr. [REDACTED] recommends that [REDACTED] Academy is able to provide compensatory education services to address outside of school hours. (Testimony of Dr. [REDACTED] and JE 24-476 to 485.)

#### April 4, 2020 IEP

63. An IEP meeting was convened via Google Hangout to review the private evaluation completed on March 27, 2020 by Dr. [REDACTED]. Dr. [REDACTED] reviewed her report with the IEP team. The team discussed possible OHI eligibility due to Dr. [REDACTED] diagnoses, speech language service minutes and when minutes are delivered, social work service minutes and Dr. [REDACTED] recommendation to increase minutes. The team agreed to conduct the OT and AT evaluations that Dr. [REDACTED] recommended. The team also agreed to conduct a Functional Behavior Assessment when school reopens. Dr. [REDACTED] recommendation that Student be provided with an evidence-based phonics-based reading program such as Wilson was considered. Dr. [REDACTED] recommendation concerning Student's need for academic and functional goals discussed. The team agreed to change the focus for Student from academic to building life and functional skills while developing her academic growth. The team agreed that Student would benefit from remaining in school until the day before her 22<sup>nd</sup> birthday. Mother told the team that she was Mother told [REDACTED] that she was "done with" [REDACTED]. Mother's attorney requested that the team consider the placement request made by Mother and recommended by Dr. [REDACTED]. The team responded that they needed to develop goals as discussed before they could consider placement. The meeting was to reconvene on May 6, 2020 at 9:00 a.m. The IEP notes record that Student has not attended school since December 20, 2019 and that no changes were made to the IEP that date. (Testimony of [REDACTED] [REDACTED] [REDACTED] Dr. [REDACTED] and JE 14- 300 to 346.)

#### May 6, 2020 IEP

64. The IEP team reconvened on May 6, 2020 via Google Hangout due to the COVID-19 pandemic. The team met to discuss the new goals in social work, speech/language, and transition goals. New social work goal was reviewed and adopted. The goal addresses gaining healthy mechanisms for handling conflicts and the minutes were increased to 60 mpw 1:1 and consultation minutes were increased to 30 mpw. The new speech goal was reviewed. After a

discussion concerning Student's speech needs, █████ indicated that a comprehensive Speech and Language Evaluation was needed. █████ agreed to review the results of the adaptive behavior assessments and will determine if "traditional" speech goals will be added to the existing speech goals. A classroom goal was added, and speech services would be 45 mpw individually and 45 mpw in small group setting. █████ reviewed the new transition goals that focus on life and functional skills including following multiple sequential steps and using measurement in cooking activities. New transition goals will be reconsidered after the upcoming evaluations in the areas of vocation and occupational therapy. Mother and her attorney mentioned concerns about bullying, but these were not discussed due to time limitations and the team agreed to discuss at a future meeting before Student returns to school when a new Safety Plan is developed. Mother indicated that Student is having difficulty participating in remote learning on the family phone and she requested a computer be delivered to the house. School noted that Mother had not come to school on either of the days when computers were available for pick-up at the school. Mother's attorney addressed the need for Assistive Technology. The team responded that they would be conducting an Assistive Technology Assessment. The team reviewed the need to complete Student's annual review by August 1, 2020. (Testimony of █████ █████ █████, █████ and Dr. █████ and JE 16- 399 to 405.)

65. The IEP contains fourteen goals. All goals lacked baseline data. These goals were all measured through observation logs or by teacher made assessments. The goals, such as the reading goal, did not contain enough information for a non-author to implement the goal. For example, the reading goal called for Student to watch videos and answer questions, which is not reading, the writing goal calls for the Student to read "instructional level text" which is not clearly defined anywhere in the IEP, the math goal for money is satisfactory, however there are no goals addressing Student's deficits in basic computation and application, and the applied chemistry was unchanged and remains inappropriate. Many could be achieved through the completion of a classroom project, such as a classroom presentation. The speech vocabulary goals were nearly identical to the goals of the previous year and were overly broad including so many skills as to be unmeasurable and unachievable. The newest speech goal required Student to read and identify new vocabulary or concepts within the text. The social work goal was also global in nature and overly broad. The reading goal focused on watching a video, rather than reading, to identify the main idea and three supporting details. The goals relied upon observation on a quarterly basis as the primary means to measure Student outcomes. (JE16-357 to 386.)

#### May 7, 2020 Domain and Consent

66. On May 7, 2020 the IEP team requested Mother's consent for Evaluation in the areas of functional performance (including a functional behavior assessment, vocational evaluator and Illinois Assistive Technology program as recommended by Dr. █████ and Occupational therapy evaluation (also recommended by Dr. █████ and speech/language comprehensive evaluation as recommended by █████ (JE17- 406 to 408.)

### March 2020 COVID-19 School Closure and Remote Learning

67. █████ sent Student's Mother information concerning how to log-into Google Classroom and Power School on April 30, 2020, May 14, 2020, May 22, 2020, May 28, 2020 and June 5, 2020. (JE33-65- to 660.) On or about May 11, 2020, █████ took a laptop to Student's home. (Testimony of █████, and SD -538.) █████ reached out to the family during the remote learning period however Student and her Mother did not respond. Student participated in one of eight social worker sessions attempted during the remote learning period from April 3, 2020 to June 5, 2020. (Testimony of █████ and JE36 – 692.) Overall, Student minimally participated in remote learning at the end of the 2019/2020 school year. (Testimony of █████ █████ █████ and JE58-532 to 545.) Student did not complete (JE 52-731 to ) Her attendance was problematic again due to her failure to return to school after winter break and her minimal participation in remote learning. As a result, Student did not earn any credits for the 2019/2020 school year. She currently has incompletes in all of her classes. (JE55-740 to 741 and JE51-730.)

