

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. Greenwich Board of Education

Appearing on behalf of the Parents: Atty. Meredith C. Braxton, Meredith C. Braxton, Esq., LLC,
270 Greenwich Avenue, Greenwich, CT 06830

Appearing on behalf of the Greenwich Board of Education: Atty. Susan C. Freedman, Shipman
& Goodwin LLP, One Constitution Plaza, Hartford, CT 06103-1919

Appearing before: Attorney Patricia M. Strong, Hearing Officer

FINAL DECISION AND ORDER

PROCEDURAL HISTORY

The Parents' attorney requested this hearing on January 31, 2006. Hearing Officer Exhibit 1. This Hearing Officer was assigned to the case on that date. A prehearing conference was held on February 17, 2006. Ms. Mary Forde, Director of Pupil Personnel Services for the Board stated that the case had been transferred to the Town Attorney's office. The Parents' attorney did not answer her telephone. On February 21 Atty. Abby R. Wadler, Assistant Town Attorney, filed an appearance for the Board. A second prehearing conference was held on February 24 with the Parents' attorney and Atty. Wadler. The parties reported that a resolution meeting on February 9 was not successful. The decision deadline was established as April 17, 2006. The Parents' attorney requested a 30-day extension of the decision deadline in order to allow a Parents' witness to conduct an observation of the Student. The request was granted. Hearing dates were agreed on for April 21 and 27. The parties were directed to file witness lists and exhibits by April 14. The decision deadline was extended to May 17, 2006. On February 27 Atty. Wadler filed a response to the due process request denying that the Board had failed to provide the Student with a "free public education."

On March 11 the Hearing Officer received a request from the Board's attorney to postpone the April 21 hearing date because of the school vacation week of April 17 through 21. The Hearing Officer suggested April 24 or 25 as a replacement date. The parties agreed to postpone the April 21 hearing to April 24. The request was granted and the parties were allowed until April 17 to file exhibits and witness lists. On March 29, the Parents' attorney requested an additional hearing date in May to accommodate a witness. On April 7 Atty. Freedman appeared for the Board in lieu of Atty. Wadler. On April 10 the Parents' attorney requested that the Board's attorney produce seven Board employees to testify on the April 24 and 27 hearing dates and further that the first five on the list be available on April 24. On April 17 the Board's

attorney filed an objection to the request because it did not comply with the Regulations of Conn. State Agencies Section 10-76h-12(b), which requires a minimum of five school days notice of requests for board employees to testify. She offered to have two of the employees available on April 24. On April 18 the Parents' attorney complained that the Board's exhibits and witness list were not timely filed and requested that the April 24 hearing begin in the afternoon, or in the alternative, that it be postponed. On April 19 the Hearing Officer ruled that the Board had only three school days notice of the request for school employees to testify and that both parties timely filed exhibits and witness lists on April 17. The postponement of the April 24 hearing was denied, an additional hearing date on May 11 was scheduled and the decision deadline was extended to June 5, 2006.

The hearing convened on April 24. The Board filed Exhibits B-1 through B-40 and its witness list on April 17. The Parents' attorney withdrew her objection as to timeliness, and those exhibits were received into evidence as full exhibits. The Board filed Exhibits B-41 through B-47 on April 21. They were marked for identification only, subject to the five-day rule. The Parents filed Exhibits P-1 through P-79 on April 17. The Board objected to Parent Exhibits P-31 and P-48. They were marked for identification only. The other Parent exhibits were entered as full exhibits. The Board's attorney stated that there was no evaluation report in the record from Dr. Bogart, the Parents' witness who conducted an observation of the Student. A recess was taken so that the Parents' attorney could retrieve the document from her office, which is across the street from the Board offices. The document was entered as Exhibit P-80 for identification only. The parties presented opening statements. The Parents then presented testimony from the Mother. Her direct testimony was interrupted in the afternoon for the testimony of Jeffrey DeTeso, school psychologist at Greenwich High School (hereinafter "GHS"). The Board's attorney was permitted to expand her cross-examination of the Board employees called by the Parents in order to avoid re-calling these witnesses in support of the Board's case. Mr. DeTeso completed his testimony on April 24.

The hearing continued on April 27 with testimony of Stacey Gross, Cantor Housemaster at GHS. Her direct testimony was interrupted to take testimony from Amy DeNicola, special education teacher at GHS. Additional hearing dates were agreed on for May 22, 24 and 31. The decision deadline was extended to June 26 because of the need for additional hearing dates. Board Exhibits B-48 and B-49 were entered into evidence. Parent Exhibit P-31 was withdrawn. Exhibits P-48 and P-81 were admitted as full exhibits. The hearing continued on May 11 with a discussion of exhibits. The Parents' objection to Exhibit B-47 because it did not contain all the records requested by the Parents under FERPA was overruled. The Hearing Officer has no jurisdiction under FERPA and the Parents were free to supplement the exhibit with additional documents. Board Exhibits B-48 through B-53 were admitted as full exhibits. The Parents filed Exhibits P-82 through P-88, which were marked for identification only. Ms. DeNicola testified on cross-examination. Her testimony was completed on May 22. The Board filed Exhibits B-54 through B-57 on May 16. They were entered as full exhibits on May 22 subject to the Board submitting clean copies without handwriting on them.

The hearing continued on May 24 with testimony from Christopher Bogart, Ph.D., clinical psychology. After motion by the Parents' attorney and extensive voir dire examination, the Hearing Officer ruled that Dr. Bogart could testify as an expert on psychological testing and

evaluation of children, but not as an expert on educational placements for children. Exhibit P-86 was offered as an exhibit, but was not entered because Dr. Bogart had no familiarity with the organization (Florida Center for Reading Research) or the veracity of the information contained in the document. Exhibit P-88 was admitted as a full exhibit. Dr. Bogart completed his testimony on May 31. Exhibit B-58 was admitted without objection. The Mother continued her direct examination on May 31. The Parents filed Exhibit P-89, which was marked for identification subject to the five-day rule. Exhibit P-82 was admitted as a full exhibit. Additional hearing dates were agreed on for June 8 and 21. The decision deadline was extended to July 17 because of the need for more hearing dates.

The hearing continued on June 8 with a discussion of additional exhibits. The Board submitted substitute pages for Exhibits B-54 and B-55. The Parents submitted substituted pages 12-21 in Exhibit P-83. Exhibit P-89 was filed and entered as a full exhibit. Exhibit P-90 (a copy of a police blotter printed in a newspaper) was filed, and then withdrawn after the Board's attorney raised objections. The Board filed B-59, which was marked for identification only. The Mother completed her direct examination and began cross-examination. Additional hearing dates were agreed on for July 13, 19 and 24. The decision deadline was extended to August 17 because of the need for additional hearing dates. The hearing continued on June 21 with objection by Parents to Exhibit B-59, which consists of records from a May 30, 2006 Planning and Placement Team ("PPT") meeting. They contended the exhibit was irrelevant and prejudicial to their rights. The Board argued that the May 30 annual review and proposed IEP for 2006-07 was relevant. The attorneys were requested to file briefs on the issues raised concerning the admissibility of Exhibit B-59. Ms. Gross completed her testimony. Parents then called Christopher Lovermi, Transition Coordinator at GHS to testify.

The parties filed briefs on the admissibility of Exhibit B-59 on June 26. On July 5 a written ruling was issued overruling the Parents' objection and admitting B-59 as a full exhibit. On July 12 the Board's attorney filed a supplemental witness list. On July 13 the Parents presented testimony by telephone from Jeanne Pacheco, Admissions and Placement Director at Riverview School. During her cross-examination, Ms. Pacheco was asked to provide a list of the documents sent to her by the Parents. This list was faxed to the Board offices and marked Exhibit HO-2. The Mother completed her testimony. The Parents offered a new Exhibit P-90 (a letter from the Mother to Ms. Gross), which was admitted as a full exhibit over the Board's objection. The Parents then rested their case-in-chief. The hearing continued on July 19 with a discussion of additional exhibits. The Parents filed Exhibits P-91 and P-92. P-91 was entered as a full exhibit without objection. P-92 was objected to on foundational grounds. It was marked for identification. The Board filed Exhibits B-60 and B-61. B-60 was marked for identification only subject to the five-day rule. Exhibit B-61 was entered as a full exhibit without objection. The certification of the Massachusetts notary public regarding Ms. Pacheco's testimony was entered as Exhibit HO-3. The Board began its case on July 19 with testimony from Lorraine Termini, Special Education Teacher at GHS. The Board continued its case on July 24 with testimony from Ms. Forde, Diane Fox, Speech and Language Therapist at GHS, and Rebecca Schopfer, Regular Education Teacher at GHS. Ms. Schopfer testified by telephone from Florida before Thomas J. Mobert, a Florida notary public. The Hearing Officer asked Mr. Mobert to send a written certification regarding the oath, that no one else was present in the room and that the witness had no documents before her. As of the date of this decision, he had not sent the

certification. The Board rested its case. The Parents presented rebuttal testimony from both Parents. Exhibit P-92 was entered as a full exhibit during the Father's testimony. Both parties rested.

The parties requested time to file briefs. It was then agreed to file simultaneous briefs by August 23 and not to file reply briefs. The decision deadline was extended to September 18, 2006 to allow time to write the decision. The Hearing Officer sent the attorneys a letter on August 14 confirming these dates. The Parents' attorney sent a letter stating that she had objected to the schedule and asked for an expedited briefing schedule to obtain a decision before the start of the 2006-07 school year. Although the Parents' attorney asked for a two-week briefing schedule, the Board's attorney had a previously scheduled vacation during that period. The Parents' attorney had been allowed time during the course of the hearing for her vacation from June 26 to July 11. In view of the length of the hearing and the accommodations made to the parties' schedules, the Hearing Officer allowed the attorneys 30 days to file briefs.

