

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATIONStudent v. Cheshire Board of Education¹

Appearing on behalf of Student: Student's Mother, *Pro Se*

Appearing on behalf of the Board of Education: Attorney Christine Sullivan
Berchem Moses PC
75 Broad Street
Milford, CT 06460

Appearing before: Janis C. Jerman
Hearing Officer

FINAL DECISION AND ORDERProcedural Posture

A special education hearing in the above-captioned matter was requested by Student's Mother via Request for Impartial Special Education Hearing² dated April 30, 2021.³ Cheshire Board of Education ("BOE") received it on April 30. The 30-day resolution period ended May 30 and the original 45-day deadline to mail the final decision and order was July 14.

A telephonic pre-hearing conference was held on May 17. Student's Parents appeared on behalf of Student and Attorney Sullivan appeared on behalf of BOE.

The following issues are identified:

1. Did the Board of Education improperly exit Student from special education services in May 2019?
2. If the answer to Issue One above is in the affirmative, what shall be the remedy?
3. Did the Board of Education provide Student with a free, appropriate public education from April 30, 2019 to the end of the 2018-2019 school year?
4. If the answer to Issue Three above is in the negative, what shall be the remedy?
5. Did the Board of Education fail to meet its Child Find obligations with regard to Student in 2019-20?
6. Did the Board of Education fail to meet its Child Find obligations with regard to Student in 2020-21?
7. If the answer to Issue Five and/or Issue Six above is in the affirmative, is Lindamood-Bell Academy an appropriate placement for Student?
8. If the answer to Issue Seven above is in the affirmative, are Student's Parents entitled to reimbursement for Student's tuition and expenses at Lindamood-Bell Academy?

¹ To comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 USC § 1232g ("FERPA") and related regulations at 34 CFR § 99, this decision uses "Student," "Parents," and titles of certain school staff members and witnesses in place of names and other personally identifiable information.

² The request for hearing as provided to the Hearing Officer included a one-page Request for Impartial Special Education Hearing form, a 14-page attachment identified as "Additional pages", a 10-page neuropsychological consultation report and a 9-page curriculum vitae. The request form and 14-page additional pages are treated as the request for hearing. The consultation report and CV were admitted into evidence during the hearing.

³ All dates are 2021 unless otherwise indicated.

9. Did Student's Parents make a timely and appropriate request for an Independent Educational Evaluation in November 2020?
10. If the answer to Issue Nine above is in the affirmative, did the Board of Education timely grant the request or file for a due process hearing to prove the appropriateness of their evaluation?
11. If the answer to Issue Ten above is in the negative, is Student entitled to an Independent Educational Evaluation at the Board of Education's expense?
12. Did the Board of Education violate Student's procedural safeguards?⁴
13. If the answer to Issue Twelve above is in the affirmative, what shall be the remedy?

The parties participated in a resolution session on May 14. Hearing was scheduled for June 24.⁵

On May 21, Student's Mother requested to call BOE's Attorney as a witness at the hearing in this case. Student's Parents made an offer of proof as to why BOE's Attorney should be called as a witness. After fully considering the positions of the parties, the request was denied.

On June 2, in response to Student's Mother's request, Stay Put was ordered. On June 4, Student's Mother requested that the following issues be added: "Were the Board's evaluations of May 6, 2019 appropriate?" and "[W]hether or not the Board should be required to provide educational evaluations at public expense." The request was denied because Issues Nine, Ten, and Eleven cover these issues.

On June 5, Student's Mother requested that "the question of denial of [a free appropriate public education (FAPE)] for the 2019-2020 and 2020-2021 school years" be added as issues. The request was denied because Issues Seven and Eight cover those school years in relation to Child Find.

On June 8, BOE's Attorney requested a 30-day extension of the deadline to mail the final decision and order to accommodate additional hearing dates. After full considering the positions of the parties, the request was granted and the deadline to mail the final decision and order was extended until August 13. Additional hearings were scheduled for July 21, July 23, July 26, July 27, and August 2.

Student's Parents requested to call BOE's Superintendent of Schools as a witness. BOE's Attorney objected. Student's Parents made an offer of proof which included their written argument and eight written communications between them and BOE. After fully considering the positions of the parties, the request to call the Superintendent as a witness was denied as being irrelevant, immaterial, or unduly repetitious evidence.

Hearings convened via videoconference on June 24, July 21, July 23, July 26, and July 27. The following witnesses testified in this order: School Psychologist, Elementary School Special Education Teacher ("ES Special Ed Teacher"), Middle School Guidance Counselor, Private Evaluator, Elementary School Regular Education Teacher ("ES Regular Ed Teacher"), Middle School English Language Arts Teacher ("ELA Teacher"), Middle School Assistant Principal ("MS Assistant Principal"), Numeracy Support Teacher, Lindamood-Bell Center

⁴ Student's Mother raised questions about the statute of limitations for Issue Twelve arguing that procedural violations change the statute of limitations to January 2019. Student's Parents were permitted to present evidence of the alleged procedural violation(s) and how it impacted their and Student's rights during the two years prior to when they knew or should have known about the alleged action that forms the basis of the complaint.

⁵ Student's Mother requested five days and BOE's Attorney requested two to three days to present their respective cases. Each party was granted three days. Student's Mother was later granted an additional half day.

(“LBC”) Director (“LBC Director”), LBC Lead Consultant (“LBC Consultant”), Student, Literacy Support Teacher, Student’s Mother, Middle School Principal (“MS Principal”), Supervisor of Special Education for Secondary Schools (“Special Ed Supervisor), and Director of Pupil Personnel Services (“Director PPS”).⁶

The August 2 hearing was cancelled. The parties waived oral closing arguments in favor of post-hearing briefs. BOE’s Attorney requested a 30-day extension of the deadline to mail the final decision and order to accommodate a briefing schedule. The request was granted on the record and the deadline to mail the final decision and order was extended to September 12.

At the conclusion of the July 27 hearing, the parties requested an additional extension of the deadline to mail the final decision and order to accommodate the briefing schedule and a reasonable period to draft a decision. After fully considering the positions of the parties, the request was granted and the deadline to mail the final decision and order was extended to October 12. The parties filed post-hearing briefs September 14.

To the extent that the procedural history, statement of jurisdiction, findings of fact, or discussion represent conclusions of law, they should be so considered, and vice versa.

Statement of Jurisdiction

This matter was heard as a contested case pursuant to Connecticut General Statutes (“CGS”) § 10-76h and related regulations, 20 United States Code (“USC”) § 1415(f) and related regulations, and in accordance with the Uniform Administrative Procedure Act (“UAPA”), CGS §§ 4-176e to 4-178, inclusive, and § 4-181a and § 4-186.

Findings of Relevant Fact⁷

Background

1. Student, who was 14 years old at the time of this hearing, was homeschooled through fifth grade. She experiences, and is under a doctor’s care for, migraine headaches and may be required to leave school or go to a quiet place at school to complete her work and take tests (Exh. S21, S48, S64, B16; Testimony of Student, Student’s Mother).⁸
2. Student is friendly, outgoing, pleasant, caring, diligent, a hard worker, and likes learning. She has strong emotional reactions to things and cries when she is hurt. She gets discouraged when she struggles with schoolwork (Exh. S1, S11, S58, S59, B10; Testimony of Student’s Mother, MS Guidance Counselor, LBC Consultant, Numeracy Support Teacher).
3. BOE has a three-tiered SRBI process to provide early intervention for students who struggle with academic, social, or emotional issues in school. Different interventions are implemented to “make sure they don’t fall through the cracks.” SRBI support can be in the classroom with the teacher in small group or one-on-one, in a support class or “pull-out”, or in special education. Numeracy and literacy support are tier two interventions. SRBI supports are determined on a case-by-case basis. Success of interventions are determined by reviewing goals and data every six weeks. This is part of the Child Find process in that students may be referred to special education if they are not progressing with the tiered interventions

⁶ Director PPS was present as BOE’s representative and heard all the witness testimony prior to her testimony, which is weighed accordingly.

⁷ In the Discussion, Findings of Fact are cited as “FOF #.”

⁸ Hearing Officer Exhibits are cited as “HO#”; Student’s Exhibits as “S#”; and BOE’s Exhibits as “B#.” See Appendix A for a full list of exhibits.

(Testimony of MS Guidance Counselor, MS Assistant Principal; ES Special Ed Teacher, ES Regular Ed Teacher, ELA Teacher, Numeracy Support Teacher).

Qualifications of Representatives that Testified

4. Student's Mother holds a Bachelor of Arts in English Literature and a Master of Science in Marriage and Family Therapy. She has worked as a substitute teacher and homeschooled her children for many years. She is currently a marriage and family therapist. She has been an active advocate for Student's educational needs during her enrollment in school (Exh. S101; Testimony of Student's Mother).
5. Private Evaluator holds Bachelor's in Psychology and Criminal Justice and a Master's and Ph.D. in Counseling Psychology. He completed clinical neuropsychology coursework, a clinical psychology internship, and a fellowship in clinical neuropsychology and neuroimaging. He is a Board-Certified Neuropsychologist and is licensed as a Psychologist in Connecticut and New Hampshire. Private Evaluator has published and has experience in the areas of ADHD, LD, anxiety, and memory loss. He is currently Division Chief and Assistant Professor in neuropsychology at Yale University and maintains a private practice as a neuropsychologist where he conducts student evaluations for families and boards of education⁹ (Exh. S47; Testimony of Private Evaluator).
6. Director PPS has a Bachelor's in Elementary Education and Special Education, a Master of Education in Special Education, and a Sixth-Year diploma in Education. She holds the following certifications: Supervision and Administration (092), Elementary Education K-6 (005), and Special Education K-12 (265). She served as a special education teacher from 1988 to 2006 and as supervisor of special education from 2006 to 2009 in other districts. She served as Elementary Supervisor of Special Education for BOE from 2009 to November 2020 when she became Director PPS. As Elementary Supervisor of Special Education, she oversaw staff evaluations, hiring, programming, instructional needs, and compliance; worked with parents; and conducted PPTs. As Director PPS, she oversees the special education department, including staffing, evaluations, programs, compliance, budgeting, and funding. She met Student when she enrolled in BOE's elementary school in January 2019 (Exh. B69; Testimony Director PPS).
7. MS Principal holds a Bachelor's in History, a Master's in Teaching, and a certificate in Educational Leadership. He holds the following certifications: Professional Educator Intermediate Administrator (092), Professional Educator History/Social Studies (026), NIMMS 201-202 Mass Casualty and ICS, ALICE Trainer, and First Aid/CPR. He was a classroom teacher in Maryland during the 1999-2000 school year and in Connecticut from 2000-08. MS Principal served as assistant principal in another district from July 2008 to February 2012; and has served as MS Principal for BOE since February 2012. He met Student when she enrolled in BOE's middle school for the 2019-20 school year (Exh. B67; Testimony of MS Principal).
8. MS Assistant Principal holds a Bachelor of Science in physical education, a Master's in Holistic Thinking, and a Sixth-Year diploma in Educational Leadership. He holds the following certifications: Intermediate Administration & Supervision (092), Health PreK-12 (043), Physical Education PreK-12 (044), and Interscholastic/Intramural Coach (600). He taught physical education and health education for BOE from August 2005 to October 2018.

⁹ BOE's Attorney stipulated that Private Evaluator is an expert in this area.

He has served as MS Assistant Principal for BOE since October 2018 (Exh. B66; Testimony of MS Assistant Principal).