### █████ TOUR

68. Mother and Student toured █████ Academy before the COVID-19 pandemic closure of Illinois schools. Mother loved the █████ environment after speaking with the principal, teachers and tour of the program. Mother likes that there are other students that are like Student and that the staff and students of █████ welcomed her and Student. Mother believes that the small classes will provide Student with better chances of learning. Mother likes the work program that is available at █████ and does not believe that █████ has similar work opportunities for Student. Mother believes that Student was comfortable with the █████ program by the end of the tour. (Testimony of Mother.)

### █████ ACADEMY REMOTE LEARNING EXPERIENCE

69. █████ Academy is an ISBE approved therapeutic day school serving students with all disability eligibility except blindness. The total school population is about 100 students. Student programs are grouped by age, elementary, middle, junior high, high school and transition (aged 18 to 22 years). High school is a departmentalized model. Currently, all █████ instruction is through remote learning due to the COVID-19 pandemic. Post-secondary transition programs are developed for students based on their individual needs for daily living and job skills. Most █████ students are unable to read to learn. (Testimony of █████)

70. █████ uses Wilson Reading System and Reading comprehension programs, such as Visualizing and Verbalizing, AGS series in reading and Math Unlimited and various science

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<sup>17</sup> █████ is the principal and founder of █████ Academy. █████ holds a MS in Education with specialization in Reading. She holds Illinois teaching (elementary education and LBS1) and administrative licenses. She is also the executive director and diagnostic clinician for the Achievement Centers, Inc. (Testimony of █████ and P64-180 to 183.)

texts with students. Teachers use other materials to supplement and reinforce texts. Instruction is differentiated and the focus is on skill instruction. ██████ follows the Illinois State Learning Standards. Other courses use visual supports such as maps, charts, videos to support curriculum content. ██████ has a nature center, and coursework is primarily experientially based. (Testimony of ██████)

71. In addition to teachers, ██████ staff includes two part-time Speech Language Pathologists, a part-time Occupational Therapist, a full-time Social Worker and a full-time Counselor. All staff are certified in their area of responsibility. The staff's level of education ranges from basic to doctoral level. (Testimony of ██████)

72. ██████ transition program is housed in a separate building from the academic programs. Students in the transition program receive daily living and job skills instruction and academic instruction for credit, if needed. The transition program has a variety of established job sites for work experiences. (Testimony of ██████ and SD59-546 to 549.)

#### SUMMER 2020

73. ██████ offered Student summer ESY services for summer 2020. ██████ offered eight weeks from July 7 through August 27 for four (4) hours per day on Tuesdays, Wednesdays, and Thursdays with an LBS1 certified teacher. Student was offered two hours of academic tutoring and two hours of life skills instruction, including cooking and community-based instruction. ESY services were offered at school with appropriate social distancing, face coverings and sanitation. (SD 56-522.)

74. Student did not accept the ██████ offer of ESY services. Student participated in ██████ Academy's summer 2020 program, which was a remote learning program due to the COVID-19 pandemic. Mother reports that the summer program with ██████ went well. Student was able to go into ██████ on the laptop and that the teacher skills are different in that they are able to explain things to Student in a way that she can grasp. Mother did not need to sit with Student during the ██████ remote learning like she has to sit with her during ██████ remote learning. Mother says that the ██████ teachers did not explain things to Student during remote learning, they just gave her the answers. (Testimony of Mother.)

75. ██████ was one of Student's teachers for the Summer 2020 ESY term. She provided Student with math instruction in 2-hour blocks, Monday through Friday for 30 days. Student was able to log-into the remote instruction and participated in the consumer math or life skills math curriculum. Student was happy, able to get help when she needed it and

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<sup>18</sup> ██████ is a teacher at ██████ Academy. She holds a MA in Education and is an Illinois licensed teacher with a secondary education and LBS1 endorsements. ██████ has been employed by ██████ since 2013. She has other teaching experience in parochial schools since 2000. (Testimony of ██████ and P63 -176 to 179.)

communicated with teacher and other students well. Student responded well to the strategies and the set-up of the class materials designed for the class. ██████ communicated with Mother through text and email. (Testimony of ██████)

76. ██████ is a community of welcoming students and staff. ██████ students are supported by multiple adults in the classrooms and are given plenty of opportunities for interaction. Typically, there are 6 to 10 students and 4 adults per class. The focus of instruction is standards based. Graduation requirements of the student's district are used by the IEP teams for each student. (Testimony of ██████)

77. ██████ through its attorney reached out to Mother through her attorney on August 10, 2020 concerning the need to know if Student would be returning to ██████ in fall and the need to secure a Level 1 Certified Wilson tutor as agreed to in the July 24, 2020 IEP. Mother confirmed through her attorney on August 26, 2020 that Student would be returning to ██████ in fall, despite her position that ██████ is an inappropriate placement for Student. (SD19-47 to 50.)

#### **2020/2021 School year**

78. On July 24, 2020, ██████ convened an annual review IEP meeting for Student via Zoom™ videoconference. Mother participated in the meeting with the assistance of two attorneys, two ██████ teachers and a law school student. Prior to the meeting, Mother, through her attorney provided a written statement of her concerns which was included verbatim in the IEP notes. Concerns included the continuation of inappropriate and inadequate goals that did not take into account Student's language deficits, the failure of the team to provide a transparent and objective way to measure Student's progress, goals that are conditioned of the actions of outside agencies, the failure to address Student's needs in encoding, pragmatics, science, regulating her mood, improving her self-esteem, organization, time management, and money. The plan does not provide for Student's safety and school refusal and other lack of engagement. Parent complained that the teachers were not qualified to provide special education instruction. Further, there was no plan to engage Student in remote learning and did not address ESY eligibility. (SD50-451 to 499.)