The findings and conclusions set forth herein, which reference specific exhibits or witness' testimony, are not meant to exclude other supportive evidence in the record.

ISSUES

The Parents submitted the following issues for the hearing:

1. Did the Board offer the Student a free appropriate public education ("FAPE") as set forth in the June 6 and December 20, 2005 PPT meetings for the 2005-2006 school year?
2. Did the Board offer the Student a free appropriate public education ("FAPE") as set forth in the May 30, 2006 PPT meeting for the 2006-2007 school year?
3. If not, would the Parents' proposed residential placement at Riverview School in East Sandwich, Massachusetts provide the Student with a FAPE for the 2006-2007 school year?
4. Is the Board financially responsible for placing the Student at Riverview School for the 2006-07 school year?

SUMMARY

The Student is a 17 year-old student at GHS. He completed his junior year in June 2006. He has been educated in the Greenwich Public Schools throughout his school career. He is entering his senior year of high school and is expected to participate with his classmates in graduation, the senior prom and other activities with his senior class. The parties agree that he is entitled to special education under the category of Autism. The Student will continue his eligibility for special education and related services until age 21. At the December 20, 2005 PPT meeting, the Parents for the first time requested an out of district placement. They did not request a specific placement or mention that a residential placement was sought. They filed for due process on January 30, 2006 requesting a residential placement at Riverview School. In that request for due process, the Parents allege that the Board has failed to provide the Student with a

FAPE since his entry into GHS. They allege that the Student has regressed in his reading ability since eighth grade and that he has not made progress academically or socially. Specifically, they claim that the Student's academic program is deficient because it lacks any measure of progress, it lacks "research-based, effective methods of instruction," the classroom composition and structure are not appropriate, no transition services are included that focus on improving his "academic and functional achievement" or facilitate his movement from school to post-school activities, and it is not designed or effective in enabling the Student to access the general curriculum, make academic progress, develop social skills or independent living skills. Exhibit HO-1. The Board contends that the Student must be educated in the least restrictive environment ("LRE"), which is at GHS. The Board further contends that the Parents have agreed to the goals and objectives of the IEPs for ninth, tenth and eleventh grades; that the Student has made progress on these IEPs and that there is no evaluation that was presented to a PPT meeting which has recommended a 24-hour educational placement at a residential facility. The Board argues that the IEPs for 2005-06 and 2006-07 offered the Student a FAPE in the LRE.

The Findings of Fact incorporate various portions of the Parties Proposed Findings of Fact.

FINDINGS OF FACT

1. The Student is 17 years old and recently completed eleventh grade at GHS. (Testimony of Mother and Ms. Gross; various Board and Parent Exhibits).

2. The Student (also referred to as "W.") has attended Greenwich public schools since kindergarten. He has received special education services within the Greenwich Public Schools since preschool age. In second grade he was diagnosed with Pervasive Developmental Disorder ("PDD"). Testimony of Mother.

3. His primary disability under the Individuals with Disabilities Education Act (IDEA) is autism. Exhibit B-2.

4. The Parents stipulated that they received procedural safeguards for every planning and placement team ("PPT") meeting held for the Student. Statement of Parents' attorney. The Mother attended all PPT meetings except one where the Parents waived attending a PPT meeting held on October 18, 2004. Exhibit B-10. In March 2006 corrections were made to an IEP without a PPT meeting in accordance with the Parents' request. Exhibit B-26. The Father also attended several PPT meetings. Exhibits B-8; B-9; B-12; B-13; B-16; and B-24.

5. In winter 2003, the GHS staff began planning for W.'s arrival at GHS well before the start of his ninth grade year (2003-2004 school year). Testimony of Ms. DeNicola. This is called the articulation process. As part of this process, staff from Central Middle School met and conferred with relevant staff at GHS to help the High School staff better know W. prior to the PPT at which the staff of both schools, together with the Parents, would develop W.'s ninth grade IEP. Id.

6. On June 19, 2003, the PPT met to conduct an annual review of the Student's eighth grade year and to develop an IEP for ninth grade. Staff from both the middle school and

high school attended. Exhibit B-2. A reevaluation of the Student's occupation therapy ("OT") needs was reviewed, and it was determined that he was no longer eligible for direct OT services. Christina Pratt, OTR/L for the District, found that the Student was independent in self-help skills during the school day, including clothing management, lunch and bathroom routines and locker management. She found that he had made progress in handwriting and that overall, his handwriting is legible and is not preventing him from completing his class work. He was using keyboarding skills, which is an area of strength for him, to supplement his handwriting. Ms. Pratt recommended consideration of using an Alpha Smart (portable word processor) to take notes during class. Exhibit B-1.

7. The PPT reviewed the Student's present levels of functioning in reading/language/written expression; math, nonacademic areas, social/emotional and communication. In the areas of vocational/transition, vision and hearing, fine motor, gross motor and activities of daily living, the Student was age appropriate, so no further notations were made in those categories. The preferences and concerns of the Parents for his program were noted in each of the categories in the IEP. Exhibit B-2. Goals and objectives were written for the Student's ninth grade year in the areas of reading comprehension and written expression, math, completing the ninth grade curriculum with modifications and social skills. His services hours totaled 10 hours 26 minutes special education; 36 minutes of related services (speech therapy/social skills), 29 hours 40 minutes in regular education. Id.

8. The Student was eligible for academic services in the summer. The Parents declined those extended school year ("ESY") services. Id.; and testimony of Mother.

9. In June 2003 the Board conducted testing in the areas of reading, math and written expression. Exhibit B-3. On the Key Math test the Student's overall grade equivalent was 6.0 at the end of eighth grade. On the Test of Written Language ("TOWL") his overall score was in the 5th percentile. On the Woodcock Reading Mastery Revised the Student's total reading cluster was 5.0 grade equivalent. It was noted that in each of these areas, the Student met goal for that year. Id.

10. The school staff shared their recommendation that W. not be placed in regular education math and English classes because of the "fast pace," "abstract concepts," "his comprehension skills," and "his math applications and skills level." Exhibit B-2. The school staff therefore recommended a more functional academic program, which the Parents rejected. Testimony of Ms. DeNicola and Mother.

11. The Student received small group instruction from a special education teacher in the areas of reading, writing and math. He received related services of speech and social skills in a group setting with both disabled and typical peers. Testimony of Ms. DeNicola.

12. The PPT developed a program that followed the Parents' preferences and included regular education English, biology, social studies, physical education and elective courses (art and T.V. production), as well as special education math (everyday math), small group special education reading (prep reading), individual support room, and social skills with integrated speech and language therapy. Exhibits B-2 and B-50.

13. The Parents did not express any disagreement with the IEP goals and objectives or the schedule of classes at that time. Exhibit B-2 and Testimony of Mother and Ms. DeNicola.

14. The small group instruction for reading and math consisted of approximately 10 students. In addition, W. received instructional support in his individual support room periods. Ms. DeNicola, a special education teacher and W.'s individual support room teacher and monitor for his freshman and sophomore years (2003-2004 and 2004-2005) assisted only a small number of students in the support room, usually no more than 3 other students. Testimony, Ms. DeNicola.

15. The Team further agreed that W. would receive his speech therapy in the social skills class (two thirty-minute sessions per block) and that the speech and language pathologist would consult with his teachers. Exhibit B-2. Diane Fox, a speech and language pathologist familiar with W.'s program, explained that the social skills class in which W. participated was co-taught by the speech pathologist and a special education teacher. The teacher and/or speech pathologist were also joined, on occasion, by the school social worker or psychologist. This level of staffing in the class provided opportunities for direct language instruction, as needed. Testimony of Ms. Fox.

16. This format is supported by research and by Ms. Fox's experience. She has worked with autistic children with speech needs since 1991. Ms. Fox is very well trained in this area. She has been the Student's speech therapist since ninth grade, except during her maternity leave last year. She was involved in the articulation process for W.'s transition to GHS, where she has been on the staff since March 1996. She along with three other teachers developed the social skills curriculum in the summer of 2002. Id.

17. The groups consist of 8-10 students, 1-4 typical peers and 2-3 paraprofessional aides. The aides attend so that they can work with the students on social skills outside of the class. The large group is often divided into small groups of two students and one typical peer, so that skills can be generalized. The typical peers generally are participating as part of their community service requirement of the social studies civics class. Their modeling of appropriate behavior is very valuable to the students. The Student did not need 1:1 speech services from a speech therapist. Id.

18. The 2003-2004 IEP also continued the use of assistive technology, namely access to and use of a computer with reading and writing programs. Testimony of Ms. DeNicola; Exhibit B-2.

19. W.'s ninth grade program was overseen by Ms. DeNicola, who worked closely with W. as his monitor and support room teacher. One of her primary responsibilities was to generalize the skills and curriculum through pre-teaching, re-teaching and modification of the academic content and pace. She also regularly modified the content and assignments of his regular education courses to make them accessible to him, including using the techniques of pre-teaching and re-teaching to help reinforce the content and skills he was learning. Testimony, Ms.

DeNicola. Additional modifications included preferential seating, modified worksheets and content and shortened tests. Exhibit B-2.

20. In the middle of ninth grade, problem behaviors were developing with W. Jeff DeTeso, school psychologist, was asked to develop a behavior plan or rewards plan to address W.'s executive functioning deficits, such as "staying focused in class, raising his hand, participating with the teacher, writing in his planner." Mr. DeTeso collected data on a variety of behaviors in each of W's classes. Exhibit B-39. The behavior plan was a necessary component of W.'s program, because it provided him with the ability to access academic skills. The behavior plan was designed "to help [W.] further access the general education curriculum and to participate to his full potential." Testimony, Mr. DeTeso.