9. MS Guidance Counselor holds a Bachelor's in American Studies with a minor in Secondary Education, a Master's in School Counseling, and a Sixth Year Certificate in School Counseling. She holds the following certifications: History and Social Studies 7-12 (026) and School Counselor (068). She was a classroom teacher in other districts from 1982 to 1986. She was a classroom teacher for BOE from 1986 to 1999 and has served as MS Guidance Counselor since 1999. She met Student during seventh grade (Exh. B70; Testimony of MS Guidance Counselor).
10. School Psychologist holds a Bachelor of Science in Human Development and Family Relations, a Master of Science in School Psychology, and a Sixth Year Diploma. She served as a school psychologist in another district from 2004 to 2007 and at BOE since 2007. She supervises the School Psychologist Intern who conducts evaluations. School Psychologist reads the School Psychologist Intern's evaluation reports and signs off on them although she doesn't directly evaluate the student (Exh. B74; Testimony of School Psychologist).
11. Special Ed Supervisor holds a Bachelor of Arts in Special Education, Master of Arts in Bilingual Bicultural Education, and a Sixth Year Diploma in Educational Leadership. She holds the following certifications: Bilingual/Spanish 7-12, Comprehensive Special Education PreK-12, and Intermediate Administration and Supervision. She served as a special education teacher in multiple districts from 1987 to 2017 and as Special Ed Supervisor for BOE since 2017 (Exh. B76; Testimony of Special Ed Supervisor).
12. ELA Teacher holds a Bachelor of Arts in English and Master of Arts in Teaching. She holds an English Secondary Education 7-12 (015) certification. She has served as ELA Teacher for BOE since 2012. She has experience developing and implementing programs based on test results and is trained in the SRBI process. She taught Student in seventh grade – from August 2019 through June 2020 (Exh. B75; Testimony of ELA Teacher).
13. ES Special Ed Teacher holds a Bachelor's in Elementary Education, a Master's in Special Education, and a Sixth Year Diploma. She holds a Comprehensive Special Education PreK-12 certificate. She served as an Applied Behavior Analyst from 1994 to 2001 and as ES Special Ed Teacher since 2001. She was trained to conduct Child Find; identifying when a child should be evaluated. She is qualified to write Individualized Education Programs ("IEPs"). ES Special Ed Teacher met Student when she enrolled in BOE's elementary school in January 2019 as a sixth grader (Exh. B81; Testimony of ES Special Ed Teacher).
14. ES Regular Ed Teacher holds a Bachelor of Science in Civil Engineering and a Master of Science in Elementary Education. He holds a Professional Educator 1-6 (005) certification. He has taught sixth grade at BOE's elementary school for 22 years with a focus on math instruction. He met Student when she started in his class in January 2019 during her sixth-grade year. He was her homeroom and math teacher from January to June 2019 (Exh. B82; Testimony of ES Regular Ed Teacher).
15. Numeracy Support Teacher holds a Bachelor of Science in Mathematics, a Master's in Special Education, and a Sixth-Year diploma in Educational Administration. She holds the following certifications: Intermediate Administrator and Supervisor (092) and Professional Educator Secondary Mathematics (029). She served as classroom teacher in another district from 2007 to 2015 and as a secondary math instructional specialist from 2015 to 2018. She has served as Numeracy Support Teacher at BOE since 2018. She was trained to conduct

- Child Find. Her role in Child Find is to track student progress in SRBI and refer them to special education if not progressing (Exh. B72; Testimony of Numeracy Support Teacher).
16. Literacy Support Teacher holds a Bachelor's in Secondary English Education, a Master's in Middle Grades Education, and a Sixth Year Diploma in Remedial Reading. She holds the following certifications: Remedial Reading and Language Arts K-12 (102) and English Language Arts 7-12 (015). She served as an English language arts ("ELA") teacher from 1993 to 1998, ELA coach from 1999 to 2009, and Literacy Support Teacher since 2009. She also serves as Unified Arts Division Leader. Literacy Support Teacher met Student in December 2020 (Exh. B78; Testimony of Literacy Support Teacher).
 17. LBC Director holds a Bachelor of Arts in Anthropology; Master of Science in Sociology, Gender, Sexuality, and Society; and a PhD in Cultural Studies. She has worked at LBC since 2016 where she served in the following roles, from first to most recent: Clinician, Mentor, Associate Center Director, Center Director. She oversees the work of LBC Consultant. LBC Director met Student when she enrolled at LBC (Exh. S81; Testimony of LBC Director).
 18. LBC Consultant holds a Bachelor's in History. He worked as a paraprofessional in two different school districts from 1996 to 2000. In 2000, he began working at LBC where he served in the following roles, from first to most recent: Clinician, Mentor, Consultant, Associate Center Director, Consultant, Associate Center Director, Corporate Instructional Consultant, Lead Consultant/Main Presenter. As Lead Consultant, he oversees instruction for all students, works directly with students, observes staff working with students, and writes lesson programs. He was trained by LBC to develop lesson plans to implement their specific program. LBC Consultant met Student when she enrolled at LBC (Exh. S77; Testimony of LBC Consultant).

Sixth Grade (2018-19 School Year)

19. Student attended a parochial school in Meriden, CT for the first semester of sixth grade. In response to Student's Mother's referral for special education, Meriden Public Schools ("Meriden") conducted a psychoeducational evaluation and speech language evaluation of Student in late 2018. Student's scores fell in the low average to high average range. Meriden noted that Student's results are maximized by her strong effort and desire to succeed, that her desire to work quickly may be counterproductive, and that she suffered from significant headaches each evaluation session. Student was found to be eligible for special education services under the primary category of learning disability ("LD") when enrolled in public school. She did not receive special education services in the parochial school. Student was found to be not eligible for speech language services at that time. Student did not like the parochial school because she had trouble comprehending math and other subjects. Student's Parents did not feel that the parochial school could meet Student's needs and decided to enroll her in BOE's Elementary School, which is her local school district (Exh. S1; Testimony of Student, Student's Mother).
20. In January 2019, Student's Mother contacted Director PPS who was then the Special Education Supervisor to coordinate Student's transition from the parochial school to BOE Elementary School and to request that a Planning and Placement Team ("PPT") meeting be scheduled. Student's Mother provided Director PPS with Student's records from the parochial school and the Meriden evaluation and provided authorization for release of information to BOE (Exh. S2; Testimony of Student's Mother, Director PPS).

21. Student's Mother toured BOE's Elementary School on or about January 18, 2019 and provided BOE with a two-page typed document describing her specific concerns about Student that form the basis of her referral to special education. Student's Mother requested a learning program that "focuses on teaching [Student] in her areas of need in decoding, reading, spelling, and math." Student began attending BOE Elementary School on January 23, 2019 (Exh. S3, S4, B4; Testimony of Student's Mother, Director PPS).
22. A PPT meeting convened February 5, 2019 to review the referral to special education. Student's Parents, Director PPS, ES Regular Ed Teacher, ES Special Ed Teacher, School Psychologist, and speech/OT staff attended the PPT meeting. The PPT reviewed the referral form completed by Student's Mother and Meriden's evaluation. Based on the information available at that time, the PPT found Student eligible for special education under the primary disability of LD and recommended additional evaluations; math, reading, and writing support in class; and alternate test setting for class assessments and Smarter Balanced Assessment ("SBA"). The PPT developed an IEP with three goals, accompanying objectives, and accommodations to enable Student to access her education. The goals were for study skills, writing and math because those were the areas of concern identified by the information presented to the PPT at that time. ES Special Ed Teacher developed the goals and objectives based on Meriden's testing and what she thought Student needed to get "started as a learner" (Exh. B1, B5, B6; Testimony of Student's Mother, Director PPS, ES Special Ed Teacher, ES Regular Ed Teacher).
23. The PPT recommended additional evaluations to get updated rating scales and information that was not included in Meriden's evaluation, to be thorough, and "to get to know Student as a learner." Student's Parents questioned the need for additional evaluations and then signed consent for School Psychologist, ES Special Ed Teacher, Speech Language Pathologist ("SLP"), and Occupational Therapist ("OT") to administer evaluations. (Exh. B5, B6; Testimony of Student's Mother, Director PPS, ES Special Ed Teacher, School Psychologist).
24. BOE provided Student's Parents with a printed copy of the "Procedural Safeguards Notice Required Under IDEA Part B" ("Procedural Safeguards") at the February 5, 2019 PPT meeting. The hard copy version provided to Student's Parents was 19 pages long and included only the odd-numbered pages. BOE also provided Student's Parents with a printed page that included web addresses for several documents, including the Procedural Safeguards (Exh. S5, B2; Testimony of Student's Mother, Director PPS).
25. ES Special Ed Teacher helped Student with her work after the lessons were presented in her regular education class. Student mostly needed help in math. Like general education students, Student could also get help from the classroom teacher, ES Special Ed Teacher, or an instructional assistant in the classroom. Student took her math tests in ES Special Ed Teacher's room. If Student did not understand something, she would ask ES Special Ed Teacher for help. ES Special Ed Teacher "might say the answer is right or wrong" or would help her through the different parts of the question. As Student picked up on math process and demonstrated prerequisite skills, ES Special Ed Teacher stepped down support (Testimony of Student, ES Special Ed Teacher).
26. Student's March 2019 progress report indicates that she made satisfactory progress on her three IEP goals. Of the ten related objectives, Student mastered three, made satisfactory progress on five, and was rated as "other" on two. The two objectives marked as "other" indicate that she is progressing with adult support and requires adult support to utilize provided technology (Exh. B7).

27. SLP conducted an evaluation of Student on March 11, 2019. SLP administered the Comprehensive Test of Phonological Processing (“CTOPP-2”). Student performed in the average or above average range on all subtests (Exh. B8).
28. ES Special Ed Teacher conducted an educational evaluation of Student on March 22, and 29 and April 9, 2019 for approximately 30 minutes on each date. She administered the Woodcock Johnson Test of Achievement 4th Edition (“WJIV-ACH”) which assesses current level of academic functioning. Student scored in the average range on all three tests: Broad Math, Broad Reading, and Broad Written Language. Her subtest scores fell in the average range except for spelling which fell in the low range. ES Special Ed Teacher recommended that Student utilize assistive technology to assist with her weakness in spelling (Exh. B9; Testimony of ES Special Ed Teacher).
29. OT conducted an occupational therapy evaluation of Student on March 25 and April 24, 2019. OT administered the Developmental Test of Visual Perception 3rd Edition (“DTVP3”) and Test of Visual Perceptual Skills 4th Edition (“TVPS4”) which showed that Student’s visual motor and visual perceptual skills are in the average range when compared to her same-aged peers (Exh. B13).
30. School Psychologist Intern and School Psychologist conducted a psychological evaluation of Student in April 2019. The evaluation consisted of review of records, classroom observation, and administration of Behavior Rating Inventory of Executive Function 2nd Edition (“BRIEF2”). ES Regular Ed Teacher and Student’s Parents completed the BRIEF2 forms to provide input on their observations related to Student’s executive functioning. Student’s Parents scores put Student in the average range in all areas. ES Regular Ed Teacher initially completed the BRIEF2 on February 15, 2019 at which time Student had been in his class for three weeks. His scores ranged from clinically elevated to average. He completed the BRIEF2 again on April 29, 2019 to provide updated information about Student’s adjustment to BOE’s Elementary School. These scores were all in the average range except for Shift (potentially elevated) and Emotional Control (mildly elevated). The updated BRIEF2 “suggests a significant improvement in [Student’s] executive functioning skills from February 2019.” (Exh. B10).
31. Student took the state-mandated SBA in March or April 2019. This was the first time that Student took the SBA since she was previously in parochial school where it is not administered. In Language Arts and Literacy, Student fell in the Approaching Standard range for reading, listening, and writing and research/inquiry, “just shy” of the Meets level. Her Lexile level, which measures reading comprehension based on vocabulary, was 920 (Grade Level). In Math, Student fell in the Approaching Standard range for concepts and procedures and problem solving and modeling and data analysis. She fell in the Below Standard range for communicating reasoning (Exh. B11; Testimony of Director PPS, ELA Teacher; ES Regular Ed Teacher).
32. Student’s May 2019 progress report indicates that she mastered her three IEP goals. Nine of her ten related objectives were mastered. Mastery was based on Student’s quiz scores. One objective was marked as “other” and indicates that she did not independently master use of assistive technology (Exh. B12; Testimony of School Psychologist).
33. Both the Meriden and BOE evaluations noted Student’s anxiety and difficulty accepting help (Exh. S1, B10; Testimony of ES Special Ed Teacher, School Psychologist).
34. A PPT meeting convened May 6, 2019 to review Student’s evaluations. Student’s Parents, Director PPS, ES Regular Education Teacher, ES Special Ed Teacher, School Psychologist,

SLP, OT, Middle School Special Education Teacher, and School Psychologist Intern attended the PPT meeting and reviewed the evaluations, Student's current levels of academic performance, grades, accommodations and modifications, and teacher comments. At that time, Student was performing on grade level and her scores were in the average range. Student's Mother shared her experiences and showed samples of Student's spelling work. Student's Mother expressed concern that Student achieved good grades in math only because she had the IEP supports and worried that she would struggle without the support. The PPT worked through a multidisciplinary worksheet and found Student not eligible for special education services based on state guidelines and exited her from such services (Exh. S6, S23, S92, B14, B92; Testimony of Student's Mother, Director PPS, ES Special Ed Teacher, ES Regular Ed Teacher).

35. Student's Mother disagreed with the decision to exit Student from special education. BOE told her how to apply for an Accommodations Plan ("504 Plan") under Section 504 of the Rehabilitation Act, 29 USC § 794 ("Section 504"). Mother was anxious about Student's transition to middle school the following school year and was concerned that she was going to struggle (Testimony of Student's Mother).
36. A Section 504 Team ("504 Team") meeting convened June 11, 2019. Student's Mother requested help for Student in math and spelling. The team determined Student is eligible for a 504 Plan due to her migraines and developed a plan that provided extra time on tests, projects, and written work; breaks as needed; and an assistive technology consult (Exh. S48, B15, B16; Testimony of Student's Mother, Director PPS).