79. The team reviewed the totality of Student's health condition and agreed that she was eligible under OHI as a secondary disability. (SD50 – 498.) The team reviewed the proposed draft goals. The cooking goal would serve as Student's science goal/class. The team proposed providing Wilson reading in 60-minute periods three times per week. The ██████ Wilson certified teacher agreed to the appropriateness of this plan. The team proposed that the other two days Student would cook or receive her other related services. ██████ clarified that Wilson reading was to be provided in addition to Student's other reading class. Parent requested that speech goals focus on pragmatics and verbal expression. Student was to be enrolled in a special

education self-contained U. S. History, Math Financial Literacy math class, Occupational Preparation/math and Occupational Preparation post-secondary employment and Post-secondary education classes. The Occupational Preparation employment begins with classwork and later moves to community or school/community job to apply skills. Student would participate with her general education peers at lunch and in P.E. The social work time was increased from 30 mpw to 60 mpw as recommended by Dr. [REDACTED] in her report. [REDACTED] agreed with the increased based on the reports of the team and Student's needs. (SD50-451 to 499.) The IEP provides for a shared paraprofessional to escort her from the bus to school, collect behavior data related to bullying, cue and prompting for work initiation, review of new material, one-to-one academic support for 50% of class period, and discreet supervision throughout the school day, including lunch. The plan increased nursing consultation services to 15 mpw to student and teaching staff for assessing Student's health status and the impact it is having on her education. Student was determined eligible to take the DLM. A transition plan was developed and the goal of going to college was removed at the request of Mother. Transition services to be provided through IEP goals, especially through the Occupational Preparation courses for Student. Student would participate in the general education setting for P.E. and lunch, about 34% of her school day. The team believes that they can provide the special education and related services agreed to in the IEP and that [REDACTED] is Student's least restrictive environment. (SD50-451 to 499.)

80. On or about August 31, 2020 [REDACTED] found a Level 2 Wilson certified teacher to work with Student for three (3) hours per week. (Testimony of [REDACTED], SD22- 56 to 57.) [REDACTED] provided Student with a Wilson Level II certified instructor beginning on September 8, 2020 via Zoom. (SD22-553 to 56.) [REDACTED] provides Student with cooking lessons through Google classroom to complete Student's independent study course. They work on measurement and following recipes. [REDACTED] does not have a school social worker at this time. Therefore no one is working on Student's social emotional goals at this time. (Testimony of [REDACTED])

81. On September 8, 2020, [REDACTED] reviewed and updated Student's safety plan. The plan was nearly identical to previous safety plans. (SD52-508 to 510.)

### **Other Information**

82. After review of Dr. [REDACTED] Neuropsychological Report and [REDACTED] Psychological report together with the DePaul Psychological Report and her report Dr. [REDACTED] opined that Student going forward Student needs educational programming that focuses of the development of independent living skills and transitional training. Academic instruction with a focus on life skills and employment needs and behavior/social skills instruction ameliorate social miscues and perceptions and to develop alternate behavior responses in social settings that are currently perceived as bullying. (Testimony of [REDACTED])

## CONCLUSIONS OF LAW

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

### FREE APPROPRIATE PUBLIC EDUCATION

The IDEA requires the provision of a "free appropriate public education" ("FAPE") to all children with disabilities.<sup>19</sup> A FAPE is an education that is "specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child 'to benefit' from instruction."<sup>20</sup>

A. Whether [REDACTED] Charter High School improperly exited [REDACTED] from speech language services on June 7, 2018, without conducting a formal speech language evaluation?

The failure of an IEP to address a child's educational and functional needs will likely result in a denial of FAPE.<sup>21</sup> "An IEP must respond to all significant facets of the student's disability, both academic and behavioral" to meet the substantive criterion of *Rowley*.<sup>22</sup>

The [REDACTED] stipulated that the prior IEP team did not do the records review on the May 2018 domains. The team also failed to write speech/language goals and include speech language services in the IEP. [REDACTED] discovered the error in October 2018 and sought consent for the speech language evaluation and began providing Student with speech language services. (FF# 13.) [REDACTED] failed to reconvene the IEP, failed to provide speech/language goals for Student through her IEP until March 7, 2019. (FF 21.)

[REDACTED] argues that Mother delayed in signing consent for the SPL evaluation for one month. In addition, [REDACTED] argues that compensatory education was already provided when [REDACTED] provided services beginning in October.

However, service logs indicate that Student was service was provided inconsistently. Further, there is no record that these speech services were offered as compensatory education, how compensatory education service needs were determined or by whom, what needs were to be addressed, what goals and benchmarks were addressing those need, the amount and duration of the compensatory education and there were no meaningful reports of progress. For these reasons, I find that [REDACTED] did not provide Student with the speech/language services she needed from at least September 4, 2018 to March 7, 2019, a period of six months, resulting in a denial of a FAPE to Student.

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<sup>19</sup> *Forest Grove School District v. T.A.*, 129 S. Ct. 2484, 2492 (2009) (citing 20 U.S.C. §1412(a)(1)(A)).

<sup>20</sup> *Bd. of Educ. of Murphysboro Community Unit Sch. Distr. No. 186 v. Illinois State Bd. of Educ.*, 41 F.3d 1162, 1166 (7<sup>th</sup> Cir. 1994) (quoting *Bd. of Educ. v. Rowley*, 458 U.S. 176, 206 (1982)).

<sup>21</sup> *Forest Grove Sch. Dist. v T.A.*, 53 IDELR 151 (U.S. 2009).

<sup>22</sup> *Alex R. v. Forrestville Valley School*, 375 F 3d. 603 (7<sup>th</sup> Cir. 2004).

B. Whether the IEPs developed by ██████ Charter High School on June 7, 2018, was reasonably calculated to provide ██████ with her FAPE in the LRE when it did not include measurable goals, specially designed instruction, appropriate related services and supplementary aides and services, assistive technology, extended school year services, transition services or appropriate placement.?