21. A PPT was held on May 5, 2004 to conduct W.'s annual review and to develop his program for 2004-2005, his tenth grade year. Exhibit B-8. At this PPT, Ms. DeNicola described W.'s progress in his ninth grade program. This progress included W.'s ability to write a three-paragraph essay with graphic organizers and direct teacher support, as well as his ability to write a paragraph with three descriptive sentences. Id. He mastered approximately 74% of the objectives, and he made good progress towards mastering the remaining objectives. Id.; and Exhibit B-38. Mr. Bloch reported W.'s progress in mainstream history and English classes. Ms. Fox reported improvement in W.'s pragmatic language skills, including his ability to identify components of social concepts. Exhibit B-8. His progress reports on each of the 19 objectives and how each was evaluated is documented at pages 6-9 of Exhibit B-2.

22. In determining W.'s progress towards the goals and objectives in his IEP, the Team used data collection. Id. Data collection was determined to be an appropriate way to measure his progress because it is done over a period of time and demonstrates that the Student could repeat the behavior or skill. Testimony, Ms. DeNicola.

23. The PPT reviewed W.'s Present Levels of Education Performance ("PLEP"), including his strengths and weakness in the areas of academics, nonacademics, social/emotional, communication and transition skills. Exhibit B-8. There were no concerns or preferences expressed by the Parents relative to the PLEP. Although they complained in their testimony that they did not agree with the statements, they never sought to correct this information in the IEP. Id. and Testimony of Mother.

24. One of the purposes of the PPT meeting was to plan the Triennial Evaluation. The Parents requested that the Team postpone it so that they could review the Triennial Evaluation Worksheet. Exhibit B-8. The Triennial Evaluation planning was completed at a later PPT held on June 11, 2004 at which the Parents agreed that triennial testing need not be done. Exhibit B-9.

25. The school-based members of the PPT recommended continuing W.'s small group instruction in reading and math and the academic support room for his sophomore year. Exhibit B-8. They again recommended a more functional program for W. The school staff recommended a functional science class--a co-taught, practical, hands-on chemistry class with small group instruction. The Parents rejected this chemistry class in favor of regular education classes. Testimony of Mother.

26. The PPT proposed eight goals, including an added goal related to W.'s independence and transition skills. Exhibit B-8. That goal was designed to help W. verbalize his strengths and weaknesses. This would assist him as he moved toward graduation and post-school activities. The IEP added individual counseling with a school social worker to identify social cues accurately and respond appropriately, to communicate his thoughts, feelings and ideas in an appropriate manner, to initiate peer contact and maintain a positive relationship with a peer, to ignore teasing by peers, and to discuss problematic situations with a trusted adult. Id.; and Testimony Ms. DeNicola. This service helped address W.'s perception that he was being teased or harassed. Id.

27. The proposed IEP included a functional academic goal in math. Exhibit B-8. The Parents requested that this math goal and objectives be revised because the Parents did not think activities such as writing a deposit slip and a check were goals to focus on for a year. They also complained about the general nature of the other goals and questioned what his level of reading, writing and math was. Exhibits P-34. Proposed Goal #2 stated: "[W.] will complete banking and budgeting problems in the everyday math curriculum by May 2005." Exhibit B-8 at 8. At the Parents' request, the math goal was amended at a later PPT meeting on June 11, 2004. Goal #2 was changed to: "To complete problems with place value, division with remainders, estimation and decimal points." Exhibit B-9 at 8.

28. The PPT also recommended and offered W. ESY services for the summer between his ninth and tenth grade. The Parents, however, declined these services, choosing, instead, to send him to a day camp in Greenwich. Exhibit B-8. A Student with W's academic concerns should receive academic services over the summer to prevent regression. Testimony of Stacy Gross. W. did not receive any academic services in the day camp program. Testimony of Mother.

29. During W.'s tenth grade year (2004-2005), the school staff continued to provide significant modifications to his content area courses of American History and English. Ms. DeNicola described how she modified the content and assignments so that the courses and curriculum would be accessible to him: "[his] goals and objectives were addressed through the content area curriculum, taking a social studies unit on the Revolution, bringing it down to a reading level that [W.] could read, and then answering comprehension questions about that piece of reading. Address not only the content area, but also [his] reading goal of being able to answer questions in his reading passages. And then taking a writing sample or an essay he had to write about social studies class and tailoring it so that it addressed his IEP goals and objectives in writing... His content was the same unit that the regular ed class was reading. His content was modified for maybe the amount that he was working on. Working on three or four pieces in more depth, rather than tiny details, especially in History that's always difficult. But -- so that he could participate in the content that was going on in the classroom." Testimony, Ms DeNicola, 5/11/06 at 161-162.

30. Ms. DeNicola also used well-established techniques and methods to help W. acquire additional reading and writing skills, such as the use of a graphic organizer. This enabled W. to read, understand and write about a book, Huckleberry Finn, which his regular education English class was working with. See Hero Essay, Exhibit B-46 at 12-13. Additional

class assignments related to Huckleberry Finn, such as journal entries and character poems, were also modified for W. Id. at 6-11.

31. The PPT met on October 18, 2004 to consider modifications to W.'s tenth grade program. The Parents waived their right to attend the meeting. Exhibit B-10. The team agreed to increase W.'s individual support room periods from six to nine periods per cycle to provide him with more support in his academic classes. The time in special education was increased to 12 hours 11 minutes per week, with 54 minutes of related services and 20 hours 40 minutes of general education with non-disabled peers. Id.

32. The PPT also modified the behavior plan (rewards system) in accordance with the suggestions of W.'s private therapist, Dr. Christopher Bogart. The modified plan implemented a points system of rewards for positive behavior. With 340 points, the Student would be rewarded with a new video game from his Parents. The target behaviors were seeking help from the aide or teacher, writing homework assignments in his planner, having his papers in the proper place in his binder and class participation (raising his hand once per class). Id.; and Testimony of Mr. DeTeso.

33. On December 21, 2004, the PPT met at the request of the Parents to determine whether an evaluation need existed. The Parents asked for updated reading/writing/math skills performance data. The Parents and the school staff agreed that Ms. DeNicola would perform informal reading/writing and math inventories with W. The PPT reviewed W.'s progress reports on his IEP goals and objectives. His progress on content area curriculum was unsatisfactory. The PPT also reviewed W.'s progress in his revised behavior plan. Mr. DeTeso made graphs to demonstrate W.'s performance in his reward system plan. The graphs showed the improvement in his executive functioning skills based on the changes made to his reward system. Exhibit B-12 at 13-23. The PPT agreed that W.'s participation on the Connecticut Academic Performance Test ("CAPT") would consist of completing the CAPT Skills Checklist. Id. at 3; and Exhibit B-14.

34. The PPT met on March 15, 2005 to review the results of Ms. DeNicola's informal inventories. Exhibit B-13. The Parents and Ms. DeNicola raised concerns about W.'s progress. Ms. DeNicola administered the Woodcock Johnson III Tests of Achievement on February 1, 2005. W's scored a Standard Score of 80 (9th percentile) on Broad Reading, 88 (21st percentile) on Broad Written Language, 75 (5th percentile) on Math Calculation Skills, 93 (32nd percentile) on Written Expression, 76 (5th percentile) on Academic Skills and 85 (15th percentile) on Academic Fluency. Id. At 4-6. She explained that the standardized scores did not reflect his progress on his IEP, that they would use portfolio assessment and select his actual work samples to show how much progress he had made. Test scores did not show progress in his ability to be more independent in school or in his behavior plan reward systems. Testimony of Ms. DeNicola.

35. Based on the testing and the discussion at the March 15, 2005 PPT, the school-based PPT again recommended a more functional program because W. was having more trouble with the content area classes and Ms. DeNicola suggested it to prepare him as he become older and needed those life skills. Id. When the Parents refused this recommendation, the PPT agreed to increase W.'s aide support in his elective classes. This change necessitated a change of monitors. The Mother asked to meet with Ms. DeNicola and the new monitor. The Parents said they would

contact the team with their decision after the meeting. They also requested that Mr. DeTeso observe W. in his classes. Exhibit B-13.

36. At the March 15, 2005 PPT, the school staff reviewed with the Parents the Transition Checklist. Exhibit B-43 at 2. This was an important tool to help W. focus on the need to take more responsibility, to develop his own career plans, start looking at post graduation, possible careers, extracurricular activities and electives that interest him. Although it was recommended that the Student attend his PPT meeting to discuss these issues, the Parents did not want him to participate in PPT meetings. Testimony of Ms. DeNicola.

37. During W.'s tenth grade year, the school staff also recommended more community-based instruction for him. This was one of the elements of the Levels of Support Matrix for the Life Academic and Social Supports ("LASS") services at GHS. W. was in LASS at Level I in ninth and tenth grade. The staff evaluated his level of services in November 2004 and again in May 2005. *Id.*; and Exhibit B-44.