Seventh Grade (2019-20 School Year)

37. Student attended BOE's Middle School in seventh grade with the 504 Plan. Initially, MS Guidance Counselor saw Student weekly and found her to be a typical middle school student "trying to fit in and figure things out." (Testimony of Student's Mother, MS Guidance Counselor).
38. On September 9, 2019, Student was assessed with a reading inventory to determine her independent reading level at the beginning of the school year. Student obtained a Lexile level of 1097 which equates to a performance standard of grade level and 75th percentile (Exh. S55, B99, B100; Testimony of ELA Teacher).
39. Student was encouraged to read books at her Lexile level and books that were up to 250 Lexiles lower in areas of interest to build fluency and challenge her in areas other than vocabulary. ELA Teacher recommended that Student not read only in the lower range throughout the year. Student's Mother was concerned that Student was reading books too far below her tested Lexile level and that she was not reading at a level to reveal her challenges (Exh. S55, S56, S57; Testimony of ELA Teacher, Student's Mother).
40. In September 2019, Student's Mother raised concerns about Student's spelling difficulties and her being embarrassed when she makes a mistake and requested assistance. On October 27, 2019, Student's Mother requested extra help for Student in math. In October 2019, Student's math teacher requested Numeracy Support class for Student beginning with the second quarter of the school year. Numeracy Support Teacher worked with Student on prerequisites math skills and current grade level skills (Exh. S10, S11, S12).
41. On November 13, 2019. Student's Mother submitted a new Referral to Determine Eligibility for Special Education and Related Services for Student based on academic and social/emotional concerns. In the referral form, Student's Mother states that Student is unable

to independently complete certain types of assignments and is struggling emotionally because she feels like a failure as a result. Student's Mother was concerned about Student's inability to sustain focus for a long period of time to complete her work, that she needs verbal prompting and to engage with the instructor, and that she has rigidity in thinking (Exh. S76, B18; Testimony of Student's Mother).

42. A PPT meeting convened November 21, 2019 to review referral and plan evaluation. MS Assistant Principal, Student's Parents, Middle School Regular Education Teacher, Middle School Special Education Teacher, Middle School School Psychologist, and MS Guidance Counselor attended the meeting. BOE provided Student's Parents with a printed copy of the Procedural Safeguards. The PPT reviewed Student's previous evaluations and teacher reports which indicate that Student was "below expectations" in math, research skills, and social studies and meeting expectations in her other classes. Numeracy Support had just started and needed more time to determine if it was effective for Student. The PPT did not suspect that Student has a disability and determined that she does not qualify for services under the Individuals with Disabilities Education Act, 20 USC 1400 *et seq.* ("IDEA"). The PPT determined that SRBI supports have not been exhausted and can be increased, including numeracy support, alternate setting for assessments, and guidance counselor check-ins. Numeracy Support Teacher began working with Student on two days in the four-day class cycle. It is not common for a student to participate in the numeracy support class two days in the four-day cycle (Exh. B19, B20, B21, B22; Testimony of Student's Mother, Numeracy Support Teacher, MS Guidance Counselor, MS Assistant Principal).
43. Student suffered a concussion on December 13, 2019. Student experienced intense pain because of "chronic migraine syndrome" after the concussion. Student returned to school part-time for a period and with some restrictions while she recovered. Student could go to the nurse and be dismissed early if she didn't feel well, was fatigued, or had migraines. Student was scheduled with Numeracy Support Teacher during the last period of the day. Sometimes, Student would miss that support period if she went home early (Exh. S102, B26; Testimony of Student, Student's Mother, MS Principal, Numeracy Support Teacher).
44. A 504 Team meeting convened January 9, 2020 to assess Student's progress and to review and possibly revise Student's 504 Plan. Teacher reports indicate that Student was meeting expectations in Language Arts, Science, and Social Studies. Math and Research Skills were not rated on the Teacher Input Report Form for the 504 Team meeting (Exh. B23, B24, B25, B26).
45. Student could not participate in physical education after her concussion, so BOE arranged for Student to have math tutoring during that period to get her caught up. Math is a cumulative class and a lot builds up over the time Student missed (Exh. S13; Testimony of Student, Student's Mother, MS Guidance Counselor, MS Principal, Numeracy Support Teacher).
46. A 504 Team meeting convened January 30, 2020 to assess Student's progress and to review and possibly revise the 504 Plan. The 504 Team, including Student's Mother, discussed Student's attendance in light of recent illnesses, her improvement in math, language arts supports, and vision and brain fatigue when viewing longer videos (Exh. B27, B28).
47. On February 13, 2020, Student's Mother emailed BOE to share concerns about the impact of the concussion and Student's progress. She requested that Student's teachers relax expectations and encourage Student to do what she can, that they add daily math support, and provide supplemental instruction to fill in gaps that she missed in German class (Exh. B102).

48. A PPT meeting convened February 28, 2020 to review a referral to special education. MS Woods, Student's Parents, ELA Teacher, Middle School Special Education Teacher, Middle School School Psychologist, and MS Guidance Counselor attended. Teacher report indicates that Student is "below expectations" in math; Student's other teachers did not mark her performance in relation to expectations. Science Teacher note that Student had no areas for further improvement at this time. After reviewing Student's previous evaluations and teacher reports, the PPT again determined that Student is not eligible for special education services under the IDEA and agreed to continue and increase Section 504 supports to meet Student's needs. The team immediately convened a 504 Team meeting and added additional accommodations and supports such as counseling, audio books, preferential seating, reduced noise and light glare, daily feedback, positive reinforcement, check work in progress, chunk long-term assignments, provide notes/outlines, and increase math support (Exh. B29, B30, B31, B32; Testimony of Student's Mother, MS Guidance Counselor, MS Principal).
49. Student participated in the Math Numeracy Support class daily during seventh period, in lieu of German class, beginning March 3, 2020 (Exh. S19, B32, B86; Testimony of Student's Mother, Numeracy Support Teacher, MS Guidance Counselor).
50. School facilities closed on March 13, 2020 due to the COVID-19 pandemic. Classes were fully remote through the end of the school year. Most 504 Team and PPT meetings were postponed until fall 2020 (Testimony of MS Principal).
51. A 504 Team meeting scheduled for May 29, 2020 to conduct Student's annual review was cancelled due to the COVID-19 pandemic. Technical edits were made to dates on Student's 504 Plan records to update the annual review date (Exh. B34; Testimony of Student's Mother, MS Principal, Director PPS).
52. Student felt that she struggled a lot in seventh grade and was "very scared to ask for help" because she thought the teacher would get mad at her. She met with her Math Teacher and Numeracy Support Teacher to redo math problems to improve her grade (Testimony of Student).
53. During seventh grade, ELA Teacher worked with Student in the classroom and one-on-one to improve her writing and helped her use programs to improve spelling and to better organize ideas and develop outlines. Student demonstrated improvement and understanding of the processes taught and followed through on directions. That improvement and Student's grades led ELA Teacher to believe that Student did not need an extra writing class. Spelling was a big issue for Student, yet she did not use the assistive technology resources put in place (Testimony of ELA Teacher).
54. Student's seventh grade final grades were three A+, one B+, two B, and one C+ (in math). Her grades were inconsistent from quarter to quarter in math and science. Student's quarterly math grades were D-, A-, A-, and C+ (Exh. S93, B33).

Eighth Grade (2020-21 School Year)

55. Student attended BOE's Middle School in eighth grade. She began the school year in-person and transitioned to remote learning October 1, 2020. During her remote learning period, Student requested help from teachers through small group and one-on-one virtual meetings (Exh. S14, S15, S17; Testimony of Student's Mother, Numeracy Support Teacher).
56. Student worked with Numeracy Support Teacher every other day prior to math class. Numeracy Support Teacher helped Student prepare for her lessons, helped her on homework that she didn't turn in or didn't understand, and worked on tests or test instructions. In

- addition to attending the regularly scheduled Numeracy Support Class, Student often met with Numeracy Support Teacher after school on Wednesday early dismissal days (Exh. B85; Testimony of Student, Numeracy Support Teacher).
57. On September 15, 2020, Student was assessed with a reading inventory to determine her independent reading level at the beginning of the school year. Student obtained a Lexile level of 1070 which equates to a performance standard of grade level and the 62nd percentile (Exh. B99, B100).
 58. A 504 Team meeting was held on October 20, 2020 to conduct Student's annual review that was cancelled in May 2020. Student's Mother again expressed her concerns about Student's struggles and her disagreement with Student being exited from special education. Student's 504 Plan was continued with counseling, audio books, extra time on tests/projects/written work, preferential seating, reduced noise, and light glare, breaks as needed, daily feedback, positive reinforcement, check work in progress, chunk long-term assignments, provide notes/outlines, guide information processing, and assistive technology consult (Exh. B35, B36, B37; Testimony of MS Principal).
 59. The 504 Team and Student's teachers continued to encourage her to advocate for herself and accept help. In one such instance, Student felt bullied by her eighth Grade Language Arts Teacher and developed anxiety over attending the class. Student, who has "strong emotional reactions to things," eventually stopped attending the class. BOE staff did not address this issue despite Student's Mother's request (Exh. S22, S75; Testimony of Student's Mother).
 60. As of November 2, 2020, Student's grades were one A+, one A, one B, two B-, one D, and one F (in Introduction to Algebra) (Exh. S62).
 61. On November 9, 2020, Student's Mother emailed BOE representatives to indicate that Student cannot complete her work on her own and needs modifications. She stated that the 504 Plan is not adequate and requested that BOE convene a PPT meeting to develop an IEP for Student. Special Ed Supervisor asked the Special Education Secretary to schedule a PPT meeting and send a referral form to Student's Mother. Student's Mother received an electronic version of the Procedural Safeguards at that time (Exh. S61, B38; Testimony of Student's Mother).
 62. On November 16, 2020, Student's Parents wrote to MS Principal indicating that they disagree with BOE's evaluations of Student that were presented at the May 2018 PPT meeting and requested the following independent educational evaluations ("IEEs"): neuropsychological evaluation, speech and language processing evaluation, auditory processing evaluation, comprehensive literacy evaluation, assistive technology evaluation, and occupational therapy evaluation. One week later, Student's Parents sent a letter indicating that their original request contained a clerical error and should refer to their disagreement with the 2019 evaluation, not 2018 (Exh. S26, B40, B42; Testimony of Student's Mother, MS Principal, Special Ed Supervisor).
 63. Sometime between November 16 and 19, 2020, Special Ed Supervisor contacted Director PPS to tell her that Student's Parents requested an IEE and that a PPT was scheduled for a couple of days later (Testimony of Director PPS, Special Ed Supervisor).
 64. A PPT meeting convened via teleconference on November 19, 2020 to review the referral to special education. Special Ed Supervisor, Student's Parents, Student, Middle School Regular Education Teacher, Middle School Special Education Teacher, Middle School School Psychologist, MS Guidance Counselor, and Numeracy Support Teacher attended the meeting. They reviewed Student's performance and Student's Parents' referral and concerns.

The PPT recommended the following evaluations to give a current multidisciplinary evaluation of Student: cognitive, executive functioning, social emotional behavior rating scales, academic achievement (reading, math, writing), test of auditory processing, receptive/expressive language testing, and occupational therapy (visual motor) evaluation. BOE sent a consent for evaluation form to Student's Parents for signature and requested that it be returned within ten days. The PPT also agreed to add a reading literacy class for Student as part of the special education identification process. Literacy Support Teacher teaches strategies to help students be independent in their literacy skills (Exh. S50, S103, B39, B41, B94; Testimony of MS Guidance Counselor, Special Ed Supervisor, Numeracy Support Teacher, Literacy Support Teacher).

65. In November 2020, Student's Parents requested that Student receive her counseling from an outside counselor instead of MS Guidance Counselor. Student did not meet with MS Guidance Counselor anymore (Testimony of MS Guidance Counselor).
66. On November 23, 2020, Student's Mother emailed the PPT members to ask clarifying questions about qualifications and methods for the proposed reading literacy class as part of tier 2 SRBI interventions because Student was "lagging in skills." Special Ed Supervisor and Literacy Support Teacher responded to the questions. Student's Parents consented to Student's participation in the class (Exh. S50, B97; Testimony of Student's Mother, Literacy Support Teacher, MS Principal, Special Ed Supervisor).
67. Student met one-on-one with Literacy Support Teacher every other day and began reading online books and having books read to her while she followed along. Student then began reading books at grade level "that she never thought she could comprehend." Literacy Support Teacher also helped Student with her writing (Exh. B85; Testimony of Student, Literacy Support Teacher, Special Ed Supervisor).
68. When left on her own, Student had difficulty completing tasks. When given the security, safety, and support of Literacy Support Teacher and Numeracy Support Teacher, Student was more confident to work through problems. When Student implemented the taught strategies, she was often able to do the work. She presented with fatigue or migraines which contributed to her not being able to work some days (Testimony of Literacy Support Teacher).
69. Director PPS emailed Student's Mother requesting that she call her to discuss the IEE request. On December 1, 2020, Director PPS emailed Student's Mother and indicated that the "right to an IEE has not kicked in yet as [BOE] has not conducted evaluations yet." She further stated that once the recommended evaluations are complete, Student's Parents can exercise their right to request an IEE (Exh. S26).
70. On December 2, 2020, Student's Mother responded via email indicating that the recommendation to conduct evaluations "calls into question the validity" of BOE's 2019 evaluations; that she requested IEEs and has not received a response yet; that she requested that evaluations not be discussed at a PPT; and that she requested the PPT to address concerns relating to Student's access to her education (Exh. B94).
71. On December 3, 2020, Director PPS denied the request for an IEE based on Student's Parents' disagreement with the May 2019 evaluation. Director PPS stated that at the time of the IEE request, Student was not identified as eligible for special education and is "therefore not entitled to make an IEE request." (Exh. S26, S38).
72. On December 7, 2020, the PPT exited Student from the special education process since Student's Parents did not consent to the recommended evaluations. Special Ed Supervisor created an IEP document to indicate that Student's Parents did not consent to evaluations.