The IDEA defines an IEP as “a written statement for each child with a disability that is developed, reviewed, and revised in accordance with 34 C.F.R. 300.320 through 34 C.F.R. 300.324.”<sup>23</sup> An IEP must include a statement of the child’s present levels of academic achievement and functional performance, articulate measurable educational goals, including academic and functional goals designed to meet the child’s needs that result from the child’s disability, and specify the nature of the special service that the district will provide.<sup>24</sup> An IEP must be tailored to the unique needs of that particular child.<sup>25</sup>

“An IEP must respond to all significant facets of the student’s disability, both academic and behavioral” to meet the substantive criterion of *Rowley*.<sup>26</sup> “An IEP is reasonably calculated to confer educational benefit when it is ‘likely to produce progress, not regression or trivial educational advancement.’”<sup>27</sup> 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.”<sup>28</sup>

Here, the June 7, 2018 IEP team reviewed Student’s recent reevaluations and determined that she remained eligible for special education under the IDEA categories of intellectual disability and other health impairment. Student’s academic needs were identified in the areas of reading, reading comprehension, reading fluency, mathematics, math fluency, and written expression. (FF#7.) Student’s functional needs were identified as attention problems, concentration problems (FF#7), social functioning, practical functioning, school problems, learning problems and behavioral symptoms. (FF#8.) Yet, the IEP team developed only three IEP goals: social work, writing and mathematics (a graphing goal). (FF#10). Additionally, the team reported Student’s poor classroom performance, attention and attendance problems, but did not address them with goals and services. (FF#9.) Student’s needs in the areas of reading (i.e. decoding), reading comprehension, reading fluency, mathematics, math fluency, attention problems, concentration problems, social functioning, practical functioning, school problems,

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<sup>23</sup> 34 C.F.R. 300.22.

<sup>24</sup> 34 C.F.R.300.22 and 34 C.F.R. 300.320(a).

<sup>25</sup> *Bd. of Educ. v. Rowley*, 458 U.S.at 81.

<sup>26</sup> *Alex R v. Forrestville Valley School*, 375 F.3d 603 (7<sup>th</sup> Cir. 2004).

<sup>27</sup> *Alex R. ex rel. Beth R. v Forrestville Valley Cmty. Unit Sch. Dist. No. 221*, 375 F3d. 603, 615 (7<sup>th</sup> Cir. 2004.)

<sup>28</sup> *Andrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.*, No. 15-827, 137 S. Ct. 988 (U.S. Mar. 22, 2017.)

learning problems and behavioral symptoms were completely ignored and unaddressed. The IEP did not contain specific transition goals.

IEP goals must contain a statement of measurable annual goals, including academic and functional goals.<sup>29</sup> The three goals that were provided in the June 2018 IEP lacked baseline data and did not clearly identify the skills that were being addressed by the goal. (FF#10.)

The IEP provided general accommodations and modifications for Student in the classroom and on assessments, however, it did not indicate the use of a significantly modified curriculum which ██████ witnesses asserted they used with Student. (FF#10.) No AT was provided for Student, despite ██████ recommendation for use of websites to develop her basic reading and math skills, Learning Ally, or other audiobook software to increase access to grade level texts. (FF#9,10.)

The IEP did provide for nursing consultation services of 15 mpm, 750 mpw of pull-out special education services for English, Math and Life Skills (without a goal) and 30 mpw of social work services with additional 15 mpm of social work consultation services. The amount of time allocated to these areas does not appear in itself to be insufficient to enable Student to benefit from her education, however, this does not makeup for the inadequacy of the goals noted above. (FF#10.)

IDEA requires that Student over age 16 years receive transition services. The IEP must contain measurable postsecondary goals, based on appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.<sup>30</sup>

The IEP contains a Secondary Transition plan based solely on interviews of Student and her mother. The post-secondary outcome goals included securing employment in business, graduating from a 2-year college, and managing her time and self-care skills. The plan sets forth a college prep course of high school study with the addition of Life Skills courses and “functional” math and science. The Transition plan did note that Student needed to develop study skills for college entrance exams, social work services, learn to navigate public transportation, self-care at home, and would be linked to DRS at the end of high school. (FF#10.)

The Secondary Transition plan was not based on any type of transition assessment, only on interviews of Student and Mother. Student has an intellectual disability and adaptive behavioral deficits. It is unreasonable to believe that Student would be able to acquire study skills that were sufficient to compensate for these disabling conditions to enable her to be successful in a 2-year college program in business. A child’s “educational program must be appropriately ambitious in light of his circumstances...[E]very child should have a chance to

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<sup>29</sup> 34 C.F.R. §300.320(a)(i). and 23 Ill. Adm. Code 226.230(a)(1)

<sup>30</sup> 34 C.F.R. §300.320(b)

meet ██████ goals.”<sup>31</sup> This transition plan was not appropriately ambitious; it was not attainable.

For the reasons stated above, I find that ██████ denied Student a FAPE from June 8, 2018 to August 1, 2019 by its failure provide Student with an IEP that contained IEP goals and services addressing Student’s identified needs in the areas of Student’s needs in the areas of reading (i.e. decoding), reading comprehension, reading fluency, mathematics, math fluency, attention problems, concentration problems, social functioning, practical functioning, school problems, learning problems and behavioral symptoms and specific attainable transition goals. Further, I find that ██████ denied Student a FAPE from June 8, 2018 to August 1, 2019 due to its failure to provide goals that were specific and measurable and its failure to provide Student with AT.

C. Whether ██████ failed to sufficiently revise Student’ August 1, 2019 IEP on, in light of ██████ lack of progress and the findings of the School’s 2019 reevaluations when it did not provide measurable goals, specially designed instruction, appropriate related services and supplementary aides and services, assistive technology, extended school year services, transition services or appropriate placement.?

In addition to the criteria state in the issue above, 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.<sup>32</sup>

Here, the IEP team reviewed and modified Student’s IEP five times during the 2019/2020 school year. The IEP team adjusted the IEP to include transportation, add a promised paraprofessional, review the speech language evaluation, review academic progress, address Mother’s concerns about lack of Student progress and to address bullying and resulting attendance problems. (FF#11, 16, 19, 20, 26, 27, and 31.) ██████ changed Student’s schedule to remove Spanish without modifying her IEP. (FF#17.)