38. Mr. DeTeso conducted the requested observations on April 8 and 11, 2005. Exhibit B-15. He noted that W. "appeared to be on task more often when he was in classes that were instructed by Special Education teachers (i.e. Reading and Everyday Math)." He also noted that the physical size of the class made a difference. In Reading class, W. was one of four students. In Everyday Math, he was one of five students. W.'s on-task behavior improved when W. was continually prompted. He concluded that: "[W.] demonstrates with significant deficiencies in his ability to remain focused and independently work diligently." *Id.* Mr. DeTeso reviewed his observations with the Parents and the school staff at the PPT held on May 3, 2005. Exhibit B-16. This PPT also conducted an annual review of W.'s program. Given Mr. DeTeso's observations and the reports of the school staff regarding W.'s increased need for modified schoolwork, the school staff recommended increasing the amount of time W. would spend in a smaller, more structured environment, such as his special education classes and individual support room. *Id.* The staff wanted to provide this additional support to W. through the GHS LASS II umbrella of services. Specific recommendations were: "Group aide support in all classes, Daily social skill supports, Modifications to all curriculum/parallel curriculum, Life skills, community based instruction and post secondary planning, job coaching, Skill based instruction in a separate setting (reading, writing and math), May substitute courses for GHS requirements, Modified grades in all courses, audit classes or take them Pass/Fail, and Consistent behavioral supports." Exhibit B-17. The Parents asked for time to review the recommended changes and to speak with Dr. Bogart before responding to these recommendations. Exhibit B-16; and Testimony of Mother.

39. On May 31, 2005, Ms. DeNicola made a disciplinary referral of the Student to Ms. Gross because of a "terrible attitude," refusing to work and insubordinate. Ms. Gross gave the Student an after school detention. Exhibit B-18.

40. The Parents informed the school staff that they did not agree to the school staff's recommendations at the June 6, 2005 PPT, providing the school staff with a list of twelve concerns regarding W.'s program. Their attorney and Dr. Bogart accompanied the Mother to the PPT meeting. The Father did not attend the PPT meeting. Exhibits B-19, P-63 and P-66.

41. Their concerns were: that W. was not “reaching his learning potential” in reading, math and writing; his IEP goals are too general; the measurement of the IEP goals is too general (they wanted his progress measured by grade levels); LASS II environment is not appropriate (not least restrictive environment) for W.; attention must be brought to Aide intervention (including Parents want to interview Aide and know her qualifications and duties); W.'s attention span too limited and obsessive (W. will have his psychiatrist review medications); use of technology to assist W. (Parents want lap top instead of writing or writing by talking technology); need for modified reward system (W. will receive 15 minutes of play time instead of receiving a game at the end of his points); exit criteria must be age 21 not graduation; check that Parents receive progress report; involvement of ARC for transition planning; and reasons why school denies Parents or private psychologist access to observe W. in a school setting. Exhibit P-66.

42. They also had a list of requests: modified courses for eleventh grade (marine biology with aide, civics with aide, reading, math and writing with 1:1 instruction, clay with aide, social skills, and gym with aide); see curriculum, with “suggested modifications,” prior to the beginning of each grading period; know how aide will intervene in assisting W. to achieve his goals; scheduled meeting and open communication through telephone or e-mail with the Special Education teacher; and permission for Dr. Bogart to observe W. in class during the school year and have open communication with school personnel. Id.

43. With respect to measurement of progress and goals and objectives, the school staff reviewed W.'s PLEP with the Mother. Exhibit B-19. The school staff also shared W.'s progress towards his goals and objectives in his IEP. The Mother's concerns were expressed during a pre PPT meeting. She had concerns with the level of difficulty of W.'s English and social studies curriculum. She did not express any concerns regarding math. She did have concerns regarding choosing electives in which W. can participate and areas of socialization. In the social/emotional area she expressed concerns about W.'s difficulties determining appropriate social behaviors and maintaining focus. There were no concerns noted in the communications and vocational/transitional areas. The PPT agreed that W. would continue in his special education math and reading classes. Id.

44. The PPT also agreed to provide W. with three additional support sessions, from nine to twelve sessions per cycle and designed a LASS 1.5 umbrella of support and services. The increased support necessitated a change of special education monitors from Ms. DeNicola to Mr. John Prizzio. The school staff agreed that W.'s exit criteria would be changed to age 21. They further agreed that the school staff would conduct a multi-disciplinary assessment of W., including a vocational assessment. Id.

45. Ten goals were proposed in academic and nonacademic areas. The proposed services were 13 hours 55 minutes of special education, 54 minutes of related services and 18 hours 56 minutes of general education. W. would continue to receive speech services through the social skills class. He would meet with the social worker for individual counseling once per cycle. The special education teacher would consult with the regular education teacher, social worker, psychologist and speech and language pathologist twice per cycle. Id. at 19. The Student's behavior plan was modified so that his points sheet would be sent home daily for

rewards in the form of two minutes of video game time for each point earned. Id. at 24. There was no disagreement noted in any aspects of the IEP. Id.

46. The schedule provided that W. would remain in regular education classes for Civics, Contemporary America and Marine Science. W. would take a vocation exploration course, Occupations, which was taught by Mr. Christopher Lovermi, the High School's transition coordinator. Exhibit B-22.

47. W. had mastered the goal of identifying and verbalizing his personal strengths and weaknesses by May 2005. Exhibit B-41 at 21-36. New transition goals were added to his junior year IEP. Exhibit B-19.

48. John Prizzio provided students with community-based programming, which is an every other Friday community experience where the students go to Greenwich Avenue and spend the better part of the morning and early afternoon with a goal or lesson plan associated with either buying lunch or locating products in a store. This community-based instruction teaches important life skills and reinforces academic, social and daily living skills. Testimony of Mr. Lovermi.

49. W.'s junior year program also included a prep reading class with a reading teacher as well as reading support with Mr. Prizzio. He also assisted W. with modification of W.'s regular education classes, and he worked with regular education teachers to address any concerns they were having regarding W. Testimony of Ms. Gross and Ms. Termini.

50. The PPT was scheduled to meet on November 15, but was canceled at the Mother's request. It was rescheduled for December 13, but was again canceled. The PPT met on December 20, 2005 to review and discuss the results of the multi-disciplinary assessments performed by Ms. DeNicola (achievement testing), Mr. DeTeso (psychological evaluation) and Mr. Lovermi (vocational assessment). The Parents attended this PPT with Attorney Braxton, Dr. Bogart, W.'s private psychologist, and Dr. Foster, the Student's psychiatrist. Also in attendance were Ms. Gross, Ms. Rebecca Schopfer, Mr. Prizzio, B. Smith, school social worker, and A. Haley-Banez, guidance counselor. Exhibit B-24.

51. Mr. Lovermi administered the Career/Vocational Assessment to determine the Student's vocational strengths and abilities. The results were: Mechanical Reasoning 6 (68th percentile), Spatial Relations 4 (32nd Percentile), Verbal Reasoning 2 (8th Percentile), Numerical Ability 1 (2nd Percentile), Language Usage 1 (2nd Percentile), Word Knowledge 2 (8th Percentile), Perceptual Speed and Accuracy 3 (17th Percentile), and Manual Speed and Dexterity 7 (83rd Percentile). Mr. Lovermi noted that W. demonstrated strong ability in Manual Dexterity and above average ability in Mechanical Reasoning. He developed a list of career clusters for W. to investigate. He also made several recommendations, including a post-secondary program for 18-21 year olds such as Basic Occupational Education ("BOCES") or an independent living/residential program such as VISTA or Chapel Haven. Exhibit B-25. W. was already participating in Mr. Lovermi's Occupations class, which was an important first step in transition planning, because it provided W. with an introduction "to what the world of work is all about, to begin exploring interests for the future, to begin to explore postsecondary options and to learn a little bit about maybe where they'd like to be and where they'd like to go in the future,"

including discussions between Mr. Lovermi and the students about the areas of work. Mr. Lovermi also met with W. “individually to develop further goals and objectives -- transition goals and objective for next year.” They discussed “our plan to do some in-school exploration regarding job sites, internship sites.” Testimony of Mr. Lovermi.

52. Mr. DeTeso reviewed the results of his psychological evaluation. Exhibit B-21. He administered the following measures: Clinical/Diagnostic Interview with the Student, Review of Records, Classroom Observation on April 29, 2005, Wechsler Adult Intelligence Scale – Third Edition (WAIS-III) – age norms; Wide Range Assessment of Learning – Second Edition (WRAML – II); Behavior Inventory of Executive Functioning (BRIEF) – Parent, BRIEF – Teacher, BRIEF – Self; Conners' Continuous Performance Test – Second Edition (CPT – II); Stroop Color and Word Test; Comprehensive Trail Making Test (CTMT); and Tower of London. These evaluations occurred on September 14 and 16 and October 3, 2005. His report was dated October 17, 2005. Id. Mr. DeTeso noted that W. had significant difficulty with attention and executive functioning skills. He struggled with the ability to stay on task or remain on task for prolonged periods of time. He also had a difficult time in answering questions with more than one or two word responses. He struggled when asked to complete tasks under timed constraints. On the WAIS – III W.'s overall intellectual functioning was in the Borderline range with a Full Scale IQ of 74 (4th Percentile). His true IQ is likely to be in the range of 70-79. W.'s score of 69 (2nd Percentile) on the Working Memory Index fell into the Intellectually Deficient range. W.'s Processing Speed Index score of 73 (4th Percentile) falls in the Borderline range. Id. These scores on working memory and processing suggest that W. would continue to struggle academically. Testimony of Mr. DeTeso.

53. The WRAML – II was administered to assess processing strategies involved in learning and recalling verbal and visual material. W.'s scores fell in the Intellectually Deficient range, including a score of 55 (0.1 Percentile) on the General Memory Index, 64 (1st Percentile) on the Verbal Memory, 67 (1st Percentile) on the Visual Memory and 55 (0.1 Percentile) on the Attention/Concentration portion. The BRIEF Rating Scales showed that W.'s Parents and all of the three teachers reported clinically significant Global Executive Composite scores. This suggests difficulties in the areas of executive functioning. His teachers reported clinically significant Behavioral Regulation Index scores. This suggests his difficulty appropriately self-regulating may impact W.'s ability to problem solve. All raters reported clinically significant Metacognition Index scores. This suggests significant weaknesses in his ability to self-manage tasks, monitor his performance and actively problem solve. Exhibit B-21.