She failed to indicate that it was not done at a PPT meeting so when the document printed, it appeared that a meeting was held without Student's Parents (Exh. B43; Testimony Special Ed Supervisor, Student's Mother).

73. Literacy Support Teacher began working with Student on December 8, 2020 (Exh. S49).
74. In November and December, Literacy Support Teacher, Numeracy Support Teacher, and Science Teacher raised concerns about Student's performance and need for support to MS Principal. Numeracy Support Teacher started noticing gaps and that a day or two after grasping a math concept and doing it independently, Student couldn't recall how to do it anymore. Numeracy Support Teacher was doing a lot of reteaching with Student at that time. Numeracy Support Teacher also noticed a change in Student's demeanor – she went from being a happy, personable, upbeat, person with a good sense of humor to being “very down” during remote learning (Testimony of MS Principal, Literacy Support Teacher, Numeracy Support Teacher, Special Ed Supervisor).
75. Student was assessed with the QRI for Oral Reading Comprehension on December 10, 2020. She scored below the 50th percentile for National Oral Reading Fluency Norms (Exh. B44).
76. A 504 Team meeting was held December 11, 2020 to assess Student's progress and review and possibly revise her 504 Plan to “bolster [Student] to the highest extent while she was struggling in academics.” Teacher reports indicate that Student was “below expectations” in History, Language Arts, and Consumer Economics. Numeracy Support Teacher expressed concerns with Student's progress in class as she was falling behind in math, emotionally didn't seem the same as in the previous year and would forget what they worked on the next day. Student's 504 Plan was updated based on feedback from Student, Student's Parents, and teachers. An additional meeting was scheduled for December 16, 2020 to discuss writing support. Literacy Support Teacher and Numeracy Support Teacher expressed concern that Student would not make progress even with the additional supports in place (Exh. S24, S49, B45, B46, B84; Testimony of MS Principal, Numeracy Support Teacher).
77. After the December 11, 2020 504 Team meeting, MS Principal communicated to Student's Parents that teachers suggested that Student be graded on a pass/fail basis or that BOE “wipe the slate clean” to give Student a fresh start so that she is not overwhelmed by incomplete work. On December 14, 2020, Student's Parents declined the offer because it does not address the concern that Student is not learning the material. Student's Parents responded that “no modifications are to be made of what is required of her at this time.” At that time, Student's Parents also indicated their disagreement with the 504 Plan (Exh. S24, S69; Testimony of MS Principal, Student's Mother).
78. A 504 Team meeting was held on December 16, 2020 to discuss a “plan for simplifying instructional tasks and present in common format and font.” (Exh. B46).
79. On January 4 and 5, 2021, Student's Mother sent BRIEF2 forms to some of Student's seventh and eighth grade teachers and asked that they complete the forms and send them to Private Evaluator. Student's Mother sent the forms directly to specific teachers so that Private Evaluator did not send them to personnel who would then know she was pursuing a private evaluation (Exh. S28; Testimony of Student's Mother).
80. Special Ed Supervisor and Director PPS learned about the private evaluation on January 4, 2021 and researched Private Evaluator's background (Exh. S28).
81. On January 5, 2021, Director PPS denied Student's Parent's request for an IEE and informed them that BOE would file a request for due process to defend their evaluations of Student.

- BOE did not ever file for due process to defend their evaluations and did not tell Student's Parents that they were not going to file (Exh. B104; Testimony of Director PPS).
82. At Student's Parents' request, Private Evaluator conducted an independent neuropsychological evaluation of Student on January 9, 2021 ("Independent Evaluation"). At the time of the evaluation, Student was 13 years old and in the eighth grade (Exh. S46; Testimony of Private Evaluator, Student's Mother).
 83. Student's Mother provided Private Evaluator background information and her concerns about Student's academic difficulties. These concerns include working memory problems, difficulty maintaining attention, becoming easily distracted, difficulty sitting still for long periods of time, having difficulty getting back to task when distracted; and difficulty keeping up with the pace in the classroom. Student's Mother presented concerns about Student's reading comprehension, spelling, written expression, and math. She also shared that Student greatly dislikes making mistakes, tends to be very sensitive to criticism and when others raise their voices to her, and has experienced increased anxiety, self-criticism, and intrusive negative thoughts (Exh. S46).
 84. Private Evaluator's evaluation consisted of a clinical interview, record review and the following assessments and procedures: Wechsler Intelligence Scale for Children 5th Edition ("WISC-V"), Wechsler Individual Achievement Test 3rd Edition ("WIATT-III"), California Verbal Learning Test Children's Version ("CVLT-C"), Rey Complex Figure Test, Children's Memory Scale ("CMS"); Delis Kaplan Executive Function System ("DKEFS"), Test of Variables of Attention ("TOVA"), Wisconsin Card Sorting Test ("WCST"), Lafayette Grooved Pegboard, NEPSY-II Selected Subtests, Personality inventory for Children 2nd Edition ("PIC-2"), Student Behavior Survey ("SBS"), and Behavior Rating Inventory of Executive Function ("BRIEF") (Exh. S46).
 85. Test results revealed that Student's core intelligence is average with slightly higher results still in the average range on tests that are not timed and working memory dependent. Student's score variability on certain tests suggest that her attention and focus fluctuated over time. Comparing these 2021 scores to her 2018 Meriden scores supports evidence of a "decline in processing speed which may be reflected in her increased anxiety, or some other unclear factors. The large difference in these scores would not be accounted for solely by lack of improvement with age." Student demonstrated "significant weaknesses for both her intelligence and age within Reading Comprehension and Fluency, Written Expression, and Mathematics" (Exh. S46).
 86. Private Evaluator opined that Student's problems in 2021 as compared to 2018 was primarily due to a lack of improvement with age and that her previous performance was supported by individualized instruction provided by Student's Mother during homeschooling. Private Evaluator also considered the impact of coursework getting harder over the years. "If anything, this lack of improvement in scores is a clear indication that [Student] requires individualized education in order to make her age expected gains." Student's anxiety further affects her ability to focus at school and she can get overwhelmed more quickly in a larger class setting (Exh. S46; Testimony of Private Evaluator).
 87. Private Evaluator diagnosed Student with Attention Deficit Hyperactivity Disorder – Inattentive Type; Obsessive Compulsive Disorder – primarily obsessive; Reading Disorder – comprehension; Disorder of Written Expression; and Math Disorder. Private Evaluator made numerous recommendations in the areas of medical provider considerations, therapeutic

- interventions, and school-specific recommendations (Exh. S46; Testimony of Private Evaluator).
88. Student's Parents paid Private Evaluator \$2,200 for the evaluation. Student's Mother provided the evaluation to BOE in late January or early February (Exh. S42; Testimony of Student's Mother, Director PPS).
 89. On January 19, 2021, Student was assessed with a reading inventory to determine her independent reading level midyear. Student obtained a Lexile level of 1183 which equates to a performance standard of grade level and the 81st percentile (Exh. S55, B99, B100; Testimony of ELA Teacher).
 90. On January 20, 2021, Director PPS offered for BOE to pay for a mutually agreed upon outside evaluator to conduct evaluations of Student (Exh. S29, B104; Testimony of Director PPS).
 91. A 504 Team meeting was scheduled for January 25, 2021 to assess progress and to review and revise Student's 504 Plan. (Exh. S80, B27, B28).
 92. LBC evaluated Student for admission on January 27, 2021. For instructional planning purposes, LBC uses the Gray Oral Reading Test 4th edition ("GORT4") which is an older version of the test. The 5th edition ("GORT5") is the current version. LBC reported Student's raw and standard scores, percentile, and age or grade equivalency on each test. Student's age or grade equivalency was higher than her actual age or grade on the Peabody Picture Vocabulary Test, Detroit Test of Learning Aptitude (Word Opposites), Slosson Oral Reading Test, GORT4 (Paragraph Reading and Comprehension), and Tests of Written Language (Story Composition). Student's age or grade equivalency was lower than her actual age or grade on the Woodcock Reading Master Tests 3 (Word Attack), Wide Range Achievement Test (Spelling and Math Computation), GORT4 (Rate, Accuracy, and Fluency), Test of Mathematical Abilities, and Tests of Written Language (Contextual Conventions) (Exh. S99; Testimony of LBC Director).
 93. On February 8, 2021, Student's Parents notified Director PPS that they were unilaterally enrolling Student at LBC beginning February 22, 2021. On February 10, 2021, Director PPS informed Student's Parents that the unilateral placement is at Student's Parents' expense and provided a copy of Procedural Safeguards (Exh. S36, B48; Testimony of Student's Mother).
 94. In the period that she was enrolled at BOE Middle School in eighth grade, Student's grades ranged from A+ to F with three classes marked as incomplete (Exh. B65).
 95. Student's initial schedule at LBC included 62 hours of the Seeing Stars reading support program and 78 hours of the Visualizing & Verbalizing expressive language support program. This initial period is an intensive remediation period that is not curriculum-based. It is "front loaded sensory cognitive instruction" backed by research. Student attended LBC four hours per day five days per week for one-on-one instruction for seven weeks. After that initial program, she began subject matter lessons in late April or early May. LBC is not an accredited school in Connecticut. Center Director does not know whether Student's LBC teachers are certified in Connecticut in special education or teaching (Exh. S99; Testimony of LBC Director, LBC Consultant).
 96. Student's Mother sent many emails to BOE staff and often copied multiple staff on the emails. On February 10, 2021, Director PPS informed Student's Parents that MS Principal, Special Ed Supervisor, and Superintendent "feel that we can address your concerns much more efficiently and effectively if a point person is established" and indicated that all correspondence from them should go through Director PPS who will "ensure her questions

are answered timely and by the right person...it is sometimes confusing as to who was to respond when many people are copied on email. Student's Mother was upset by this because she had previously requested that Director PPS be removed from Student's case due to "conflict of interest" (Exh. S73; Testimony of Student's Mother, Director PPS).

97. As of February 15, 2021, Student's grades were two A+ and three F (Exh. S62).
98. Based on the concerns raised by Literacy Support Teacher, Numeracy Support Teacher, and Science Teacher in November and December 2020, MS Principal talked to Special Ed Supervisor about what other options were available since Student's Parents did not consent to evaluations. MS Principal completed a referral to special education form. On February 17, 2021, Director PPS emailed Student's Parents a Referral to Special Education for Student and Procedural Safeguards and indicated that a PPT meeting will be scheduled (Exh. S78, B51; Testimony of MS Principal, Literacy Support Teacher, Numeracy Support Teacher, Special Ed Supervisor).
99. The PPT convened via videoconference on March 16, 2021 to review the referral to special education. Special Ed Supervisor, Student's Parents, Middle School Regular Education Teacher, Middle School Special Education Teacher, Middle School School Psychologist, Numeracy Support Teacher, MS Principal, and Director PPS, Private Evaluator, LBC Director and LBC Consultant attended the meeting. Private Evaluator reviewed his evaluation of Student and LBC Director reviewed Student's progress. The PPT found Student eligible for special education under the OHI-ADD/ADHD classification based on Private Evaluator's primary diagnosis. The PPT will consider all diagnosed disabilities, not just the primary, as well as present levels of performance when developing the IEP. Student's Mother had to leave for work and requested that the PPT be continued another day to develop the IEP so that she could offer input (Exh. B58, S86, B103; Testimony of Student's Mother, Private Evaluator, Special Ed Supervisor, Director PPS).
100. On March 23, 2021, Director PPS provided Student's Parents with a draft of proposed goals and objectives for their review prior to the next PPT meeting which was scheduled for March 25. Student's Mother requested that the March 25 PPT meeting be rescheduled to allow her more time to review the draft goals and objectives. The PPT meeting was rescheduled for multiple dates that were, for various reasons, cancelled or rescheduled at Student's Mother's request. The PPT meeting was then rescheduled for April 9, 2021 (Exh. S95, B54, B55, B59, B60, B61, B62, B95, B96, B103, B105; Testimony of Special Ed Supervisor, Director PPS, Student's Mother).
101. The PPT convened April 9, 2021 to develop an IEP. The following people who were identified on the April 1, 2021 Notice of Planning and Placement Team Meeting attended: Special Ed Supervisor, Student's Parents, Middle School Regular Education Teacher, Middle School Special Education Teacher, Middle School School Psychologist, and MS Principal. Student's Mother requested that additional BOE staff be present, so the PPT adjourned the meeting and rescheduled it for June 2021 (Exh. B61, B62; Testimony of Special Ed Supervisor).
102. On April 14, 2021, Student's Mother signed a release permitting LBC to share Student's evaluation reports and curriculum covered with BOE (Exh. B63).
103. On April 23, 2021, LBC evaluated Student at the end of the seven-week sensory cognitive program before the subject matter instruction, including the On Cloud Nine math program, began. Student was tested using the same tests as the January evaluation. Looking at the areas where Student's scores were below grade level on the January tests, her scores

increased on the Woodcock Reading Master Tests 3 (Word Attack) from 18th to 58th percentile, on Wide Range Achievement Test (Math Computation) from 1st to 13th percentile, on GORT4 (Rate) from 9th to 16th percentile, on GORT4 (Accuracy) from 25th to 37th percentile, on GORT4 (Fluency) from 9th to 16th percentile, on Test of Mathematical Abilities (Computation) from below 1st to 16th percentile, on Test of Mathematical Abilities (Word Problems) from 9th to 37th percentile, on Tests of Written Language (Contextual Conventions) from 50th to 75th percentile, and on Tests of Written Language (Spontaneous Writing) from 73rd to 84th percentile. Student maintained at the 75th percentile on Tests of Written Language (Story Composition). Student's score decreased from 3rd to 2nd percentile on the Wide Range Achievement Test (Spelling) and from 63rd percentile to 50th percentile on the GORT4 (Comprehension), which was evaluated as being at her grade level (Exh. S99; Testimony of LBC Director, LBC Consultant).