Student’s speech language assessment completed in January 2019 noted that she had not made progress since her 2015 evaluation and that the gap in her vocabulary and language skills gap with her peers was increasing and has grown by about two years. (FF#14.)

On May 7, 2019 the team noted that Student was struggling to stay focused, on task, and was demonstrating ██████ behavior. Her grades were low, Cs and Ds, with one exception. (FF#21.) The IEP team added goals in all content areas and changed her placement to all self-contained classes. (FF#21.)

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<sup>31</sup> *Endrew F. v Douglas Cnty. Sch. Dist. R-1*, 69 IDELR 164 (2017).

<sup>32</sup> 20 U.S.C. §1414(d)(4), and 34 C.F.R. §300.324(b).

The new goals suffered the same problems as the goals above, lacking baseline information making them unmeasurable and lacking clarity of the deficits being addressed and or the skills to be developed. (FF#21.) The April IEP progress reports indicate that Student was making expected progress, but this bald assertion was not supported by data, reports, or work samples. There were no progress reports for any of the speech goals for this period. (FF#22.) In June 2019 Student was not making expected progress in writing, with no explanation and no IEP changes. No progress reports were made concerning the Social Studies, and all three social work goals. Again, the claim that Student was making expected progress was a bald assertion, unsupported by data of any type. (FF#32.) Student's semester grades ranged from b- to D+ and she earned 7 credits toward graduation during the 2019/2020 school year. (FF#36.)

██████████ completed a psychological evaluation in July 2019. The psychological assessment confirmed the appropriateness of Student's eligibility under the Intellectual Disability as her cognitive testing results were consistent with past results placing her in the impaired range in full scale IQ, verbal comprehension, fluid reasoning and processing speed. Student's adaptive behavior assessments were in the impaired range as well. Academic achievement was "fairly" consistent with past measures, impaired in all reading subtests, Mathematics composite and writing. ██████████ noted that Student's achievement scores fell in oral reading fluency, phonetic decoding, and essay composition since 2016 and several fell since 2018. (FF#38.)

On August 1, 2019, the IEP team determined Student remained eligible under the IDEA categories of Intellectual Disability and speech and language impairment. Mother raised concerns about Student's lack of progress and her inability to utilize community services. Teachers noted that Student required high levels of support in class to complete work, had high levels of off task behavior, was unprepared for class, had difficulty with peers and inappropriate social skills. The team agreed that Student needed numerous life and vocational skills. (FF#42.)

The IEP developed goals in reading comprehension, written expression, money, applied chemistry, U.S. History, vocational (career path), vocational (college selection research), vocational (resume building), Speech/Language (vocabulary, fund of knowledge and comprehension), Speech/Language (vocabulary, fund of knowledge and simple ADLs), social work (positive self-talk and coping strategies), and social work (social awareness and interpersonal skills). None of the goals had clear baseline data and lacked clear statements of the desired outcomes and as a result were not measurable. The speech goals were so complex and required so many skills to be utilized that they were not attainable as written. (FF43.) Despite evidence that Student was impaired in reading decoding, reading fluency, and mathematics basics (computation and application), no goals were developed, or services provided. In addition, despite adaptive behavior assessments indicating impairment in communication and socialization, coupled with teacher reports of difficulty with peers and inappropriate social skills, these areas were not addressed through social work or speech language goals focusing on pragmatics or social skill development. No AT was provided. Accommodations and modifications for classroom and assessments such as extended time, readers, calculators, visuals,

notes, extended time, use of manipulatives, and a significantly modified curriculum were provided. The safety plan was included as an accommodation. The transition plan developed, based on a transition assessment completed in July 2019, for Student contained college attendance, restaurant industry employment, and life skills outcomes. Student was placed in special education classes for all of her classes. She was to receive 30 mpw of social work and speech language services and a shared paraprofessional. Special transportation was provided to Student to address documented wandering and safety concerns. No ESY services were provided. (FF#39, 43.)

As in the issue above, the goals lacked baseline data and were not measurable. There were no goals addressing Student's known deficits in reading decoding, reading fluency, mathematics basics (i.e. computation and application), social communication, social skills, and areas of executive function (off task, lack of preparation, work completion). Transition goals still included college attendance and graduation but in an area of interest to Student and identified life skills needed by her. Again, the amount of social work and speech language services appear to be sufficient, however, the goals were not. AT services were not provided despite [REDACTED] earlier recommendations. Parent failed to demonstrate the need for ESY services during this period.

For the reasons stated above, I find that [REDACTED] denied Student a FAPE from August 1, 2019 to May 5, 2020 by its failure provide Student with an IEP that contained IEP goals and services addressing Student's identified needs in the areas of Student's needs in the areas of reading decoding, reading fluency, mathematics basics (i.e. computation and application), social communication, social skills, and areas of executive function (off task, lack of preparation, work completion) and specific attainable transition goals. Further, I find that [REDACTED] denied Student a FAPE from August 1, 2019 to May 5, 2020 due to its failure to provide goals that were specific and measurable and its failure to provide Student with AT.

D. Whether [REDACTED] failed to sufficiently revise Student's May 6, 2020 IEP, in light of [REDACTED] lack of progress and the findings of the parent's independent neuropsychological evaluation when it did not provide measurable goals, specially designed instruction, appropriate related services and supplementary aides and services, assistive technology, extended school year services, transition services or appropriate placement?

Under the IDEA and its implementing regulations, if parents obtain an independent educational evaluation (IEE) and that IEE is shared with the district, the district must consider the results of the evaluation when making decisions involving the provision of FAPE to the child. 34 C.F.R. §300.502(c). Districts are not required to engage in "substantive discussion of" parent provided evaluation.<sup>33</sup>

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<sup>33</sup> *James D. v Bd. of Educ. Aptakasic-Tripp CCSD 102*, 642 F. Supp. 2d 804, 52 IDELR 281 (N.D. Ill. 2009.)