54. The CPT II is a computerized test of attention. W.'s overall performance suggested that his profile better matches a non-clinical rather than a clinical ADHD profile. The Stroop assesses processing speed using words and colors. W.'s scores were in the Low Average range, which suggests speed of processing as an area of concern. Id. The CTMT measures executive functioning in how well one can shift cognitive set (ability to understand and revise plans in order to problem solve in the face of obstacles) and inhibit distraction (think before you act in order to discern essential from nonessential stimuli). His score of 30 (2nd Percentile) fell in the Mild to Moderately Impaired range. The TOL tests executive functioning in the areas of planning and organizing. His Total Move score was in the Extremely Low range. His Total Problem Solving Time score of 54 was in the Intellectually Deficient range. These findings further support W.'s significant executive functioning difficulties under timed conditions. Id.

55. Ms. DeNicola administered the Gray Oral Reading Test (GORT 4) on June 15, 2005. She administered the Wechsler Individual Achievement Test (WIAT-II) on June 10, 14 and 15, 2005. Exhibit B-20. Ms. DeNicola reported that W. was working consistently throughout the testing and his level of attention was maintained. She thought that the results were a fair and accurate appraisal of his current reading skills. On the GORT 4 W.'s Standard Scores were: Rate 6, Accuracy 5, Fluency 3 and Comprehension 4. The standard scores have a norm of 10 and a standard deviation of 3. Scores of 8, 9, 10, 11 and 12 are considered average. The sum of W.'s Fluency and Comprehension scores was 7, which is less than 1 Percentile. Ms. DeNicola also converted the scores into percentile, age equivalent and grade equivalent scores. For Rate the scores were 9th Percentile, 10.6 years and 5.4 grade equivalent. For Accuracy the scores were 5th Percentile, 10.3 age and 5.2 grade equivalent. For Fluency the scores were 1st Percentile, 10.6 years and 5.4 grade equivalent. On Comprehension the scores were 2nd Percentile, 8.9 age and 3.7 grade equivalent. At the time of the testing W. was 16 years old and completing grade 10. Id.

56. The WIAT – II testing was done in the areas of reading, math, writing and oral language. Each area had two or more subtests. Standard scores have a mean of 100 and a standard deviation of 15. The test manual states that comparison of age and grade equivalent scores between subtests may be inaccurate. They do not form equally spaced units throughout the scale. Ms. DeNicola reported that of the 34 reading comprehension questions, W. received a score of 0 for 26 of them, a score of 1 for 5 of them and a full credit score of 2 on 3 questions. His Reading Composite score was 66 (1st Percentile). The Math Composite score was 65 (<0.1 Percentile). His Writing Composite score was 65 (1st Percentile). His Oral Language Composite was 47 (<0.1 Percentile). Overall his skills were in the very low classification range. Id.

57. Given the results of these assessments and the information shared at the December 20, 2005 PPT, the school staff recommended changes to the June IEP including adding research-based computerized reading and math programs “to support W.’s strength in visual learning.” Exhibit B-24. Mr. Prizzio proposed adding goals and objectives in the areas of math and reading based on the computer-based programs. The team recommended that W. remain in the special education reading and math classes as well. Id. at 19-20. There were no concerns or input expressed by the Parents as to the assessments or the PLEP noted by the school staff. Id. at 6-8.

58. The Father requested an outplacement for W. The Parents did not request or specify a particular program or the components of the program. They did not inform the PPT that W. required a residential placement in order to be educated. Nor did Dr. Bogart, who attended this PPT at the request and invitation of the Parents, inform the Team that he believed W. needed a residential placement in order to be educated. They also did not raise any concerns regarding W.’s independent or daily living skills, which were labeled age appropriate on the IEP documents. The school based team refused the Parents' request for an outplacement because they believed that the IEP offered an appropriate program to the Student in the LRE. Id.; and Testimony of Ms. Gross.

59. On March 6, 2006, Ms. Gross provided the Parents with updated and corrected goals and objectives to correct a computer error in the December 2005 IEP. The updated IEP contain progress reports on the goals and objectives through January 13, 2006, including the two

new goals using computer-based reading and math programs to improve comprehension skills and problem solving. Exhibit B-26.

60. Dr. Bogart first evaluated W. in 1996 when he was in first grade. His Parents brought him in for psychological testing and evaluation. In 1999 Dr. Bogart updated W.'s evaluation. At that time he administered the WISC – III to W. who scored 69 on Verbal and 75 on Performance with a full-scale IQ of 71. The last time he did formal testing was in 2000. His diagnostic impression was that W. was a child with a “difficult constellation of behaviors.” He has some symptomatology of PDD, including problems with social skills, motor development, executive function, attention, working memory, the ability to transfer information to long-term memory. His formal diagnosis was PDD NOS, ADHD combined type, and Generalized Anxiety Disorder, night terrors, panic. W. has autistic traits such as imitating things and other children's behavior and perseveration. He has a constellation of academic difficulties. Dr. Bogart observed W. in school twice during his eighth grade year at Central Middle School, once at the request of a special education administrator and once at the Parents' request. Testimony of Dr. Bogart.

61. During W.'s ninth grade year he had 10 visits with Dr. Bogart. His Parents were seen periodically. In W.'s tenth grade year he had visits with Dr. Bogart every two to three months. The concerns were behavioral rather than academic. In W.'s eleventh grade year, he had two visits with Dr. Bogart, the last one being in February 2006. He has not seen him for therapy this school year. His anxiety and perseveration have improved to where W.'s anxiety does not impede him. None of Dr. Bogart's evaluations or testing results was offered as exhibits in the record. Dr. Bogart agreed generally with the testing and evaluation done by Mr. DeTeso in October 2005. Dr. Bogart thinks that W. could potentially achieve in the sixth to seventh grade range academically. Test results can be negatively affected by his attention problems. Id.

62. In preparation for his testimony in this hearing, Dr. Bogart observed W. in his GHS program on March 22, 2006, for three hours. The observation was conducted on a single day. Dr. Bogart observed W. in two mainstream academic classes (Contemporary America and Marine Science), his special education math class, and “for a few moments at the beginning of his day when he was in the academic support classroom.” Exhibit P-80.

63. The Marine Science class was co-taught by Mr. Prizzio and Ms. Schopfer. In addition, there were two aides in the class. Dr. Bogart commended the regular education teacher and the aides, but he thought the material was far above W.'s level. In the Contemporary America class a 50-minute film strip was shown on the Korean War. The Student had difficulty attending to it and the material was far above his level. Based on this observation, Dr. Bogart concluded that the regular education classes were not appropriate for W.H., because they “were above his level of comprehension and retention . . . and require extensive modification.” Id.; and Testimony of Dr. Bogart.

64. In the special education math class, Dr. Bogart thought that W. was the highest or one of the two highest functioning students of the eight in the class. He thought the class was below the Student's ability. He did not observe W. in his Special Education Reading class or speak with the Special Education Reading teacher who was working with W. He also did not ascertain what programs were being used in the reading program other than the computer-based

program used by Mr. Prizzio. Dr. Bogart also did not observe W.'s social skills class or his community-based program. Id.

65. Dr. Bogart concluded that W. had failed to make substantial progress since his middle school years and that he needed a "specific program targeted at students with substantial learning and emotional issues." He stated that such a program "will need to possess a curriculum composed of empirically-based interventions to improve reading, writing, and mathematics skills; to strengthen functional life skills; and provide vocational intervention to prepare for his adult years." Exhibit P-80 at 6. He never presented his recommendations to a PPT meeting.

66. Dr. Bogart testified that he was not aware that W.'s program at GHS included community-based programming. He was aware, however, that W. was placed in regular education classes at the request of W.'s Parents. He wasn't aware specifically that English was one of the classes, but he knew that they wanted him involved to whatever extent possible. Testimony of Dr. Bogart.

67. On May 4, 2006 Dr. Bogart observed the Riverview School in East Sandwich, Massachusetts at the request of the Parents. He spent approximately two hours there, 45 minutes visiting three classes (15 minutes each in language arts, writing and computers) and the remainder in a meeting with Ms. Nancy Hopkins, an admissions specialist. Exhibit P-88; Testimony of Dr. Bogart.

68. After this visit, Dr. Bogart concluded that Riverview is an appropriate program for W. and that he should attend there as a junior so that he could have two full years of high school there. His reasons were that W. would have classes with students like him since all of the high school students carry a diagnosis of PDD, Asperger's Syndrome, Autism and/or nonverbal learning disability. Students are assigned to academic classes based on their skill level. They have two hours daily of reading and language arts, one hour of math and one to two one-hour elective classes. After school there is a mandatory 1.5 hours of sports and extracurricular activities. There are weekly community-based activities. In the evening there is a mandatory one hour of homework followed by mandatory work-outs in the fitness center. Students are taught cleaning skills and are responsible for keeping their rooms clean and learning to do their laundry at a Laundromat. "Social Skills Training is conducted within the community, within the living environment and within the extracurricular activities to ensure generalization of learned skills." Exhibit P-88 at 5; and Testimony of Dr. Bogart.

69. Dr. Bogart further believes that the Riverview program offers an emphasis on "becoming an independent adult with life skills in a variety of areas including shopping, hygiene, public transportation, socialization and dating, and domestic living skills." Id. He never presented his recommendations to a PPT meeting.

70. On May 25 the Hearing Officer was informed that Mr. Prizzio died unexpectedly the previous night. Letter from Atty. Freedman. Regrettably he had not previously been called to testify in this hearing.