104. On June 4, 2021, LBC evaluated Student using the same tests as the January and April evaluations but with different content. Compared to the April test scores, Student's scores increased on the Woodcock Reading Master Tests 3 (Word Attack) from 58th to 68th percentile, Slosson Oral Reading Test from 69th to 75th percentile, Wide Range Achievement Test (Math Computation) from 13th to 16th percentile, GORT4 (Rate) from 16th to 25th percentile, GORT4 (Accuracy) from 37th to 63rd percentile, GORT4 (Fluency) from 16th to 50th percentile, GORT4 (Comprehension) from 50th to 63rd percentile, and Tests of Written Language (Story Composition) from 75th to 91st percentile. Student's scores maintained at the same level on the Detroit Test of Learning Aptitude (Word Opposites) at 75th percentile, Wide Range Achievement Test (Spelling) at 2nd percentile, and Test of Mathematical Abilities (Word Problems) at 37th percentile. Student's scores decreased on the Peabody Picture Vocabulary Test from 75th to 68th percentile, GORT4 (Paragraph Reading) from a raw score of 86 to 70, Test of Mathematical Abilities (Computation) from 16th to 9th percentile, Tests of Written Language (Contextual Conventions) from 75th to 63rd percentile, and Tests of Written Language (Spontaneous Writing) from 84th to 90th percentile. Student's writing was always in the average range (Exh. S99; Testimony of LBC Director, LBC Consultant).
105. Based on the evaluation and Student's performance, LBC recommended their Silver program which includes half of Student's instruction one-on-one and half in small groups of up to three students for a total of six hours per day (Exh. S99; Testimony of LBC Director, LBC Consultant).
106. Student's Mother felt that LBC taught Student skills that allowed her to visualize and focus on her work. Student's grades for the period when she began subject matter instruction in late April or early May to May 28, 2021 at LBC were three A and one B+ (Exh. S98; Testimony of Student's Mother, LBC Consultant).

Conclusions of Law

1. A Hearing Officer appointed under 34 CFR § 300.500 *et seq.* and Connecticut State Agency Regulations ("Conn.Reg.") § 10-76h-1 *et seq.* has the authority (A) to confirm, modify, or reject the identification, evaluation or educational placement of or the provision of a free appropriate public education ("FAPE") to the child or pupil, (B) to determine the appropriateness of an educational placement where the parent or guardian of a child requiring special education has placed the child or pupil in a program other than that prescribed by the

- PPT, or (C) to prescribe alternate special educational programs for the child. CGS § 10-76h(d)(1).
2. The jurisdiction of a Hearing Officer appointed under 34 CFR § 300.500 *et seq.* and Conn.Reg. § 10-76h-1 *et seq.* does not include the determination of legal claims under Section 504 unless such determination is necessary to resolve the IDEA claims.
 3. Student has the burden of production in a special education due process hearing. Conn.Reg. § 10-76h-14.
 4. BOE has the burden of proving the appropriateness of a student's program or placement by a preponderance of the evidence. Conn.Reg. § 10-76h-14.
 5. Upon a finding that BOE's placement or program or proposed placement or program is not appropriate, any party seeking reimbursement for a unilateral placement or program shall prove the appropriateness of such placement or program by a preponderance of the evidence. Conn.Reg. § 10-76h-14.
 6. The PPT includes the parents of a child with a disability; not less than one regular education teacher of the child; not less than one special education teacher of the child; a BOE representative who is qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of BOE resources; an individual who can interpret the instructional implications of evaluation results (who may be one of the members enumerated above); at the discretion of the parent or BOE, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and whenever appropriate, the child with a disability. 34 CFR § 300.321.
 7. The FAPE mandated by federal law must include "special education and related services" tailored to meet the unique needs of a particular child, 20 USC § 1401(a)(18), and be "reasonably calculated to enable the child to receive educational benefits," Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176, 207; Walczak v. Florida Union Free Sch. Dist., 142 F.3d 119 (2d Cir. 1998).
 8. The standard for determining whether FAPE has been provided is a two-pronged inquiry: first, whether the procedural requirements of IDEA have been met, and second, whether the IEP is reasonably calculated to enable the child to receive educational benefits. Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982).
 9. A parent has the right to an IEE at public expense if the parent disagrees with the board of education's evaluation. 20 USC § 1415(b); 34 Code of Federal Regulations ("CFR") 300.502(b)(1); Connecticut State Regulations ("Conn.Reg.") § 10-76d-9.
 10. If a parent requests an IEE at public expense, the board of education must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate; or ensure that an IEE is provided at public expense. 34 CFR § 300.502(b)(2); Conn.Reg. § 10-76d-9.
 11. A parent is entitled to only one IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees. 34 CFR § 300.502(b)(5).
 12. A parent who disagrees with an evaluation and requests an IEE must do so before the child's next evaluation occurs. D.S. v. Trumbull Bd. of Educ., 975 F.3d 152 (2d Cir. 2020).
 13. If a student's parents obtain an IEE at private expense and shares that evaluation with BOE, the results of the evaluation must be considered, if it meets agency criteria, in any decision made with respect to the provision of FAPE. 34 CFR § 300.502(c).

14. Child with a disability means a child evaluated in accordance with the IDEA as having an intellectual disability, a hearing impairment, a speech or language impairment, a visual impairment, a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. If it is determined, through an appropriate evaluation, that a child has one of the identified disabilities but only needs a related service and not special education, the child is not a child with a disability under the IDEA. 34 CFR § 300.8(a).
15. BOE must exercise its Child Find obligation to identify, locate, and evaluate children who are suspected of having a disability and who need special education and related services. 20 USC § 1412(a)(3); 34 CFR § 300.111; Conn.Reg. § 10-76d-6; Mr. P v. W. Hartford Bd. of Educ., 885 F.3d 735 (2d Cir.), cert. denied, 139 S.Ct 322 (2018).
16. BOE must obtain informed parental consent prior to conducting an evaluation. If a parent refuses to consent to an evaluation, BOE may but is not required to file for a due process hearing to seek consent override. BOE does not violate its Child Find obligation by not seeking consent override. 34 CFR § 300.300.
17. Where parents allege a procedural violation under the IDEA, a Hearing Officer may find a denial of FAPE if the violation 1) impeded the child's right to FAPE; 2) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of FAPE; or 3) caused a deprivation of educational benefits. 20 USC § 1415(f)(3)(E); 34 CFR § 300.513(a); Winkelman v. Parma City Sch. Dist., 127 S. Ct. 1994, 2001 (2007).

Discussion

Each of the issues identified in this case is addressed in this Discussion section. All the parties' arguments and evidence have been thoroughly reviewed and considered by the Hearing Officer.

Positions of the Parties

Student's Mother argues that BOE violated Student's Parents' rights, misrepresented intentions, blocked participation in the IEP process, prevented them from fully participating as parents, and disregarded their voice; and that these actions led to failure of Child Find and incorrect removal from special education.

BOE's Attorney argues that the special education program provided to Student by BOE in 2019 provided FAPE because it offered all supports needed to address Student's weaknesses in math, reading, writing, spelling, attention and executive functioning and make progress as demonstrated by progress reports; that BOE granted Student's Parent's request for an IEE on January 20, 2021; that the PPT appropriately exited Student from special education in May 2019 after considering evaluations, progress reports, and the multidisciplinary checklist; that BOE appropriately determined that Student was not eligible for special education in 2019-20; that BOE satisfied its Child Find obligation in 2020-21 by recommending evaluations in all areas of suspected disability; and that Student's unilateral placement is not an appropriate placement.

I. Did the Board of Education improperly exit Student from special education services in May 2019?

When Student enrolled in BOE's Elementary School in January 2019, BOE did not know her as a learner (FOF 19, 20, 21, 22). The PPT met and developed an IEP for Student based on Meriden finding her to be eligible for special education services under the primary category of LD (FOF 18, 21, 22). The PPT developed the IEP based on the information available to them at that time (FOF 21, 22).

BOE performed additional evaluations to get a full picture of Student as a learner and to evaluate areas not covered by Meriden's evaluation. Through these evaluations and working with Student between February and May 2019, BOE staff began to get to know Student as a learner (FOF 21, 22, 24, 26, 27, 28, 29).

BOE's Educational Evaluation utilized standardized tests. Student's scores fell in the average range for math, reading, and written language (FOF 27). On Meriden's psychoeducational evaluation, Student's scores fell in the low average to high average range. Meriden noted that Student's results are maximized by her strong effort and desire to succeed, that her desire to work quickly may be counterproductive, and that she suffered from significant headaches each evaluation session (FOF 19).

BOE's Psychological Evaluation utilized standardized assessments and teacher and parent feedback. Student's Parents rated Student's executive functioning in the average range. Student's teachers noted improvement in Student's executive functioning skills between February and April as she adjusted to the new school environment (FOF 29).

BOE's Occupational Therapy Evaluation utilized standardized assessments. Student's results were average compared to her same-aged peers (FOF 28).

BOE's Speech and Language Evaluation utilized standardized tests and a hearing screening. Student's scores fell in the average or above average range for each subtest (FOF 26). The PPT determined that Student was not eligible for speech and language services, and this was consistent with Meriden's assessment (FOF 18, 26, 32, 33).

The PPT completed the criteria checklist to determine if Student is suspected of having a specific learning disability. Based on a review of the evaluations and teacher and parent input, the PPT determined that Student was "achieving adequately for the student's age or meeting State-approved grade-level standards" (FOF33).

Student's spring 2019 SBA scores show that she was approaching the Meets Standards range in Language Arts and Literacy and Math. She fell in the Below Standard range for communicating reasoning. Her Lexile level, which measures reading comprehension based on vocabulary, was at grade level (FOF 30).

Student's May 1, 2019 progress report indicates that she mastered her study skills, writing, and math goals, including all but one of the associated objectives. She did not independently master the writing objective associated with using assistive technology and spellcheck (FOF 31). Student's Mother expressed concern that Student was only able to master those goals and access her education with the IEP supports (FOF 33).

Student was not deprived of supports and accommodations to allow her to access her education when exited from special education. BOE addressed Student's weaknesses identified in the evaluation process and the impact of migraines on Student's education by instituting a 504 Plan that included accommodations and supports, including assistive technology (FOF 34, 35).

Private Evaluator's report states that "there was objective evidence that [Student's] academic skills were functioning at a more age-appropriate level around the time she started

school after being homeschooled...” Private Evaluator testified that Student’s 2018 evaluation results in Meriden were within acceptable limits and did not disagree with the finding that Student was found not eligible for special education in 2019. He stated that “it is common for students that don’t initially qualify for special education to qualify when school becomes more challenging.”

Credible testimony and relevant exhibits support a finding that BOE proved by a preponderance of the evidence that BOE did not improperly exit Student from special education in May 2019.

II. If the answer to Issue One above is in the affirmative, what shall be the remedy?

Issue One above was not answered in the affirmative so this Issue Two is moot.

III. Did the Board of Education provide Student with a free, appropriate public education from April 30, 2019 to the end of the 2018-2019 school year?