In late December 2019, Dr. [REDACTED] evaluated Student. She issued her report in late March 2020. (FF#56.) The [REDACTED] team met to review Dr. [REDACTED] report on April 4, 2020 and May 6, 2020. (FF#63, #64.) In April, the team agreed to adopt Dr. [REDACTED] recommendation to add OHI to Student's eligibility, to provide Student with one-to-one Wilson Reading System instruction with a Wilson certified instructor for 90 mpw was adopted. The team agreed to change the focus of Student's education from academic to building life and functional skills while developing her academic skills. Parent asked the team to change Student's placement and the team's response was that they could not consider placement until after the new goal were developed. All agreed to reconvene the IEP meeting on May 6, 2020. No changes were formally made to the IEP. (FF#63.)

On May 6, 2020 the IEP team reconvened. The team reviewed and discussed the new social work, speech/language and transition goals. [REDACTED] requested a new comprehensive speech evaluation for the determination of Student needs. [REDACTED] agreed to review the adaptive behavior assessments to see if Student needed more "traditional" speech goals. Classroom goal for executive function skills was added. Transition goals were changed to focus on building life skills and functional skills. Social work goals were focused on the impact of Student's mental health conditions but did not address her need for direct instruction and development of appropriate social skills. The team continued to agree to conduct the Occupational therapy assessment with a focus on vocational skills, and the AT assessment as recommended by Dr. [REDACTED]. The Wilson program was added to the IEP. (FF#64, #65.)

Some of the goals were revised and combined with life skills/functional such as cooking activities. Unfortunately, most of the goals suffer from the same lack of baseline data and specific skill identification as the prior goals, making them immeasurable and unattainable. Dr. [REDACTED] recommendations for increased minutes for social work and speech language were added to the IEP. (FF#65.) The IEP does not address Student's underlying social skills deficits with any type of direct instruction in social skills or pragmatic language development.

Dr. [REDACTED] recommendation concerning the development of writing goals to improve the content and structure of Student's language and the use of assistive technology was not discussed or adopted. Similarly, Dr. [REDACTED] recommendation for Student's math instruction were not addressed or adopted. The recommendation concerning Student's language related deficits and the impact on Student's social interactions was not addressed, as discussed above.

After the IEP meeting [REDACTED] offered Student ESY services which were not accepted by Student. (FF#73, #74.) [REDACTED] requested consent for the recommended OT/vocational and AT evaluation and the requested Speech/language evaluation on May 7, 2020. (FF#66.)

On July 24, 2020, the team met again. After developing a safety plan, it considered Dr. [REDACTED] recommendation for placement of Student at [REDACTED] Academy but rejected it because they believed that they could implement the IEP at [REDACTED] which would be the LRE for Student. (FF# 78.)

The preponderance of the evidence demonstrates that ██████ did consider Dr. ██████ Neuropsychological Evaluation Report and adopted many of the recommendations. However, the IEP fails to address areas of need such as social communication, social skills and realistic transition/vocational skill development for Student. I find the IEP to be more of the same and not likely to produce more than minimal progress as the nearly identical goals produced in the past. Therefore, overall the May 6, 2020 IEP is not reasonably calculated to confer educational benefit to Student given her circumstances nor is it likely to produce progress that is more than trivial educational advancement given Student's cognitive, adaptive, language and social emotional deficits.

E. Whether ██████ Charter High School failed to properly implement ██████ IEPs, including by providing instruction and texts across subjects that were tailored to ██████ present academic and functional levels, and not implementing ██████ transition services?

Student's instructional level during the relevant time period was in the 3<sup>rd</sup> grade reading level. (FF#38.) During the relevant period, content area teachers provided Student with content area texts that were significantly modified to present content and concepts required by the various disciplines and provided whole class and individual support to enable Student to complete her work in class. Teachers all believed that Student was learning when she was attending school. Teachers noted that her attendance was a problem. (FF#12, and #48.) There was no evidence that AT was provided to Student individually to support her coursework.

Student's grades were based on a significantly modified curriculum and provided in a special education setting were passing in 2018/2019. In 2019/2020 school year, Student did not receive any credits and no grades are recorded for her. (FF#36, #67.)

██████ was providing Student with coursework to satisfy her goal of college attendance as a result of and in response to Student and Mother's expressed desire for Student to attend college after high school. (FF#10, #21.) After Mother suffered a stroke in summer 2019, she began to recognize the limitations of Student and her educational program. (FF#37.) Yet, the Mother and Student persisted with their expressed desire for Student to attend college. It was not until after Mother engaged attorneys to assist her in this matter that the college attendance goal was removed from Student's educational plan and the focus of her education was redirected to life skills and functional goals more appropriate for Student's abilities and aptitudes. (FF#79.) ██████ provided Student with the course of study requested by the family. For these reasons I find that the Parent did not meet her burden on this issue.

E. Whether from March 2019 to present, ██████ Charter High School failed to timely investigate and respond to the Parent's reports of ██████ disability-based harassment/bullying and to properly consider whether this bullying harassment changed ██████ FAPE needs, if so, to address her needs through the provision of a FAPE to her?

██████ has a policy concerning Bullying and Social Media. This policy requires that each allegation of bullying is investigated and that the parties involved are dealt with individually. (FF#6.) Unfortunately, during the 2018/2019 school year Student began to experience bullying by others at school. (FF#23, #24, #30, #54, #55.) Evidence demonstrates that ██████ followed its policy by investigating the incidents, informing Mother and by developing a safety plan for Student. (FF# 24, #26, #27, #28, #30.) Student's response to these circumstances included her absence from and refusal to attend school or hiding in the building during classes. (FF#23, #25.) When meeting after these incidents to address Student's safety plan, the IEP team failed to consider the adaptive behavior deficits that were identified in previous evaluations and address her lack of social skills and communication deficits. (FF #26, #27.) These deficits were clearly identified in the 2016 DePaul evaluation and noted by ██████ in the ██████ 2018 evaluation and were confirm with each subsequent evaluation of Student. (FF#7, #8, #38, #56.) ██████ attempts to address bullying with Student by providing social work to address Student's feelings of self-awareness and self-esteem but did nothing to address her underlying skill deficits in social communication and social skills. The ██████ bullying investigations noted that Student was engaging in behaviors with peers that were not socially appropriate and that this led to arguments and threats with peers. In short, ██████ started to address Student's needs by providing her with a safety plan and emotional support, but these efforts failed to address the underlying skill deficits and as a result failed. I find that ██████ failed to provide Student with a FAPE from June 8, 2020 to present by failing to address her underlying social communication and social skills deficits, even in response to multiple incidents of bullying.