71. The PPT met to review W.'s program and to develop his 2006-2007 IEP on May 30, 2006. Exhibit B-59. The PPT Team had offered four dates for the meeting, and when none

of the dates offered were acceptable to the Parents, the PPT was scheduled for May 30, 2006. Although the Parents contended that they were not available on this date, W.'s mother and her attorney attended and participated. Id. at 3. The Parents took the position that the PPT should not have been held during the pendency of the due process hearing. Exhibit P-90.

72. At this meeting, the school staff reviewed W.'s progress on his 2005-06 IEP. On his reading goals, W. mastered 5 of the 6 objectives, or 82% of his objectives. In math, W. mastered 4 of his 6 objectives, or 66% of his objectives. W. mastered all 5 of his social/emotional objectives as well as his 4 communication objectives. In his other academic goals, he mastered 5 out of 6 of the objectives, or 86%. Finally, in his transitional and vocational goals he mastered 1 out of 3 or 33%. His total percent of objectives mastered was 80%. The school average for mastered goals was 80.44%. Exhibit B-59 at 30.

73. Mr. Prizzio, W.'s monitor until May 24, was largely responsible for assembling the data on which these statistics were based. Exhibit B-60 is the data collection and work samples on Goal #4: "[W.] will complete the modifications to the 11th grade content area curriculum as stated on the modification form by May 2006." These 127 pages support W.'s progress in Marine Science and Civics classes. Additionally, his projected marking period reports indicated that he would receive passing grades in his classes. Exhibit B-52. Parents offered Exhibit P-91, the data collection from the Reading Plus program Mr. Prizzio used with W. on Goal #11: "[W.] will improve his comprehension skills using a computer based reading program by May 2006 to show his lack of progress. According to P-91 at 1, W. mastered the three objectives of Goal #11. Mr. Prizzio was a certified special education teacher at GHS and W.'s monitor. His professional opinion that W. had mastered the three objectives by April 1, 2006 was not contradicted by any Parent witnesses with knowledge about the Reading Plus program or ability to interpret the 31 pages of data in P-91. The Student also had three other reading goals. Exhibit B-24 at 9-10 and 23. The reading teacher, Ms. Tribuzio, was not available to testify.

74. A regular education teacher Ms. Schopfer, W.'s Marine Science teacher, described his progress in this mainstream science class, "[n]oting his ability to complete the modified class work and tests. She discussed his interactions with other students during group work and that he benefited from prompting from the aide or herself at times to refocus his attention." Id. at 3.

75. As a junior class advisor, Ms. Schopfer noted her observation of W. on field trips and his enjoyment of and participation in the junior prom. Id. He attended the prom with a date and was seen dancing with her. He did not need any adult assistance or aide in order to participate in the prom. Testimony of Ms. Schopfer.

76. At the May 30, 2006 PPT meeting, the Mother requested copies of the data used to measure W.'s progress. She was told that they would be mailed to her with the IEP. Exhibit B-59. Ms. Lorraine Termini, special education teacher and teaching coach at GHS, mailed the data supporting W.'s progress to the Parents. Not all of this material is in the record. Ms. DeNicola and her coach, Ms. Boyd, assembled the data. Mr. Prizzio and Ms. Boyd drafted the proposed IEP for 2006-07. Ms. Termini presented the 2006-07 IEP. Testimony of Ms. Termini. The Mother stated that she was unaware of W.'s performance levels. The school staff reviewed

W.'s PLEP. In the recommended IEP W. would receive speech/social skills two times/cycle, counseling two times/cycle, special education math class six times/cycle, transitional internship three times/cycle and support services six times/cycle. Reading goals would be addressed in a general education setting. W. was eligible for ESY services. The proposed IEP had 12 hours 11 minutes of special education, 1 hour 12 minutes of related services and 20 hours 22 minutes of regular education. This represented that 76% of W.'s time would be spent with typical peers. Exhibit B-59 at 25. The written prior notice meeting summary states that the Mother requested that W. receive less work modifications and less aide support. She also requested that W. receive academic support rather than the proposed transitional in-school internship. The school based team members rejected this request. She requested direct 1:1 speech and language services. Based on her request that W. not participate in the sexuality portion of the social skills program, the PPT agreed that W. would not attend the group for the remainder of the 2005-06 school year. Id. at 3-4.

77. The Mother disagreed with the proposed IEP and requested a residential placement for W. The school based team members rejected this request because it would not provide the Student with an appropriate program in the LRE and the Student's current performance and available assessment information did not support the action. Id.

78. The school staff again recommended a more functional program for W. at the May 30, 2006 PPT. As Ms. Termini explained, this program was designed to "look at what the priorities would be for an older student." Functional reading skills are important to access the real world. The general education reading class proposed for W. groups regular and special education students with two teachers. Testimony of Ms. Termini. While W. would still receive the equivalent of twelve sessions per block, the staff recommended that six of those sessions occur in a co-taught reading class that offers direct instruction to students and focuses on the individual skill set of each student. The class is able to offer direct instruction because it is set up as a clinic where students "work individually on their skill set." This is addressed in Goal #3: "[W.] will sequence events from a five paragraph reading selection by May 2007." Progress is to be measured by "work samples and teacher data." Exhibit B-59 at 10 and 25. In addition, the IEP calls for W. to continue to receive reading through six sessions per cycle of support room instruction. These sessions would address Goals ##1 and 2 (written expression and written assignments), 6 (modified 12th grade curriculum), 12 (initiate in-class discussions) and 13 (plan for long-term assignments). Progress is to be measured by work samples and data collection and on Goal #6, tests and quizzes. Id. at 4, 8-9, 13, 21-22 and 25. The math goals are allotted six sessions/cycle as well. Goal #4: "[W.] will determine the cost savings and final cost of multiple items when shopping by May 2007." Progress is to be measured by data collection. Goal #5: "[W.] will solve math problems by May 2007." The five objectives follow a progression of identifying, setting up and solving word problems. Progress is to be measured by work samples. Id. at 11-12 and 25.

79. At this PPT, Ms. Fox reported on W.'s progress in his speech program, including his ability to initiate and maintain eye contact, use appropriate volume, use age appropriate topics in conversation, and identify different types of relationships. She also noted his improved ability to make requests and express complaints appropriately, as well as his ability to identify a problem and develop a plan with a hypothetical situation. Exhibit B-59 at 6.

80. Ms. Fox also discussed her concerns regarding W.'s needs for the coming year: his use and comprehension of abstract language remain difficult. Pragmatic language limitations include his ability to consistently develop a plan to solve a personal problem, trying new activities, and controlling his emotions (i.e., dissatisfaction with something). Accordingly, she and the school staff recommended continuing his speech program within his social skills class. W.'s social skills goal was addressed in Goal #7: “[W.] will identify, evaluate, and develop and implement a plan to address components of developing a plan to solve a personal problem, trying new activities and controlling emotions.” This goal was to be measured by “counts of behavior.” Id. at 6 and 14; and Testimony of Ms. Fox.

81. The school staff believed that W. benefited from community-based programming. This was part of W.'s eleventh grade program with Mr. Prizzio. Every other Friday Mr. Prizzio took students to Greenwich Avenue, the mall or other locations such as the Y and library. The students also learned to use the bus for public transportation. This helps the students generalize skills in a real world environment. Mr. Lovermi stated that W. seemed to be happy and excited about these experiences. He talked about them in the occupations class, in particular about the scavenger hunt at CVS. This program “absolutely increased his [W.’s] skills in terms of functional skills in the community.” Testimony of Mr. Lovermi.

82. Mr. Lovermi reported on the transition planning for W., which, as he explained would include job exploration or “trying out different types of jobs, job duties, job tasks associated with your interest, preferences, abilities. And that would be really what I would be talking about for next year, at least the beginning of the year for [W.]” After job explorations, W. would visit some job sites based on the results of job explorations. The purpose of the site visits is “to give [W.] or to give any student an opportunity to say yes, this is something I’d like to learn more about or no, this is absolutely not what I thought it was going to be let’s do something else.” Id.

83. After completing the job exploration program, W. would start the work experience program, which “is an opportunity for a student to have a job, paid or not paid, and have the opportunity to have me [Mr. Lovermi] supervise. And that job in that work experience is for credit, for high school credit.” Id. These goals were addressed in Goal #8: “[W.] will explore in-school career exploration internship sites.” Progress was to be measured by “Supervisor observations, baseline data and transition folder.” His other transition goal was Goal #9: “[W.] will complete activities in 'Understanding your Rights and Responsibilities under IDEA' by May 2007.” Progress was to be measured by “pre and post test data workbook.” Exhibit B-59 at 15-16.

84. The social/emotional needs were addressed in counseling with the school social worker. Goal #10: “[W.] will explore and apply strategies to assist him in accepting constructive criticism and corrections given to him by his teachers or supervising adults within the school setting by May 2007.” Goal #11: “[W.] will utilize techniques and strategies to maintain focus on academic coursework and activities by May 2007.” Progress is to be measured by “Student self report and social worker's log.” Id. at 17-20. This individual counseling is scheduled for two 30 minute sessions/cycle. Id. at 25.

85. After the initial two weeks in 9th grade when a staff member shadowed him, W. has navigated the various houses or wings of the large GHS Campus without the assistance of an aide. During a typical day, he goes to two or three different houses and the science wing, and possibly the gym area. He also learned the school's complicated 8-day and 8-period schedule. GHS has eight day cycle -- days A, B, C, D, E, F, G, and H with six class periods per day. The schedule starts with Day A which would have periods one, two, three, four, five, six. On Day B two classes are dropped so that periods seven and eight are added. On Day C two other classes are dropped and so on. This allows the Students to take eight classes in the eight-day cycle. The Student needs to keep track of what letter day the schedule is on. Exhibit B-22 illustrated W.'s 11th grade schedule. He had no difficulty with the schedules after the first two weeks of 9th grade. W. could also make appointments with his guidance counselor or social worker without assistance and remember to attend the appointment without assistance. Testimony of Ms. DeNicola; and Exhibit B-59 at 6.

