

**STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION**

Student v. New Haven Board of Education

Appearing on behalf of the Student: *Pro Se* Parent

Appearing on behalf of the Board: Michelle Laubin, Esq.
Berchem and Moses, P.C.
75 Broad Street
Milford, CT 06460

Appearing before: Sylvia Ho, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Did the Board offer an appropriate program?
2. If not, what is the appropriate placement for Student?
3. Was the Board's evaluation appropriate?
4. If not, is Parent entitled to an Independent Educational Evaluation at public expense?
5. Should the Student be assigned to an interim alternative 45-day change in placement as a result of behavior that is substantially likely to result in harm to the Student, or others?

PROCEDURAL HISTORY/SUMMARY:

The Parent filed Hearing Request #22-0455 on May 18, 2022. The Hearing Officer was appointed the same day. The Board filed Hearing Request # 22-0466 on May 23, 2022. The same Hearing Officer was appointed on May 25, 2022. The Prehearing Conference was conducted on June 6, 2022 and the cases were consolidated.

The hearing convened on the following days: July 1, 13, 20, 21 and 26, 2022.

Parent presented the following witnesses: Parent and Student. The Board presented the following witnesses: Tyhanie Jackson, Director of Student Services; Kate Aniballi, School Psychologist; Nichole Valente, Special Education Teacher, Tiffany Beech, Speech and Language Pathologist and Cynthia A. Ratchelous, ACES Director of Trauma Coordination.

The Parent and Board Hearing Requests were marked as Hearing Officer Exhibit H.O.-1. The Parent's exhibits P-1 to P-32 were admitted as full exhibits. The Board's exhibits B-1 to B-150 were admitted as full exhibits.

During the hearing, the Board did not pursue issue #5 above. The Board proposed a placement at the ACES Urban Youth Program as discussed below. At the conclusion of the hearing, the Hearing Officer offer the parties to the opportunity to submit a closing statement for their respective legal position. The Board did not submit a statement. The Parent submitted a statement in notes through i-Phone, which the Hearing Officer could not open. The Hearing Officer notified the Parent and asked for a resubmission via email but the Parent did not respond.

The Hearing Officer granted the Board's request to extend the mailing date of the Final Decision to August 8, 2022, to conduct the hearing on additional dates.

This Final Decision and Order sets forth the Hearing Officer's summary, findings of facts and conclusions of law set forth herein, which reference certain exhibits and witness testimony are not meant to exclude other supported evidence in the record. All evidence presented was considered in deciding this matter. To the extent the summary, procedural history and findings of facts actually represent conclusions of law, they should so be considered and vice versa. *SAS Institute Inc. v. S & H Computer Systems, Inc.*, 605 F. Supp. 816 (M.D. Tenn. 1985) and *Bonnie Ann F. Callallen Independent School Board*, 835 F. Supp. 340 (S.D. Tex. 1993).

SUMMARY:

The Parent of a five (5) year old kindergartener brought a Hearing Request because he disagreed with the Board's proposal that the Student be placed on Homebound until an out of district placement could be found. The Parent also disagreed with the results of the Board's initial Educational Evaluation and requested an Independent Educational Evaluation. The Board brought its Hearing Request to defend its Educational Evaluation and sought a placement Interim Alternative 45-day change in placement. During the hearing, the Board proposed placement in the ACES Urban Youth Program, a behaviorally based program for Students in the District. At the time of the Hearing, the Student was at home and not receiving any Special Education and Related Services.

STATEMENT OF JURISDICTION:

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

FINDINGS OF FACT:

After considering all the evidence submitted by the Parties, including documentary evidence and testimony of witnesses, I find the following facts:

1. Student was born on August 5, 2016. At the time of the hearing, he was Five (5) years and Eleven (11) months of age. Student has been identified as a Student with a Disability, eligible for Special Education and Related Services under the Individual with Disabilities Education Act. (“IDEA”) under the category of Other Health Impairment/ADHD.
2. Student lives with his father (“Parent”). His father is primary caretaker and has had sole custody of Student since he was nine (9) months old. He has a loving relationship with his father. He does not have a relationship or contact with his mother. (Testimony, Parent)
3. Student is a friendly, caring, bright, playful, and affectionate child. (Testimony, Beech; Testimony, Jackson)
4. Student’s medical records reveal the onset of a Behavioral Disorder on December 2, 2019, when Student was three (3) years old. Student’s pediatrician strongly encouraged the Parent to bring Student to a pediatric psychiatrist but that the Parent did not follow the suggestion. However, during the hearing, the Parent acknowledged that the Student has behavioral challenges and would benefit from Special Education and Related Services. At the time of the hearing, Student had been receiving behavioral therapy with a licensed clinical social worker. (Testimony, Parent; B-20)
5. Student’s behavioral challenges interfere with his ability to follow directions and complete tasks across different settings. For example, Student’s pediatrician could not complete auditory or vision assessments during a medical visit because Student was uncooperative. In school, behavioral challenges interfered with his ability to make educational progress. (B-20; B-8, B-35, B-48)
6. Student is very hyperactive, distractible, and unable to sustain attention to tasks. He can be resistant to adult redirection and defiant and aggressive toward teachers and paraprofessionals when he doesn’t want to do what is asked of him. (Testimony, Valente, Testimony, Anibaldi, B-4)
7. However, he appears to be compliant when directed by his father, the Parent, with whom he has a loving relationship. The Student sees his father as his protector. For example, during his Speech and Language assessment, the Student went about playing and was refusing to answer questions. The evaluator took his hand to guide him back to the table to continue the evaluation, the Student said, “[g]et off me before I tell my daddy on you!” (Testimony, Beech; B-21; B-28; Observation of Student’s demeanor with father during testimony).
8. Student attended the Lulac Headstart Program when he was Four (4) years old. After Lulac, Student was enrolled for Pre-Kindergarten at Barack Obama University Magnet School (“Barack Obama Magnet”) in March of 2021. Barack Obama Magnet is a magnet school of the New Haven Board of Education. The Student attended Barack Obama Magnet from March to November of 2021. (Testimony, Parent)
9. Student had behavioral struggles at Barack Obama Magnet from the beginning. The Parent testified that he was asked to pick up his son early. He estimated that he had

- to pick up his son 50-60 times from March to June 2021. He was told the Student would not nap at nap time and was disturbing the other children. (Testimony, Parent)
10. In June 2021, the School Team made a referral to determine eligibility for Special Education and scheduled a Planning and Placement Team meeting (“PPT”). The Parent was invited but did not attend. The Parent’s absence from the PPT meeting did not allow the PPT to be convened to consider the Student’s eligibility for Special Education and Related Services. The School Team created a safety plan to address what they considered to be unsafe behaviors in the general education setting. (Testimony, Father; B-3 and B-4)
 11. The safety plan described behavior which the School Team targeted for improvement. The Student was verbally defiant, refusing to follow classroom rules and rejecting adult redirection. The Student was throwing objects and snatching toys away from peers and pushing adults and peers away. He punched and kicked adults. (B-4)
 12. The safety plan outlined several interventions depending on the danger posed by the behavior. The plan provided that if the Student was a danger to himself or others, the school would contact the parent and then 211(mobile crisis) or 911 if necessary with the understanding that immediate assistance....A parent would be required to meet Student and a staff member at the school for 211 calls and the hospital if 911 is necessary within the hour of being called. (B-4)
 13. It is clear that the Student’s in school behavior worsened from his enrollment from March to the Fall of 2021. Tracking data for the period of August 30 to September 17, 2021 showed many instances of elopement, throwing objects, aggression toward adults and peers and other behaviors. The behavior worsened to a dangerous point of a crisis team intervention. (B-8)
 14. The Parent testified that he believed that the Student was injured at school by a staff member on September 3, 2021. On September 16, 2021, the Parent understood that he was called to take the child home. According to the Parent, while he was waiting outside to pick up his son, his son was transported to Yale-New Haven Hospital. The Parent did not doubt that the Student was in crisis at the time but blamed the handling of this event on the staff at Barack Obama Magnet. (Testimony, Parent)
 15. The Student was referred to a PPT on September 14, 2021 to determine eligibility for Special Education and related services. The notice indicated that the referral was made by both Parent and School. The Student’s behavior was described as follows: [Student] ‘displays difficulty controlling his behavior and emotions and requires constant adult supervision and support. He elopes daily from the classroom multiple times per day and will elope from the building as well. He hits, kicks and punches adults and peers and does not engage in learning tasks. He has a lot of difficult with transitions. He is verbally aggressive and has difficulty following or following through with [de]mands of any type.’ (B-7)
 16. A PPT meeting was convened on September 22, 2021. The team recommended that an initial evaluation be conducted to determine the Student’s eligibility for Special Education. The Parent did not sign consent in the PPT meeting and did not return the

consent. The Parent testified that he did not trust the staff of Barack Obama Magnet. (B-9, Testimony, Father)