### **Compensatory Education**

IDEA empowers a hearing officer or court to grant relief that is appropriate, as determined by the hearing officer or court.<sup>34</sup> Compensatory services are well-established as a remedy under the IDEA.<sup>35</sup> The language of the IDEA, which allows courts to "grant such relief as [it] determines is appropriate," confers broad discretion to district courts in constructing remedies.<sup>36</sup> The statute, however, limits such relief to that which is appropriate. *Burlington*, 471 U.S. at 369. Whether relief is considered appropriate is examined in light of the purpose of the IDEA, which is "principally to provide handicapped children with 'a free appropriate public education which emphasizes special education and related services designed to meet their unique needs.'<sup>37</sup> Hearing officers have discretion to grant compensatory education as a remedy for past

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<sup>34</sup> 34 C.F.R. §300.516(c)(3).

<sup>35</sup> *Evanston Cmty. Consol. Sch. Dist. No. 65 v. Michael M.*, [356 F.3d 798](#), 803 (7th Cir. 2004).

<sup>36</sup> 20 U.S.C. § 1415(i)(2)(C)(iii); *School Comm. of Town of Burlington v. Dep't of Educ.*, [471 U.S. 359](#), 369 (1985).

<sup>37</sup> *See id.*

violations of the IDEA.<sup>38</sup> Awards of compensatory education show aim to place student in the same position they would have occupied but for the school district's violations of IDEA.<sup>39</sup>

As discussed above, the District denied Student a FAPE by failing to provide Student with the speech/language services she needed from at least September 4, 2018 to March 7, 2019 (a period of six months), by failing to provide Student with an IEP that contained IEP goals and services addressing Student's identified needs in the areas of Student's needs in the areas of reading (i.e. decoding), reading comprehension, reading fluency, mathematics, math fluency, attention problems, concentration problems, social functioning, practical functioning, school problems, learning problems and behavioral symptoms and specific attainable transition goals from June 8, 2018 to August 1, 2019 and in the areas of reading decoding, reading fluency, mathematics basics (i.e. computation and application), social communication, social skills, and areas of executive function (off task, lack of preparation, work completion) and specific attainable transition goals from August 1, 2019 to May 5, 2020 and for its failure to provide goals in these areas that were specific and measurable, and its failure to provide Student with AT. I find that Student is entitled to compensatory education for these denials.

Student's needs are significant. Evidence supports Student's need for a significantly modified curriculum, Wilson Reading instruction for a minimum of 90 minutes per day five days per week. While ██████ has agreed to provide Student with Wilson instruction, the goals that will drive that instruction are lacking or insufficient. In addition, Student's reading deficits impact all areas of her curriculum and given the goals and lack of goals discussed above, there is no reason to believe that ██████ will be able to provide Student with an educational experience that is likely to produce progress in light of this. ██████ Academy staff are able to provide Student with Wilson and to support reading instruction throughout her school day. (FF#70.)

Student's speech language and social work goals are similarly lacking. While ██████ has agreed to provide the number of minutes recommended by Dr. ██████ the state of the goals written to drive and direct those minutes continue to be lacking as discussed above. The same is true for social work services. ██████ Academy has more intense staffing of related service providers, and the program is designed to develop and support life skills and jobs skills development. (#69, #71, #76.)

Student's transition needs have not been adequately addressed at ██████ The ██████ program is largely classroom based and employment opportunities in Student's area are limited as the school has a different focus and is geared to college preparation. ██████ Academy's program is designed to address needs of students with Student's learning profile and needs. (FF#69, #72.)

Dr. ██████ opined that ██████ Academy is well able to address Student's needs and provide all she recommended for Student. Dr. ██████ based on her records review and assessment of Student, opined that Student has needed this placement since 2016. Dr. ██████ suggested that

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<sup>38</sup> *Bd. of Educ. of Oak Park & River Forest High School Dist. 200 v Todd. A.*, 79 F.3d 654, 656 (7<sup>th</sup> Cir. 1996.)

<sup>39</sup> *Petrina W. v. City of Chicago Public School District No. 299*, 53 IDELR 259 (N.D. Ill. 2009).

█████ Academy could provide the needed services outside of school hours. (FF# 60, #61, #62.) █████ after reviewing all the assessments discussed above, also endorsed █████ Academy for Student. (FF#82.) Dr. █████ recommended that Student remain in special education activities and transitional programming until her 22<sup>nd</sup> birthday. (FF#59.) The IEP team agreed. (FF# 59, #63.)

I find that in light of Student's health conditions that the provision of after-school compensatory education services for academic, speech language, transition, social work and is not a reasonable expectation for Student after a full day of school, especially due to the need for these services for more than 2 years. Due to the denials of FAPE found and discussed above, I find that Student is entitled to compensatory education in the form of current and prospective placement at █████ Academy or other comparable therapeutic day school until her 22<sup>nd</sup> birthday including ESY periods and that █████ should pay for tuition, round trip transportation and book/supply/equipment fees and costs necessary for Student to participate in █████ Academy's academic and transition program and to develop an IEP for Student to address the matters as set forth below.

The undersigned does not believe that the record in this matter supports an award of tuition after Student reaches the age of 22 years or reimbursement for parent's private neuropsychological evaluation and therefore, I decline to award the same.