86. At all relevant times, W. was able to independently navigate the large student center and cafeteria at GHS. There are many food stations there. He can select his lunch from the various offerings and stations and remember his PIN number to purchase his lunch. He does not require an aide to assist him in any of these activities. He sometimes ate with other students. At times, he would talk with the other students. Testimony of Ms. DeNicola and Ms. Termini.

87. At all relevant times, GHS offered a number of after school activities for typical and disabled students. Every student is able to participate in intramurals; there is no ability to be cut from intramurals at Greenwich High School. If a student with a disability wishes to participate in a club or after school activity but needs support to do so, the PPT team will hire an aide to support the student in that club or activity. Testimony of Ms. Termini.

88. The Parents chose not to enroll W. in after school activities at GHS. Testimony of Mother. For the past three years W.'s Parents chose to have him swim on a team at the YMCA after school for two hours daily. Exhibit P-84 at 3.

89. During ninth and part of tenth grade, he had voluntarily participated in Hand-in-Hand, an after-school program with typical and disabled peers. Testimony of Ms. DeNicola. He stopped participating in Hand-in-Hand because it conflicted with his swimming. Exhibit P-72; and Testimony of Mother. W. has attended class functions, including a class trip (by bus) to Great Adventure in New Jersey and the junior prom, which he attended with a date. Testimony of Ms. DeNicola.. He was also involved in the Greenwich community. For at least six summers, he participated in a YMCA Camp in Greenwich, and for the past three summers he was a Counselor in Training at the Camp. He has also participated in Boy Scouts for six years. Exhibit P-84; and Testimony of Mother. He does not have special transportation. He is able to walk to the school bus from home and back to home from the school bus without adult assistance. He has no history of harming himself or others, nor has he had any type of psychological breakdown. Testimony of Mother.

90. W. has made progress socially. In his junior year, the school staff noted that W. made a new friend in his Contemporary America class and continued his friendships during lunch and open periods with classmates from his other regular and special education classes. Exhibit B-59 at 6. Mr. Lovermi recalled a recent discussion with W. about his school yearbook.

W. was very excited about the fact that he had the yearbook. He asked Mr. Lovermi to sign the yearbook and specifically asked him to sign small because he had many people, many friends to get their signatures and their comments. He already had many comments and signatures in the yearbook. Testimony of Mr. Lovermi. He has made progress in his willingness to work with other students. Testimony of Ms. Fox. W. also made progress in self-advocacy, so that he was able to tell you his opinion and explain the basis for his opinion in a very appropriate manner. Testimony of Ms. DeNicola.

91. The PPT did not measure progress on IEPs by W.'s scores on standardized academic achievement tests. The school staff measured progress as set forth in his goals and objectives in the IEP. Exhibits B-19, B-24 and B-59. Progress was measured by looking at whether W. was successful in meeting his individual goals and objectives, as well as whether he was able to develop new skills in the areas of weakness. Testimony of Ms. Gross. The goals and objective of his program were not designed to increase performance on standardized tests. Testimony of Ms. Termini.

92. Even though he gained additional academic skills and made progress in IEPs, his grade or age equivalent scores would not necessarily increase. Students with cognitive skills at a low level do reach plateaus in terms of overall growth. There will be small incremental pieces of growth. As W. ages the test format assumes a certain level of increased knowledge in order to score in the average range. It is likely the Student has learned more information and skills since middle school, but not an amount commensurate with his non-disabled peers. Working memory deficits would impact reading and math achievement levels. Testimony of Mr. DeTeso.

93. The Student made significant progress in his behavior plan to the extent that the Team agreed that W. no longer needed a behavior/rewards plan in his junior year. He was "able to stay focused for longer periods of time. He knew what was expected of him during regular education class. He had to work with the regular education teacher, and then approach them to have them to sign off on his point system for each class. So, that ensured him checking in and making sure that he interacted with the teacher each class period." Testimony of Ms. DeNicola. Behaviorally, he made nice progress through the interventions that Mr. DeTeso worked on with him." Testimony of Mr. DeTeso; Exhibit B-41 at 4-15. Dr. Bogart agreed with the Team's decision that W. did not need the behavior plan in his junior year. Testimony of Mr. DeTeso. In his observation in March 2006 Dr. Bogart noted that W. was able to navigate from class to class, take a seat, organize his materials and get his points sheet signed at the end of each class. Exhibit P-80.

94. Since at least June 2003, W.'s IEP has recommended and offered ESY services, including reading and math instruction. Since at least June 2004 the Parents have refused these services. Exhibits B-2; B-8; B-9; B-16; B-19; B-59. The Parents sent him to a YMCA day camp in Greenwich instead. W. liked it and the Parents thought the social opportunities were more important. In the last three summers, W. has been a camp counselor in training (CIT), which he loves and takes very seriously. Exhibit P-84; and Testimony of Mother.

95. One of the reasons given by the Parents for their request to have the Student educated at the Riverview School is that he needs to learn independent living skills, such as

showering, washing his hair, changing and picking up his clothes. Testimony of Mother and Father.

96. The Parents applied for W. to attend Riverview on or about January 13, 2006. Testimony of Ms. Pacheco. Part of the application included a Parental Statement, which stated that “[W.] does take care of himself as far as hygiene is concerned. He showers every morning and night, uses deodorant, maintains proper care for his retainer; brushes his teeth daily, and maintains his acne protocol. He chooses clean clothes and pajamas daily. He remembers to take his medication daily.” Exhibit P-84 at 3.

97. The Parents also stated in their January 2006 application to Riverview that they do not require W. to complete household chores: “[W.] does not, however, put his clothes away in the closet or make his bed or does laundry. This is due to the fact that he has always had a nanny to pick up after him. She also takes care of the house, so chores, other than throwing out the garbage, are unfamiliar to him.” Id.

98. At the hearing, however, the Mother testified that they do not require W. to perform any household chores even though he has not had a nanny for approximately three years. They have a housekeeper now. Testimony of Mother.

99. She also testified that “[h]e would wear the same clothes everyday if we allowed him to. He -- you know he -- we have issues with him bathing and possibly not using soap or shampoo. We have issues with him just not taking care of himself. We have issues with him totally as far as living is concerned.” Id.

100. The Mother explained the apparent conflict between the statements as follows: “you have degrees of truth. You can have degrees of the fact that he can shower, but every now and then my husband has to go in there and help him shower. And he can go into the shower twice a day but not use soap and shampoo. So there are degrees of how he does that.” Id. The Father testified that he physically gets into the shower with W. and washes him and that he helps W. with brushing his teeth. Testimony of Father.

101. The Parents never raised any concerns about W.'s personal hygiene or other activities of daily living at any PPT meeting. Following the May 30, 2006 PPT meeting, the Mother sent a letter dated June 15, 2006 to Ms. Gross stating the Parents' disagreement with most of the PPT recommendations. She added: “Just for the record, I also disagree that his 'Activities of Daily Living' skills are age appropriate.” Exhibit P-90.

102. There are no non-disabled students at Riverview. Testimony of Ms. Pacheco. The Student benefits from interacting with typical peers. Testimony of Ms. Termini, Mr. Lovermi and Ms. Schopfer. The program offered by the Board gives the Student access to typical peers in both academic and social situations.

103. The Student will benefit from participating with his peers in senior year activities, particularly graduation. Testimony of Ms. Termini and Mr. Lovermi.

104. The Student also will have three additional years following graduation to continue to address his vocational and independent living skills. Testimony of Ms. Forde.

CONCLUSIONS OF LAW

1. The Parties agree that the Student qualifies for and is entitled to receive a free and appropriate public education (“FAPE”) with special education and related services under the provisions of state and federal laws. Connecticut General Statutes, Sections 10-76 et seq. and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1401, et seq. The Parties also agree that W. is a child with autism. 34 C.F.R. Section 300.7(c)(1).

2. The IEP serves as the centerpiece of a student’s entitlement to special education under the IDEA. Honig v. Doe, 484 U.S. 305, 311 (1988). The primary safeguard is the obligatory development of an IEP which must contain a statement of the child’s current educational performance, including how his disability affects his involvement and progress in the general curriculum, and a statement of “measurable annual goals, including benchmarks or short term objectives related to meeting the child’s individual needs.” 20 U.S.C. Section 1414(d)(1)(A)(ii); 34 C.F.R. Section 300.347; Roland M. v. Concord School Committee, 910 F.2d 983, 987 (1st Cir. 1990), cert. denied 499 U.S. 912 (1991).

3. The standard for determining whether FAPE has been provided is set forth in Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982). The two-pronged inquiry is first, whether the procedural requirements of IDEA have been met and second is whether the IEP is “reasonably calculated to enable the child to receive educational benefits.” Id. at 206-207. The Parents, as the party who initiated the due process proceedings, have the burden of going forward with the evidence. The Board bears the burden of proof on the appropriateness of the child’s program or placement, or of the program or placement proposed by the public agency. This burden shall be met by a preponderance of the evidence. Regulation of Conn. State Agencies Section 10-76h-14(a).