17. Another PPT meeting was convened on October 20, 2022, with the Parent in attendance. The Student had started therapy with a licensed clinical social worker and his therapist also attended. The Team recommended an initial evaluation. The Special Education Supervisor recommended a Diagnostic Placement, an evaluation study of the Student in the classroom environment. The Parent rejected the recommendation of a Diagnostic Placement. The Parent gave the school team permission to speak to the therapist, but did not consent to an initial evaluation. The Parent expressed his desire that the Student be in a more supportive atmosphere. (B-16).
18. The Parent called the District Central Office. The Parent was concerned that the Student was being targeted by the Barack Obama Magnet staff and wanted to transfer the Student to another school. (Testimony, Father; Testimony, T. Jackson)
19. As a result of the call from the Parent, the Assistant Superintendent of schools made a special request of the Director of Student Services to facilitate the placement of the Student in another school. The Director recommended Hill Central School.
20. The Student transferred to Hill Central School on November 29, 2021. By this time, the Student still had not received any initial evaluations nor receive any service supports in school. On December 3, 2021, the Parent sent a handwritten note to the principal of Hill Central School and requested a PPT to “put a 504 in place”. (B-18).
21. The Student’s behavioral challenges continued at Hill Central School. He attended Hill Central School for seven (7) days before the Parent removed him from Hill Central School. The Student was absent from school throughout the months of December, January and February. The school district reported the absences as truancy and the Connecticut Department of Children and Families (“DCF”) contacted the Parent. The Student was returned to school. (Testimony, Jackson, Testimony, Parent).
22. A PPT convened on December 16, 2021 in response to the Parent’s handwritten request. The Parent was in attendance. The PPT recommended the following assessments as part of a comprehensive initial evaluation for eligibility for Special Education and related services: Speech/language evaluation; Psychoeducational Evaluation; Functional Behavioral Assessment; Initial Social Work Assessment and Vineland III Adaptive Assessment. The Parent expressed his concerns that any school evaluators who had contact with the Student were biased and untrustworthy. To address the Parent’s concerns, the school district’s Director of Student Services assigned professionals who had no previous contact with the Student to evaluate the Student. The evaluators were part of the Early Childhood Assessment team and all were familiar with very young students. (Testimony, Jackson; Testimony Anibaldi, Testimony, Beech). None had ever met the Student before.
23. The Parent signed the consent on January 27, 2022, more than a month after the PPT meeting. The evaluations took place in January, February and the beginning of March 2022.

24. The evaluators included a School Psychologist and a Speech and Language Pathologist who were witnesses at the hearing. Both testified that the Student was highly distractable and uncooperative during their assessments and as a result the assessments took a longer time to complete than expected for same aged students. Because the Student was not attending school at the time of the evaluation, the School Psychologist completed the Functional Behavioral Assessment (“FBA”) from data gathered at Barack Obama Magnet and an interview of the classroom teacher. (Testimony, Aniballi; Testimony, Beech).
25. The FBA as it pertains to this Student was of vital importance to developing the proper supports for Student to learn in the classroom. The evaluator did not have enough data and could only summarize the impressions of the Student’s teacher at Barack Obama Magnet. The report did not include observations of the Student by the evaluation team. The study of the triggers of behaviors that interfered with the Student’s learning was not comprehensive. For instance, the report stated that the trigger for Student’s undesirable behavior was frustration with school work. There were no descriptions of antecedent events that triggered behavior or description of behavior. The School Psychologist testified that ultimately she did not know if there were triggers. (B-29; B-46; B-47; B-48; Testimony, Anniballi)
26. The PPT met on March 9, 2022. The Parent and Student’s therapist were in attendance. The Student was found eligible for Special Education and related services under the category of Other Health Impairment/ADHD. The proposed IEP included one-on-one para-professional support and a Behavioral Intervention Plan. The Parent provided consent for Special Education Services on March 28, 2022.
27. The PPT met on March 17, 2022. The Father was in attendance. The Team reviewed the behavioral data and recommended an updated Functional Behavioral Assessment and an Occupational Therapy Assessment. The Father did not provide consent. (B-37).
28. The PPT met for a program review on April 7, 2022, just a week after the Parent provided consent for Special Education. It was clear that the IEP did not provide adequate behavioral support for the Student. The Student was defiant to teachers and the paraprofessionals and would not stay in the classroom and follow the classroom routine even with a Behavioral Intervention Plan in place. He kicked and threw objects at teachers and paraprofessionals. He kicked and hit other Students. The Team recommended homebound instruction to begin on May 9, 2022 until an out of district placement could be found. The Parent agreed to the homebound services. However, homebound services were never provided because the Parent had technical challenges with the Chromebook computer provided by the School District. The Student has not received any educational instruction by the school district since he went home on May 9, 2022. (B-45; Testimony, Jackson)
29. A PPT convened on May 5, 2022. The Parent requested a program review. The Parent requested an Independent Educational Evaluation. The request was denied by the Team. The Parent did not agree with the proposed application to an out of district placement. The Parent testified that he thought the evaluation was inaccurate because it was done very quickly and should have taken 45 days to complete. In addition, the