### **ORDER**

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

1. █████ shall, within 10 school days of this order, place Student at its expense at █████ Academy until her 22<sup>nd</sup> birthday including ESY periods and that █████ should pay for tuition, round trip door-to-door transportation, and book/supply/equipment fees and costs necessary for Student to participate in █████ Academy's academic and transition program.
2. █████ shall, within 15 school days of this order, develop an IEP for Student in cooperation with █████ Academy that provides specific and measurable goals based on specific current levels of performance in:
  - a. reading decoding, reading fluency, and reading comprehension,
  - b. spelling,
  - c. written composition, including narrative and expository content, syntax, grammar, punctuation, and capitalization,

- d. math calculation, time, money, measurement, and problem solving/application,
- e. life skills for independent living and executive functioning skills for school and employment such as time management, materials management, etc.,
- f. vocabulary support for academic courses such as science, social studies, health and electives,
- g. Speech language goals to address receptive, expressive and pragmatic deficits that impact her academic achievement, social interactions, and overall functioning,
- h. social emotion goals to teach prosocial skills needed in community and vocational settings, to address self-esteem and self-advocacy skills related to Student's health conditions, and goals to teach Student the skills needed to manage her depression and PTSD, and
- i. transition goals to acquire skills needed to gain and maintain employment and address post-secondary education/training based on Student's needs, strengths, preferences, and interests.

3. ██████ shall, within 15 school days of this order, develop an IEP for Student in cooperation with ██████ Academy that provides:

- a. Wilson Reading System for 180 mpw or sufficient minutes to completed 2 blocks of reading instruction per week,
- b. speech language services, individual and group, for at least 90 minutes per week,
- c. social work and/or counseling services in individual and group setting for not less than 60 minutes per week,
- d. academic instruction tailored to address ██████ unique needs,
- e. assistive technology to address receptive and expressive language deficits and needs such as speech to text, text to speech, audio books and textbooks, etc.,

- f. Supplementary aids and services including testing adaptations; adequately slowed pacing of instruction; simplified presentation of subject matter and reading levels, visuals and manipulatives, and
- g. addresses Student's graduation requirements, including but not any needed waivers, such as the foreign language requirement.
4. ██████ agreed to complete an OT evaluation with a vocation needs focus and an AT evaluation as recommended by Dr. ██████. Mother and/or Student are ordered to provide written consent for said evaluations within 10 days of this order. ██████ shall complete said evaluations within the statutory timelines after receipt of signed consent for the same.
5. ██████ shall convene an IEP meeting within 15 days of the receipt of the OT and AT evaluations to consider the same and to develop or modify Student's IEP to incorporate the recommendations contained therein.

In accordance with 105 ILCS 5/14-8.02a(h), within 45 school days of receipt of this Order, the District shall submit proof of compliance to:

Illinois State Board of Education  
Program Compliance Division  
100 North First Street  
Springfield, IL 62777-0001

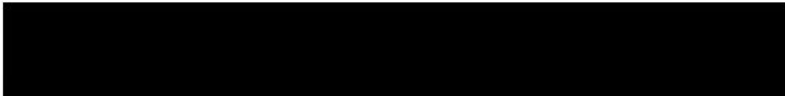
#### **NOTICE OF RIGHT TO REQUEST CLARIFICATION**

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 shall specify the portions of the decision for which clarification is sought. A copy of the request shall be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

**NOTICE OF RIGHT TO APPEAL**

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

Dated: October 16, 2020



Impartial Hearing Officer  
160 Nottingham Lane  
Bourbonnais, IL 60914  
815-278-8742  
KathleenFuhrmann@kfuhrmannlaw.com

**APPENDIX A**

██████████ v. ██████████ Charter High School  
Case No: 2020 DP 0202

“Student”	██████████
“██████████ or “School”	██████████ Charter High School, Attending School
“Mother”	██████████ Student’s Mother and Petitioner
“Principal”	██████████, ██████████ Principal/Superintendent
“██████████	██████████, ██████████ Former Director of Diverse Learners for ██████████
“██████████ ██████████	██████████, ██████████ former Director of Education at ██████████
“██████████	██████████, ██████████ counselor
“██████████	██████████, ██████████ teacher
“██████████	██████████ former special education teacher for ██████████
“██████████	██████████, ██████████ general education teacher, PE/Health
“██████████	██████████, ██████████ speech pathologist, current
“██████████	██████████ former speech pathologist for ██████████
“Dr. ██████████	██████████ Ph.D., NCSP, former school psychologist for ██████████ SY 2017/2018
“██████████	██████████ School Psychologist
“██████████	██████████ Former ██████████ school nurse
“██████████	██████████, ██████████ former ██████████ English teacher
“██████████	██████████, ██████████ school social worker
“██████████	██████████ LSW, former ██████████ social worker SY 2018/2019
“██████████	██████████ LCSW, former ██████████ social worker SY 2019/2020
“Dr. ██████████	Dr. ██████████ Ph. D., ABPP-CN, private pediatric neuropsychologist
“██████████	██████████ Founder and Director of ██████████ Academy
“██████████	██████████, ██████████ Academy teacher, Summer 2020 ESY

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

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██████████  
Student, by and through her guardian,  
██████████  
Petitioner,

Case No: 2020 DP 0202

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer

██████████ Charter School,  
Respondent.

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**CERTIFICATE OF SERVICE VIA CERTIFIED MAIL**

I, the undersigned Kathleen C. Fuhrmann, certify that on October 6, 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:

██████████	██
██	██
██	██
██	██
██	██
██	██
██	██

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

Date: 10/16/2020

Signed: /s/ Kathleen C. Fuhrmann

██  
██  
██  
██

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

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██████████  
Student, by and through her guardian,

██████████

Petitioner,

Case No: 2020 DP 0202

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer

██████████ Charter School,

Respondent.

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**CERTIFICATE OF SERVICE VIA EMAIL**

I, the undersigned Kathleen C. Fuhrmann, certify that on October 6, 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:

██  
██  
██

██  
██  
██

Date: 10/16/2020

Signed: */s/ Kathleen C. Fuhrmann*

██  
██  
██  
██