4. As for the first prong of the Rowley inquiry, nothing in the due process request supports any claim for a violation of the Parents’ procedural rights. The Parents’ Proposed Conclusions of Law at 49-56 articulate for the first time the allegations that there were two procedural violations—first, as to parental participation in the IEP process and second, as to the transition planning process. The briefs were filed simultaneously, and the Board argued in its Proposed Conclusions of Law that the Parents have never alleged any procedural violations by the Board. The Board cites Tobi K. v. Independent Sch. Dist. No. 196, 27 IDELR 482 (D. Minn. 1998) (school district complied with the procedural requirements of the IDEA with regard to the education of a six-year old child with autism. The child’s parent fully participated in the IEP process and in all decisions regarding the child). Therefore, the Board argues it has satisfied the first part of the Rowley test by meeting the procedural requirements of the IDEA. In this case, the Parents’ attorney stipulated that they received a copy of their procedural safeguards at each PPT meeting. The Parents’ testimony acknowledged that they received proper notice of, and fully participated in, all PPT meetings. The IEP forms have specific pages for notations of “Parents’ and student’s input, concerns, and/or preferences.” In some PPT meetings, there were concerns noted and in others none were noted. The Parents admittedly received their written

prior notice following each PPT meeting and, until June 15, 2006, never sent an addendum or corrections to the IEP documents. The Parents' concerns were considered. Several IEP goals were changed after their concern was expressed in June 2005. The PPT also considered Parents' request to keep W. in mainstream classes, including English, science and social studies. The PPT also deferred a decision on placing the Student into the LASS II umbrella of services until the Parents visited the program and obtained Dr. Bogart's input. Following that the PPT considered Parents' concerns and designed the LASS 1.5 program for the Student. The mandate in IDEA that the IEP team "considers" the concerns of the Parents does not require that it adopt whatever changes the Parents request. The Board complied with 34 C.F.R. Section 300.346(a)(1)(i). Courts must also consider whether the program is "individualized on the basis of the student's assessment and performance" when determining the appropriateness of an IEP. See A.S. v. Board of Education of West Hartford, 35 IDELR 179 (D. Conn. 2001), aff'd, 47 Fed. Appx. 615 (2d Cir. 2002) (citing M.C. ex rel. Mrs. C. v. Voluntown Bd. of Educ., 122 F.Supp.2d 289, 292 n.6 (D. Conn. 2000)). As required by the IDEA, the Board reviewed W.'s needs at various PPTs on an individualized basis at appropriate intervals.

5. The evidence in this hearing shows that, as agreed on June 6, 2005, the Board conducted comprehensive evaluations and assessments of the Student's current levels of performance in academics, vocational and psychological testing from June through October 2005. The IEP developed at the June 6, 2005 PPT meeting and modified at the December 20, 2005 PPT meeting was appropriate. The IEP proposed on May 30, 2006 was based on the Student's performance on the 2005 IEPs. The Parent did not challenge the goals and objectives at the December 2005 and May 2006 PPT meetings, but only the placement. The IEPs proposed by the Board contained all the requisite components under the IDEA. The IEPs included 1) a statement of W.'s present levels of educational performance; 2) annual goals and short-term objectives; 3) the specific educational services to be provided; 4) an explanation of the extent to which W. would not participate in regular education programs; 5) any appropriate transition services; 6) objective criteria and evaluation procedures for determining whether objectives are being met; and 7) the proposed initiation date and duration of proposed services. 34 C.F.R. Section 300.347; Walczak v. Florida Union Free Sch. Dist., 142 F.3d 119, 122 (2d Cir. 1998). See also Regs. Conn. State Agencies § 10-76d-11. The transition needs and services were considered and addressed appropriately. The failure to fill out a form on the May 30, 2006 IEP is, at best, a technical violation, which does not constitute a denial of FAPE.

6. The Student received educational benefit from the challenged 2005 IEPs, and it is likely that he will receive educational benefits from the May 2006 IEP at GHS. "IDEA requires only that school districts provide an 'appropriate' IEP, gauged by whether the IEP is 'sufficient to confer some educational benefit.'" Board of Education of the Hendrick Hudson Central School District v. Rowley, *supra*. In this Circuit, the Court of Appeals has said that the proper gauge for determining educational progress is "whether the educational program provided for a child is reasonably calculated to allow the child to receive 'meaningful' educational benefits." Mrs. B. v. Milford Board of Education, 103 F.3d 1114, 1120 (2nd Cir. 1997). The Court of Appeals has also cautioned that meaningful educational benefits are "not everything that might be thought desirable by loving parents." Tucker v. Bay Shore Union Free School Dist., 873 F.2d 563, 567 (2nd Cir. 1989). "Clearly, Congress did not intend that a school system could discharge its duty under the [IDEA] by providing a program that produces some minimal academic

advancement, no matter how trivial." Hall v. Vance County Bd. Of Educ., 774 F.2d 629,636 (4th Cir. 1985). "Of course, a child's academic progress must be viewed in light of the limitations imposed by the child's disability." Mrs. B. v. Milford, supra at 1121. With these principles in mind, it is clear that the IEPs were appropriate to provide the Student with meaningful educational benefits. The fact that Riverview's program might offer more benefits does not render the Board's IEP inappropriate.

7. IDEA also requires that children with disabilities be educated to the maximum extent appropriate with children who are not disabled. Board of Education of the Hendrick Hudson Central School District v. Rowley, supra., 181; 34 C.F.R. Section 300.550(b). See also 20 U.S.C. Section 1412(5)(b); 34 C.F.R. Sections 300.550 through 300.556; Conn. State Regs. Sections 10-76a-1 and 10-76d-1. School districts must evaluate whether a student can be educated in a regular classroom if provided with supplemental aids and services, and a full range of services must be considered. Oberti v. Board of Education, 995 F.2d 1204, 1216 (3d Cir. 1993). The district must examine the educational benefits, both academic and nonacademic, to the student in a regular classroom. Among the factors to be considered are the advantages from modeling the behavior and language of non-disabled students, effects of such inclusion on the other students in the class and the costs of necessary supplemental services. Id. "Least restrictive environment" is defined as follows under IDEA:

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only when the nature or severity of the disability of a child is such that such education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

20 U.S.C. Sec. 1412(a)(5); 34 C.F.R. Sec. 300.550. FAPE must be provided to disabled children "in the least restrictive appropriate environment." Polera v. Bd. Of Educ., 288 F.3d 478, 481 (2d Cir. 2002).

8. In this case the Student has been educated in the public schools in his home district of Greenwich since kindergarten. Section 300.552(b) provides: "The child's placement—(1) is determined at least annually; (2) is based on the child's IEP; and (3) is as close as possible to the child's home." In this case, the PPT developed IEPs for the Student for the 2005-06 and 2006-07 school years at GHS. These IEPs provided for special education in his reading and math classes to be in small groups or in a support room. The other academic classes are provided in the mainstream with the assistance of an aide. He also receives related services of individual counseling and speech-language in a group setting. His electives are in general or regular education classes. When determining the appropriateness of a given placement, courts will also consider evidence of a student's progress in that placement. The progress W. has made in the Board's programs, particularly when considering the significant limitations on learning imposed through his disability, is more than trivial and establishes the appropriateness of his program. Every Board witness who has worked with W. testified that he made considerable progress in gaining academic, social, independence, speech and other skills during his last three years at GHS, despite his significant cognitive limitations. The evidence in the record does not

support the Parents' claim that the Student made no progress in his IEPs in ninth, tenth and eleventh grades.

9. The Board's programs offered the right balance between special education and regular education. R.L. by Mr. and Mrs. L. v. Plainville Bd. of Ed., 363 F.Supp.2d 222 (D.Conn. 2005):

Because the statute expresses that disabled children should be educated alongside non-disabled peers 'to the maximum extent appropriate,' special education services must be provided in the least restrictive environment consistent with the child's educational plan. Only when "'the nature or severity' of a child's disability is such 'that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily' should a child be segregated." *Walczak v. Florida Union Free Sch. Dist.*, 142 F.3d 119, 122 (2d Cir. 1998) (quoting 20 U.S.C. § 1412(5)).

In order to ensure that the balance of services required to meet these goals is specifically fitted to the particular child, the IDEA requires that each child receive an individualized education program. The IEP is intended to be "the result of collaborations between parents, educators, and representatives of the school district." *Lillbask v. Connecticut Dep't. of Educ.*, 397 F.3d 77, 2005 U.S. App. LEXIS 1655, (2d Cir. Feb. 2, 2005). While the IEP does not have to maximize the child's educational potential, it must provide "meaningful" opportunities and the possibility for more than "trivial advancement." *Walczak*, 142 F.3d at 130.

There is no evidence in the record that the Student requires a 24-hour residential placement in order to be educated.

10. Given the appropriate IEPs offered by the Board, it is not necessary to evaluate the appropriateness of the Parents' preferred placement at Riverview School. See Burlington Sch. Comm. v. Department of Educ., 471 U.S. 359 (1985); Florence Cty. Sch. Dist. v. Carter, 114 S.Ct. 361 (1993). See also In the Matter of Student with Disability, 33 IDELR 263 (SEA CT 2000) ("it is well established that if it is determined that a local school district can provide a FAPE for a student, it is not relevant that the private placement's program is appropriate, better than, different from that proposed by the district or preferred by the parent.")

FINAL DECISION AND ORDER

1. The program proposed by the Board in June and December 2005 for the 2005-2006 school year at Greenwich High School offered the Student a free appropriate public education in the least restrictive environment.

2. The program proposed by the Board in May 2006 for the 2006-2007 school year within the Greenwich Public Schools offered the Student a free appropriate public education in the least restrictive environment.

3. There is no need for a determination as to whether Riverview School is an appropriate placement for the Student.

4. The Board is not financially responsible for a residential placement of the Student at Riverview School in East Sandwich, Massachusetts for the 2006-2007 school year.