Student’s Parents’ presentation of evidence and argument regarding this issue was primarily limited to their disagreement with Student being exited from special education on May 6, 2019, which is addressed in Issue One above and will not be revisited under this Issue Three.

BOE developed and implemented an IEP for Student in February 2019 and conducted comprehensive evaluations in each of the areas of concern identified by Student’s Parents in spring 2019 (FOF 21, 22, 26, 27, 28, 29). Student’s Mother stated that Student “thrived” with the IEP supports provided from February 2019 to May 6, 2019.

BOE recommended and convened a 504 Team meeting in June 2019 to develop and implement a 504 Plan for Student (FOF 34, 35). The Hearing Officer will assume jurisdiction for Section 504 claims only if a determination of these claims is necessary to resolve the IDEA claims. A determination of the Section 504 claims is not necessary to resolve the IDEA claims in this case.

Credible testimony and relevant exhibits support a finding that BOE proved by a preponderance of the evidence that BOE provided Student with FAPE under the IDEA from April 30, 2019 until the end of the 2018-19 school year.

IV. If the answer to Issue Three above is in the negative, what shall be the remedy?

Issue Three above was not answered in the negative so this Issue Four is moot.

V. Did the Board of Education fail to meet its Child Find obligations with regard to Student in 2019-20?

Based on a review of Student’s evaluations, SBA results, grades, and progress, Student was exited from special education in May 2019 (FOF 33). A 504 Plan was implemented for her in June 2019 which remained in place when she transitioned to BOE’s Middle School in August 2019 (FOF 35, 36). Consistent with Student’s Mother’s request for extra math help, in October, Student’s Math Teacher recommend that she participate in Numeracy Support class beginning in November (FOF 39, 41).

In November 2019, BOE convened a PPT meeting eight days after Student’s Mother made a referral to special education. The PPT again reviewed Student’s evaluation results, grades, progress reports, and SRBI supports and determined that Student was not suspected of having a disability and needing special education (FOF 40, 41). SRBI supports were increased (FOF 41).

In December 2019, Student suffered a concussion which resulted in absences from school, exacerbated her migraines, and caused fatigue. Student sometimes missed Numeracy Support Class as a result (FOF 42). The 504 Team met in early January 2020 to assess Student's progress (FOF43). BOE provided Student daily math tutoring to get her caught up (FOF44).

The 504 Team met again in late January to re-assess Student's progress (FOF 45). The 504 Plan comments indicate that Student was improving in math, needed language arts supports, and had vision and brain fatigue. In mid-February 2020, Student's Mother shared concerns about the impact of the concussion and Student's progress and requested a PPT meeting, which was held on February 28, 2020 (FOF 46, 47). After reviewing Student's previous evaluations and teacher reports, the PPT again determined that Student is not eligible for special education services under the IDEA and agreed to increase Section 504 supports (FOF 47).

To establish a violation of their Child Find obligation, BOE "must have overlooked clear signs of disability, [been] negligent in failing to order testing, or have no rational justification for not deciding to evaluate. Regional Sc. Dist. No. 9, No. 3:07-cv-1484 (WWE), 2009 WL 2514064 (D. Conn. Aug. 7, 2009), quoted in Mr. P v. W. Hartford Bd. of Educ., 885 F.3d 735 (2d Cir. 2016), cert. denied, 139 S.Ct. 322 (2018).

Child Find is a two-part inquiry requiring BOE to identify students who are suspected of having a disability and *in need of special education*. W.A. v. Hendrick Hudson Cent. School Dist., 219 F.Supp.3d 421, aff'd 927 F.3d 126 (2019). BOE evaluated Student on their own initiative in spring 2019 when she enrolled in BOE Elementary School based on her previous school district finding her eligible for special education. BOE considered Student's needs and progress throughout the 2019-20 school year and timely scheduled PPT referral meetings at Student's Mother's request. Her grades, test scores, and progress reports do not support a finding that Student was a child with a disability that needs special education services. Private Evaluator very credibly testified that, looking at Student's 2018 and 2019 evaluation scores, he is not surprised that BOE did not diagnose learning disorders at that time.

BOE determined that Student has a disability qualifying her for services under Section 504 and not IDEA, that her disability can be addressed through Section 504 and SRBI, and that special education services were not needed. See, Mr. P v. W. Hartford Bd. of Educ., 885 F.3d 735, 749 (2d Cir.), cert. denied, 139 S.Ct. 322 (2018) (quoting D.K. v. Abington Sch. Dist., 696 F.3d 233, 249 (3d Cir. 2012) ("However, 'Child Find does not demand that schools conduct a formal evaluation of every struggling student.'")).

Credible testimony and relevant exhibits support a finding that BOE proved by a preponderance of the evidence that BOE did not fail to meet its Child Find obligations with regard to Student in 2019-20.

VI. Did the Board of Education fail to meet its Child Find obligations with regard to Student in 2020-21?

Student began the 2020-21 school year in person and transitioned to remote learner in October (FOF 54). As a remote learner, she requested help in small groups and one-on-one (FOF 54). She continued to suffer migraines that impacted her attendance, focus, and attention (FOF 67). She was participating in Numeracy Support class two days out of the four-day cycle, which is not typical (FOF 55). She was eventually increased to Numeracy Support daily.

October 2020 teacher reports indicate that Student was performing better in her support class than regular classes. Student stopped going to Language Arts class (FOF 58). There is no evidence in the record that BOE in any way acknowledged or addressed Student's issues,

concerns, or attendance in Language Arts despite requests from Student's Mother. Student was getting a D in Language Arts (FOF 59).

BOE began to meet its Child Find obligation in November 2020 when Student's Teachers raised concerns about the change in Student's performance, her loss of ability to perform skills independently, and change in demeanor (FOF 73, 75). See, Mr. P v. W. Hartford Bd. of Educ., 885 F.3d 735 (2d Cir.), cert. denied, 139 S.Ct 322 (2018) (decision to continue attentively monitoring student to determine whether student's condition was long lasting as required for special education eligibility, and then to initiate the evaluation process, was supported by preponderance of evidence), *citing* Mr. N.C. v. Bedford Cent. Sch. Dist., 300 F. App'x 11, 13 (2d Cir. 2008) (finding denial of special education eligibility appropriate where student displayed depression, declining grades, and a single major depressive episode); R.E. v. Brewster Cent. Sch. Dist., 15 Civ. 4562 (RMB), 2016 WL 2606535 (S.D.N.Y. Mar. 30, 2016) (finding preponderance of the evidence supported board's decision not to evaluate student in the fall semester when student's grades dropped and student was diagnosed with ADHD, but to evaluate student months later when student's condition had more clearly deteriorated). See also, K.B. on behalf of S.B. v. Katonah Lewisboro Union Free School Dist. 18-CV-9553 (CS), 75 IDELR 122, 119 LRP 41693 (S.D.N.Y. 2019) (district should monitor student for changes in circumstances that might warrant evaluation).

Before BOE had a chance to act on those concerns, Student's Mother made another referral to special education (FOF 60). There is no evidence in the record whether BOE would have timely acted on those concerns absent Student's Mother's referral. However, BOE did timely act on the concerns when the requested PPT meeting convened in November 2020 and recommended current multidisciplinary evaluations of Student and added Literacy Support class as part of the eligibility determination process (FOF 60, 63).

Student's Parents' failure to consent to evaluations (FOF 71) halted BOE's Child Find efforts at this point. Although BOE has the right to seek consent override, it does not violate its Child Find obligation by not doing so. 34 CFR § 300.300. Absent consent, BOE could not proceed with evaluations.

In February 2021, MS Principal made a referral to special education based on the teacher concerns (FOF 97). By that time, Student's Parents had obtained a private evaluation which they provided to BOE (FOF 78, 79, 81, 82, 83, 84, 85, 86, 87). In March 2021, the PPT met, reviewed the private evaluation, heard from Private Evaluator, and reviewed Student's progress. Based on the private evaluation, the PPT found Student eligible for special education (FOF 98). BOE timely considered and accepted Private Evaluator's comprehensive neuropsychological evaluation that included academic achievement information, diagnoses, and recommendations to find Student eligible for special education.

The PPT was not able to develop the IEP at the March meeting because Student's Mother had a time constraint (FOF 98). One week later, Director PPS provided Student's Parents with a draft of proposed goals and objectives for review prior to the next PPT meeting which was scheduled for two days later (FOF 99). Student's Mother requested that the meeting be rescheduled to allow her more time to review the draft (FOF 99).

For various reasons, Student's Mother requested subsequent PPT meetings to be rescheduled, impeding the PPT's ability to develop an IEP with parental participation. Student was unilaterally placed during this time (FOF 92, 94). Student's Parents then filed for this due process hearing. At the hearing, Student's Mother indicated that Student will remain unilaterally placed pending this decision.

While recognizing that the timeliness of some of the Child Find actions may be due to Student's Parents actions, credible testimony and relevant exhibits support a finding that BOE proved by a preponderance of the evidence that BOE did not fail to meet its Child Find obligations with regard to Student in 2020-21.

VII. If the answer to Issue Five and/or Issue Six above is in the affirmative, is Lindamood-Bell Academy an appropriate placement for Student?

Issue Five and Issue Six above were not answered in the affirmative so this Issue Seven is moot.

VIII. If the answer to Issue Seven above is in the affirmative, are Student's Parents entitled to reimbursement for Student's tuition and expenses at Lindamood-Bell Academy?

Issue Seven above was not answered in the affirmative so this Issue Eight is moot.

IX. Did Student's Parents make a timely and appropriate request for an Independent Educational Evaluation in November 2020?

Undisputed evidence indicates that BOE completed its evaluation of Student in May 2019 and that Student's Parents expressed disagreement with BOE's evaluation and requested an IEE in November 2020, prior to BOE conducting any subsequent evaluation and within the IDEA's two-year statute of limitations (FOF 33, 34, 61). A parent is entitled to one IEE at public expense each time the school district conducts an evaluation with which the parent disagrees. 34 CFR § 300.502(b)(5).

Credible testimony and relevant exhibits support a finding that Student's Parents made a timely and appropriate request for an IEE in November 2020.

X. If the answer to Issue Nine above is in the affirmative, did the Board of Education timely grant the request or file for a due process hearing to prove the appropriateness of their evaluation?

If a parent requests an IEE at public expense, BOE must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate; or ensure that an IEE is provided at public expense. 34 CFR § 300.502(b)(2); Conn.Reg. § 10-76d-9.

Student's parents requested an IEE on November 16, 2020 (FOF 61). On December 1, Director PPS erroneously told them that their right to an IEE had not yet kicked in (FOF 68). On December 3, Director PPS erroneously denied the request for an IEE on the basis that Student was not identified as eligible for special education at the time of the request (FOF 70).¹⁰

On January 5, 2021, Director PPS told Student's Mother that BOE was going to file a request for due process since they denied the IEE request (FOF 80). BOE never filed a request for due process (FOF 80).

On January 20, 2021, Director PPS offered for BOE to pay for a mutually agreed upon outside evaluator to conduct evaluations (FOF 89). This gesture is not found to be a timely action granting the IEE request as it put an inappropriate restriction on Student's Parents' right to select an evaluator. Parents may select an evaluator that meets BOE's reasonable IEE criteria and are not required to select someone that is mutually agreeable to BOE. 34 CFR § 300.502(e).

¹⁰ Director PPS testified that she now understands that a parent has a right to request an IEE after a student is exited from special education.

Director PPS denied the IEE request and did not file for due process. BOE did not timely grant the IEE request or file for a due process hearing to prove the appropriateness of their evaluation.

XI. If the answer to Issue Ten above is in the negative, is Student entitled to an Independent Educational Evaluation at the Board of Education's expense?

Due to BOE's failure to timely grant the IEE request or file for due process, Student is entitled to an IEE at BOE's expense.

XII. Did the Board of Education violate Student's procedural safeguards?

Student's Mother claims that BOE engaged in procedural violations including providing an incomplete copy of the Procedural Safeguards, altering dates on documents, scheduling PPT meetings without all necessary or appropriate staff members, blocking Student's Parents from communicating with teachers, and blocking Student's Parents' from fully participating in the PPT process.

Director PPS and MS Principal credibly testified that technical edits were made to documents to update the date of Student's annual review which was impacted by the pandemic shutdown (FOF 51). When Student was exited from the special education process in December 2020, Special Ed Supervisor created an IEP document to indicate that Student's Parents did not consent to evaluations. She failed to indicate that it was not done at a PPT meeting so when the document printed, it appeared that a meeting was held without Student's Parents (FOF 72). Special Ed Supervisor credibly testified that she made a technical edit to correct that clerical error and communicated it to Student's Parents.

There is no evidence that the technical changes, which are noted on the documents in Student's file, impacted Student's program or access to her education or obstructed Student's Parents' opportunity to participate in the process.

Student's Mother expressed considerable frustration that in February 2021, Director PPS was designated as the point person for email communications (FOF 96). Director PPS credibly testified that BOE felt they could best address Student's Parents' concerns if a point person was identified to ensure that all their emails were answered in a timely manner by the appropriate staff person. The record is replete with lengthy emails from Student's Parents copied to multiple BOE staff members, including the Superintendent. There is no evidence that establishing a point person was taken for the purpose of or had the impact of depriving Student's Parents of communication with appropriate staff members or limiting communication or that it in any way impacted Student's program or access to her education or obstructed Student's Parents' opportunity to participate in the process.

Student's Mother testified that by scheduling a PPT meeting in April 2021 without the identical list of staff members that participated in a previous 504 Team meeting, BOE violated her rights. The undisputed credible evidence indicates that BOE provided Student's Parents notice of the PPT meeting with a list of invitees eight days prior to the meeting and that each of those invitees attended (FOF 101). The PPT included each of the members required by 34 CFR § 300.321. Student's Parents had an opportunity to request, in advance of the meeting, that additional people be invited and attend.

The credible evidence indicates that a PPT meeting convened and when Student's Mother requested the participation of additional staff members, BOE adjourned and rescheduled the meeting to include those additional staff members (FOF 101). There is no evidence that this

action in any way impacted Student's program or access to her education or obstructed Student's Parents' opportunity to participate in the process.

The record is replete with evidence that BOE communicated regularly with Students Parents via email and phone, and that they scheduled and rescheduled PPT and Section 504 meetings to include Student's Parents. There is no evidence in the record that BOE ever excluded Student's Parents from meetings, communications, or participation in the development of Student's program. The parties did disagree about whether Student was a child with a disability who needs special education until the 2020-21 school year. Proceeding with disagreement is not evidence that BOE blocked Student's Parents from participating or excluded their voice from the process. The substantive impacts of their disagreements are addressed in the above issues and will not be revisited under this Issue Twelve.

Student's Mother testified that she received an incomplete printed copy including only the odd-numbered pages of the Procedural Safeguards on February 5, 2019 and that it was not until she received an electronic version in November 2020 that she saw that she could apply for an IEE and had the right to file for due process hearing (FOF 24, 61). The incomplete version included, in its entirety, the section on IEEs, five of the nine pages related to due process hearings, and a list of federal regulations by topic.

When they received the printed Procedural Safeguards on February 5, 2019, Student's Parents also received a printed page that included the web address for the Procedural Safeguards (FOF 24). Student's Parents also received printed Procedural Safeguards on November 21, 2019; February 8, 2021; and February 17, 2021; and received them electronically on November 9, 2020 (FOF 24, 42, 61, 93, 98).

Providing an incomplete copy of the Procedural Safeguards to Student's Parents at an initial PPT meeting is a procedural flaw. Procedural flaws alone do not automatically constitute a denial of FAPE. A procedural error warrants relief only if it impeded Student's right to FAPE; significantly impeded Student's Parents' opportunity to participate in the decision-making process regarding the provision of FAPE; or caused a deprivation of educational benefits. 20 USC § 1415(f)(3)(E)(ii); 34 CFR § 300.513. See also, Winkelman v. Parma City Sch. Dist., 127 S. Ct. 1994, 2001 (2007); Mr. P v. W. Hartford Bd. of Educ., 885 F.3d 735 (2d Cir.), cert. denied, 139 S.Ct 322 (2018); W.A. v. Pascarella, 153 F.Supp.2d 144, 153 (D.Conn. 2001); M.A. v. Torrington Bd. of Educ., 980 F. Supp. 2d 245, 62 IDELR ¶ 28 (D. Conn. 2013); A.E. v. Westport Bd. of Educ., 463 F. Supp. 2d 208, 215 (D. Conn. 2006).

There is no credible evidence in the record to support a finding by a preponderance of the evidence that the procedural violation impeded Student's right to FAPE; significantly impeded Student's Parents' opportunity to participate in the decision-making process regarding the provision of FAPE; or caused a deprivation of educational benefits.

To the contrary, the record is replete with evidence that Student's Parents participated actively and frequently in PPT and Section 504 meetings and that BOE provided additional supports based on Student's Parents feedback and requests. Under Issues Three, Five, Six, and Nine above, it is found by a preponderance of the evidence that BOE did not deny Student FAPE in spring 2019, BOE did not violate their Child Find obligations in 2019-20 or 2020-21, and the procedural violation did not result in Student's Parents missing the window to file for an IEE.

The credible evidence in the record supports a finding that BOE did not violate Student's Parents' Procedural Safeguards.

XIII. If the answer to Issue Twelve above is in the affirmative, what shall be the remedy?

Issue Twelve above was not answered in the affirmative so this Issue Thirteen is moot.

FINAL DECISION AND ORDERS

1. The Board of Education did not improperly exit Student from special education services in May 2019.
2. The Board of Education provided Student with a free appropriate public education from April 30, 2019 to the end of the 2018-2019 school year.
3. The Board of Education did not fail to meet its Child Find obligations with regard to Student in 2019-20.
4. The Board of Education did not fail to meet its Child Find obligations with regard to Student in 2020-21.
5. Student's Parents made a timely and appropriate request for an Independent Educational Evaluation in November 2020.
6. The Board of Education did not timely grant the Independent Educational Evaluation request or file for a due process hearing to prove the appropriateness of their evaluation.
7. Student is entitled to an Independent Educational Evaluation at the Board of Education's expense, in accordance with the following:
 - a. Student's Parents may obtain Independent Educational Evaluations of Student in the areas of speech and language processing, auditory processing, literacy, assistive technology, and occupational therapy. If Student's Parents elect to not have Student undergo any one or more of the above evaluations, they shall notify the Board of Education no later than November 12, 2021.
 - b. The Board of Education shall provide Student's Parents information about where an independent educational evaluation may be obtained and the Board of Education's criteria applicable for Independent Educational Evaluations no later than October 15, 2021.
 - c. Student's Parents may coordinate for the speech and language processing, auditory processing, literacy, assistive technology, and occupational therapy evaluations to be completed and must notify the Board of Education of the scheduled dates for each evaluation no later than November 12, 2021, unless the parties mutually agree to another date.
 - d. Student's Parents shall provide the Board of Education with a copy of Private Evaluator's itemized invoice no later than November 1, 2021. If Student's Parents timely provide the itemized invoice, the Board of Education shall reimburse Student's Parents within 30 calendar days of receipt of the invoice.
8. The Board of Education did not violate Student's procedural safeguards.

Comments on the Proceedings - Conn.Regs. § Sec. 10-76h-16(b)

Student's Mother appeared *pro se*. She made strong effort to understand and comply with the laws, regulations, and orders governing the hearing process. She presented Student's case in a professional and respectful manner.

There was significant overlap in the parties' witness lists. BOE's Attorney was efficient in obtaining necessary testimony on cross-examination of witnesses that Student's Mother presented to eliminate for the need for witnesses to return in BOE's case in chief.

The parties' cooperation and attention to detail contributed to an efficient hearing.

APPENDIX A: Exhibit List

HEARING OFFICER EXHIBITS

| <u>Exh.</u> | <u>Date</u> | <u>Description - # of pages</u> |
|-------------|-------------|---------------------------------------------------------|
| HO1 | 4/30/21 | Request for Impartial Special Education Hearing – 15pgs |

STUDENT'S EXHIBITS ADMITTED AS FULL EXHIBITS

| <u>Exh.</u> | <u>Date</u> | <u>Description - # of pages</u> |
|-------------|-------------------|-------------------------------------------------------------------------|
| S1 | 1/3/19 | Student record IEP with evals – 38pgs |
| S2 | 1/9/19 | Carey to Parent correspondence w. attachments - 3pgs |
| S3 | 1/9-11/19 | Parent to Zimonch release – 5pgs |
| S4 | 1/18/19 | communication re referral paperwork Parent & Carey – 1pg |
| S5 | 1/18/19 | 5/6/19 Procedural Safeguards Notice Required Under IDEA Part B –19pgs |
| S6 | 2/5/19 | Parent exhibits for IEP -3pgs |
| S7 | | Lindamood-Bell research – 3pgs |
| S8 | 6/4/19 | Brinkman to Parent correspondence Check In – 2pgs |
| S9 | 2019-2020 | Dodd curriculum overview grade 7 – 6pgs |
| S10 | 9/25/19 | Communication Parent to Shanely – 2pgs |
| S11 | 10/13-30/19 | Curtis to Parent grades – 3pgs |
| S12 | 11/1/19 | Communication Mahon to Parent numeracy support to start – 2pgs |
| S13 | 1/16/20 | Parent and Raczka correspondence re math tutoring – 1pg |
| S14 | 10/2/20 | Student becomes remote learner correspondence – 1pg |
| S15 | 10/5/20 | Student to Laden correspondence – 6pgs |
| S16 | 5/10/20 | Student and Poetl correspondence -2pgs |
| S17 | 10/30/20 | Mahon to Student test corrections in class -1pg |
| S18 | 11/4/20 | Parent and Laden correspondence – 1pg |
| S19 | 2/28/20 | Raczka correspondence new match schedule dev in 504 mtg – 4pgs |
| S20 | 11/2/20 | Parent to Laden request help – 1pg |
| S21 | 11/5/20 | Rackza to team correspondence -1pg |
| S22 | 11/24/20 | Parent to Woods re Laden – 1pg |
| S23 | 11/17/20-12/23/20 | Correspondence Parent Carey et al re Student Records attachment – 23pgs |
| S24 | 12/14/20 | Student record follow up to 504 meeting on 12/11/20 – 5pgs |
| S25 | | CT Guidance for IEE – 1pg |
| S26 | 11/16/20-12/3/20 | Woods, Carey, Broadway responses to request for IEEs -10pgs |
| S27 | 1/14/21 | Castellano parent update – 3pgs |
| S28 | 1/4-5/21 | Emailed BRIEF2 report requests – 4pgs |
| S29 | 1/5/21 | Carey correspondence regarding due process – 5pgs |
| S30 | 1/6/21 | Mahon, Student afterschool help – 1pg |
| S31 | 1/7/21 | Berkun, Mahon correspondence -2pgs |
| S32 | 1/8/21 | Student Mahon correspondence – 2pgs |
| S33 | 1/8/21 | Student Mahon correspondence – 2pgs |
| S34 | 1/11/21 | Student Castellano correspondence – 1pg |
| S35 | 2/8/21 | Letter Parent to Solan student record - 6p |
| S36 | 12/7/20 | Parent to Solan correspondence -5pgs |

| | | |
|-----|-----------------|----------------------------------------------------------------------|
| S37 | 12/7/20 | Parent to Solan correspondence -5pgs |
| S38 | 12/7/20 | Parent to Solan correspondence -5pgs |
| S40 | 4/27/21 | Receipt of document for Student's record -1pg |
| S42 | 1/9/21 | Receipt from Franklin Brown – 2pgs |
| S43 | 2/7/21 | Student record Parent to Solan and Woods – 1pg |
| S44 | 3/16/21 | Student record letter Parent to Salon re Carey -2pgs |
| S45 | 2/21-3/3/21 | Carey email response to Parent letter –2pgs |
| S46 | 1/9/21 | IEE by Dr. Franklin Brown -10pgs |
| S47 | 1/9/21 | CV Dr. Franklin Brown – 9pgs |
| S48 | 6/11/19 | 504 Accommodation Plan with Carey's edits -3pgs |
| S49 | 12/11/20 | 504 Accommodation Plan with Teacher Input Report -5pgs |
| S50 | 11/23-12/8/20 | Communication re literacy class – 32pgs |
| S51 | 6/5-6/19 | Correspondence Brinkman and Parent – 2pgs |
| S52 | 6/28/19 | Correspondence Raczka to Woods re move from teal team -1pg |
| S54 | 11/21/19 | Procedural Safeguards given at PPT – 10pgs |
| S55 | 9/19/19 | Student 7 th grade reading inventory – 4pgs |
| S56 | 5/6/19 | 6 th grade assigned reading – 1pg |
| S57 | 2019-20 | 7 th grade assigned reading – 3pgs |
| S58 | 3/18-6/2/20 | Student engaged in remote learning with 1-1 support -12pgs |
| S59 | 6/10/20 | 7 th grade math award – 3pgs |
| S60 | 10/21/20 | Fusari to Student re attendance -1pg |
| S61 | 11/9-12/17/20 | Referral to Special Education email -2pgs |
| S62 | 11/2/20-2/15/21 | Progress Report PowerSchool -4pgs |
| S63 | 1/14/21 | Release of Attendance Records email -2pgs |
| S64 | 9/11/17 | Individualized Home Instruction Plan NY -1pg |
| S65 | 11/5/20 | Parent to Runte supporting Student email -1pg |
| S66 | 4/19/21 | Carey to Parent attendance records emailed –2pgs |
| S67 | 12/1-2/20 | Email re Math 1-1 – 3pgs |
| S68 | 12/1-3/20 | Email with Mahon re math -3pgs |
| S69 | 12/14/20 | 504 Accommodation Plan and Parent's reply – 0pgs |
| S70 | 2/8-23/21 | email re resolution meeting – 2pgs |
| S71 | 2/23/21 | Email re cancellation of due process – 9pgs |
| S73 | 2/10/21 | Email re communicate with Carey – 1pg |
| S74 | 2/18-25/21 | Emails re Carey coordinate meetings w attachments -7pgs |
| S75 | 1/14/21 | Parent to Woods & Solan re no follow up -2pgs |
| S76 | 11/13/19 | Complete referral to determine eligibility for special education -2p |
| S77 | 2/22/21 | CV Bryan Cruse – 1pg |
| S78 | 2/17/21 | Complete referral to determine eligibility for special education -3p |
| S79 | 2/23-3/3/21 | Email re lack of parental support, DP withdrawn – 4pgs |
| S80 | 1/21/21 | Notice of 504 Meeting for 1/25/21 – 2pgs |
| S81 | | CV Zuckerwise |
| S82 | 2/25/21 | Letter Parent to Woods, Solan re violations – 10pgs |
| S83 | 3/2-3/21 | email to Solan et al – 4pgs |
| S84 | 3/3-5/21 | Email re meetings – 11pgs |
| S85 | 5/5/21 | Emails re schedule PPT – 3pgs |
| S86 | 3/8/21 | Original notice of PPT sent to Parent – 6pgs |

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|------|---------------------|--------------------------------------------------------|
| S87 | 3/5/21 | Carey to Parent email re meeting – 1pg |
| S88 | 3/15/21 | Email Parent and Woods re referral PPT – 7pgs |
| S89 | 3/15/21 | Email revised notice of meeting – 1pg |
| S90 | 2/25/21 | Email Sant to Solan – 2pgs |
| S91 | 3/24/21 | Carey response to Parent’s concerns – 11pgs |
| S92 | 5/6/19 | Student PPT info Brinkman – 1pg |
| S93 | 6/2/20 | Futoma independent reader – 2pgs |
| S94 | 5/26/15 | Boose v DC – 8pgs |
| S95 | 3/23/21 | Carey email draft goals and objectives – 2pgs |
| S96 | 11/8/20 | Parent to math support – 1pg |
| S97 | 4/26/21 | Parent to Carey schedule to review records – 2pgs |
| S98 | 2021 | Lindmood Bell report card – 1pg |
| S99 | 1/23/21 and 4/23/21 | Lindamood-Bell evaluations and recommendations -12pgs |
| S100 | 2/25/21 | Request for Carey to cease and desist – 4pgs |
| S101 | | CV Parent |
| S102 | 12/13/19 | Documentation of concussion – 3pgs |
| S103 | 11/19/20 | Notice and Consent to Conduct Initial Evaluation – 1pg |

BOE’S EXHIBITS ADMITTED AS FULL EXHIBITS

| <u>Exh.</u> | <u>Date</u> | <u>Description - # of pages</u> |
|-------------|-------------|--------------------------------------------------------------------------------------|
| B1 | 01/24/19 | PPT Notice – 1 pgs |
| B2 | 02/05/19 | Verification of Notice – 1 pgs |
| B3 | 02/05/19 | Notice to Testers of Referred Students – 1 pgs |
| B4 | 02/05/19 | Referral to Determine Eligibility for Special Education and Related Services – 4 pgs |
| B5 | 02/05/19 | IEP – 17 pgs |
| B6 | 02/05/19 | Notice and Consent to Conduct a Reevaluation – 1 pgs |
| B7 | 03/13/19 | Progress Report for IEP Goals and Objectives – 4 pgs |
| B8 | 04/22/19 | Speech and Language Evaluation Report by J. Brown, M.A. – 4 pgs |
| B9 | 04/29/19 | Educational Evaluation by A. Villano – 6 pgs |
| B10 | 05/01/19 | Psychological Evaluation by C. Polanco, M.S. and J.T. Calvo, M.S. – 4 pgs |
| B11 | 2019 | CT Smarter Balanced Summative Assessment Results – 2 pgs |
| B12 | 05/01/19 | Progress Report for IEP Goals and Objectives – 4 pgs |
| B13 | 05/06/19 | Occupational Therapy Evaluation by A. Parolise, OTR – 3 pgs |
| B14 | 05/06/19 | IEP – 13 pgs |
| B15 | 05/29/19 | Section 504 Team Meeting Notice – 1 pgs |
| B16 | 06/11/19 | Section 504 Accommodation Plan – 3 pgs |
| B17 | 2018-2019 | 6 th Grade Report Card – 3 pgs |
| B18 | 11/13/19 | Referral to Determine Eligibility for Special Education and Related Services – 2 pgs |
| B19 | 11/14/19 | PPT Notice – 1 pgs |
| B20 | 11/21/19 | Verification of Notice – 1 pgs |
| B21 | 11/21/19 | Initial Referral Teacher Input Form – 2 pgs |
| B22 | 11/21/19 | IEP – 4 pgs |
| B23 | 01/02/20 | Section 504 Team Meeting Notice – 1 pgs |

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| B24 | 01/09/20 | 504 Verification of Notice – 1 pgs |
| B25 | 01/09/20 | Teacher Input Report Form – 3 pgs |
| B26 | 01/09/20 | Section 504 Accommodation Plan – 5 pgs |
| B27 | 01/10/20 | Section 504 Team Meeting Notice – 1 pgs |
| B28 | 01/30/20 | Section 504 Accommodation Plan – 4 pgs |
| B29 | 02/25/20 | PPT Notice 1 pgs |
| B30 | 02/28/20 | Teacher Input Report Form – 2 pgs |
| B31 | 02/28/20 | IEP – 3 pgs |
| B32 | 02/28/20 | Section 504 Accommodation Plan – 4 pgs |
| B33 | 2019-2020 | 7 th Grade Report Card – 1 pgs |
| B34 | 10/01/19 | Section 504 Team Meeting Notice Cancelled Due to Covid – 1 pgs |
| B35 | 10/02/19 | Section 504 Team Meeting Notice – 1 pgs |
| B36 | 10/20/20 | Teacher Input Report Form – 3 pgs |
| B37 | 10/20/20 | Section 504 Accommodation Plan – 6 pgs |
| B38 | 11/09/20 | Email between M. Broadway, M. Veleber and Parents – 2 pgs |
| B39 | 11/10/20 | PPT Notice – 1 pgs |
| B40 | 11/16/20 | Letter from Parents to M. Woods – 1 pgs |
| B41 | 11/19/20 | IEP – 13 pgs |
| B42 | 11/23/20 | Letter from Parents to M. Woods – 1 pgs |
| B43 | 12/07/20 | IEP – 12 pgs |
| B44 | 12/10/20 | QRI Data Sheet – Individual Student Profile – 2 pgs |
| B45 | 12/10/20 | Section 504 Team Meeting Notice – 1 pgs |
| B46 | 12/16/20 | Section 504 Accommodation Plan – 2 pgs |
| B48 | 02/10/21 | Letter to Parents from R. Carey – 1 pgs |
| B49 | 02/10/21 | Request for Impartial Special Education Hearing – 3 pgs |
| B50 | 02/10/21 | Email from R. Carey to Parents re: receipt of due process request – 1 pgs |
| B51 ¹¹ | 02/17/21 | Parent Notice of Referral to Determine Eligibility for Special Education and Related Services – 3 pgs |
| B52 | 02/18/21 | Chain of emails between R. Carey and Parents – 1 pgs |
| B53 | 02/26/21 | PPT Notice – Parent Request Time Change to 8 a.m. – 2 pgs |
| B54 | 03/01/21 | PPT Notice – Cancelled by Parent – 2 pgs |
| B55 | 03/05/21 | PPT Notice – Parent Request new date and time – 2 pgs |
| B56 | 03/08/21 | Revised PPT Notice – 4 pgs |
| B57 | 03/15/21 | Final Decision and Order No. 21-0238 – 2 pgs |
| B58 | 03/16/21 | IEP – 8 pgs |
| B59 | 03/16/21 | Draft Measurable Annual Goals and Short-Term Objectives – 10 pgs |
| B60 | 03/17/21 | PPT Notice – Cancelled by Parent – 1 pgs |
| B61 | 04/01/21 | PPT Notice – 1 pgs |
| B62 | 04/09/21 | IEP – 19 pgs |
| B63 | 04/14/21 | Release of Information – 1 pgs |
| B64 | 04/23/21 | Dates of Attendance – 2 pgs |
| B65 | 2020-2021 | 8 th Grade – 3 rd Quarter Report Card – 1 pgs |

¹¹ Only page 1 of B51 was admitted as a full exhibit. Pages 2-3 were duplicative of exhibit S78 which was previously admitted.

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| B66 | | Resume of John Perosino – 1 pgs |
| B67 | | Resume of Michael J. Woods – 1 pgs |
| B68 | | Resume of Andrea Cofrancesco – 1 pgs |
| B69 | | Resume of Robin-Anne Carey – 1 pgs |
| B70 | | Resume of Lisa Raczka – 1 pgs |
| B71 | | Resume of Rosemarie L. Bach – 1 pgs |
| B72 | | Resume of Meghan C. Mahon – 3 pgs |
| B73 | | Resume of Kate L. Kieley – 2 pgs |
| B74 | | Resume of Jennifer T. Calvo – 2 pgs |
| B75 | | Resume of Emily Futoma – 2 pgs |
| B76 | | Resume of Marie A. Broadway – 3 pgs |
| B77 | | Resume of Amanda N. Parolise – 1 pgs |
| B78 | | Resume of Kristin Castellano – 2 pgs |
| B79 | | Resume of Theresa Baker – 1 pgs |
| B80 | | Resume of Joann Farley Brown – 1 pgs |
| B81 | | Resume of Amy B. Villano – 1 pgs |
| B82 | | Resume of Eric Brinkman – 1 pgs |
| B83 | | Resume of John Runte – 1 pgs |
| B84 | 12/11/20 | Section 504 Accommodation Plan – 2 pgs |
| B85 | 2020-2021 | Course Enrollment – 1 pgs |
| B86 | 2019-2020 | Course Enrollment – 2 pgs |
| B87 | 2019-2020 | Attendance Record – 1 pgs |
| B88 | 2020-2021 | Counseling Log by L. Raczka |
| B89 | | Resume of Beth Curtis – 1 pgs |
| B90 | 09/11/20 – 06/14/21 | Progress to College and Career Report – 2 pgs |
| B91 | 2019-2020 – 2020-2021 | Nurse's Visiting Notes – 9 pgs |
| B92 | 05/06/19 | Multidisciplinary Evaluation Report for Students Suspected of Having a Specific Learning Disability – 3 pgs |
| B93 | 2020-2021 | Classroom Attendance – 7 pgs |
| B94 | 11/19/20- 12/02/20 | Emails between Parents and M. Veleber – 3 pgs |
| B95 | 04/25/21 | Email from Parents to M. Veleber – 2 pgs |
| B96 | 04/26/21 | Email from M. Veleber to Parents – 1 pgs |
| B97 | 11/22-11/24/20 | Emails between M. Broadway and Parents – 9 pgs |
| B99 | 07/31/18- 07/21/21 | Student Action Report – 2 pgs |
| B100 | 07/31/19- 07/21/21 | Progress to College and Career Report – 2 pgs |
| B101 | 02/04/21 | Email from R. Carey to Parents – 3 pgs |
| B102 | 02/13/20 | Email from Parents to M. Woods, et al – 3 pgs |
| B103 | 03/29 - 03/30/21 | Chain of emails between M. Veleber, R. Carey and Parent – 2 pgs |
| B104 | 01/20/21 | Chain of emails between R. Carey and Parents – 4 pgs |
| B105 | 03/23 – | Chain of emails between R. Carey and Parents – 2 pgs |

03/24/21
B106 03/24/21 Email from R. Carey to Parents – 1 pgs

EXHIBITS NOT ADMITTED

| <u>Exh.</u> | <u>Date</u> | <u>Description - # of pages</u> |
|-------------|-------------|-------------------------------------------------------------|
| S39 | 3/16/21 | PPT transcript – 14pgs |
| S41 | 4/9/21 | Transcript 4/9/21 continuation of 3/16/21 PPT -3pgs |
| S53 | 11/21/19 | Initial Referral Input Form PPT – 3pgs |
| S72 | 2/4/21 | FERPA request email – 2pgs |
| S104 | | Lindamood-Bell – 1pg |
| S105 | | FAQ – 1pg |
| B47 | 1/9/21 | Neuropsychological Consultation by F.C.Brown PhD – 10pgs |
| B98 | 2/8/21 | Email from Parent to M.Broadway K.Castellano, M.Woods -2pgs |

NOTE: During the hearing, the parties may have referred to a duplicate exhibit that was not admitted instead of to the version that was admitted. Any such reference to a duplicate exhibit is deemed to refer to the exhibit that was admitted.