Parent testified that he did not agree to “alternative schools” where he believed his son would be placed with other students who were nonverbal or “wearing helmets and drooling”. He believed that the out of district placement would be at one of these schools. The Parent testified that he did not trust any staff of the New Haven school district and would not agree with their involvement in the Student’s education. (B-46, Testimony, Aniballi; Testimony, Parent)

30. In the meantime, the school records show that on May 6, 2022 at 11:51 am, the Student was involved in an incident where he assaulted and threatened a teacher. The school record states that “[s]tudent was continuously running around the building exhibiting unsafe behaviors including butting a para. [paraprofessional]. When redirected by the teacher, he threatened to come back with a gun and kill her. He then kicked and pushed her repeatedly.” (B-145)
31. The disciplinary reports show a progression of behavioral concerns over the period from May of 2021 to May of 2022. At the Pre-Kindergarten in May of 2021, the Student was pulling on lights during nap time. When teaching staff tried to redirect, he kicked the teacher and ran away to another part of the building. In September of 2021, he used a classroom pointer to poke at a teacher. The next day, while he was on the school bus, he went under the bus seats and pulled on other children’s feet. A week later, on a single day, September 27, 2021, he eloped the classroom and attempted to leave the building. When the teacher attempted to block his access to the outside, he punched and kick the teacher. The aggression toward teachers rose to the level of threatening to kill a teacher with a gun in May of 2022. The Student’s aggression toward classroom teachers, para-professionals, and evaluators is clear. He is defiant against any adult other than his Parent. It is equally clear that the Parent does not witness this defiance and aggression and understandable that the Parent would not believe that his child is aggressive. The child is not aggressive toward the Parent. They have a loving relationship. The child believes his Parent to be his protector. Nevertheless, the reports of the Student’s aggressive behavior are similar, consistent and from many adults with various teaching, non-teaching roles in different school settings and even a school bus driver in a case involving a bus incident. The Student can be defiant to adults when he does not get his way and he can be physically aggressive and threatening to them. This defiance interferes with the Student’s education, regardless of where the Student attends school because he will not follow the leadership of adults other than the Parent. The Parent is not an educator. There are little demands at home for the Student, which the Student undoubtedly prefers. (B-145; Testimony, Parent; Testimony, Valente; Testimony, Beech)
32. The Director of Student Services testified that the Student’s behavior and needs for support is at the very high end of Students with needs for behavioral interventions. The Student’s behavior poses safety risks to himself and to others in a general education environment. The school district does not provide contained classrooms or staffing for students with high behavioral needs in general education school buildings. Students with high behavioral needs are placed in the ACES Urban Youth Program, which is a program that the school district contracts to provide their students. (B 47; B-145; Testimony, Jackson)

33. The Board has requested a placement of the Student at the ACES Urban Youth Program. ACES is an acronym for Area Cooperative Educational Service (ACES), which is a service funded by twenty-six school districts in New Haven and surrounding towns. The ACES Urban Youth Program has served New Haven general education and Special Education students with behavioral needs for seventeen (17) years. New Haven School District contracts with ACES to provide educational programming for students who are residents of the city of New Haven. The program is integrated into classes with students from twenty-six (26) school districts at ACES Mill Road Elementary School on the ACES campus. The administration and staff at ACES Mill Road Elementary and ACES Urban Youth Program are independent from the New Haven Public School system. ACES Mill Road Elementary School's behavioral services are therapeutic and considers the traumatic experiences of each student in the program. Interventions include play therapy and mindfulness activities. Students are engaged where they are emotionally when they arrive at school. ACES Mill Elementary and thus the Urban Youth Program works with children in teams. The staff include social workers, behavioral technicians, and Board-Certified Behavioral Analysts (BCBAs) highly skilled and qualified to address trauma and the behavioral needs of each student. A staff child psychiatrist is in weekly consultation with each team to review each child's progress. Social skills, such as friendship building, are taught alongside academic work. The ratio of professionals to children ranges from 1 professional to 3 to 5 children. Class sizes are under ten students. Each class is supported by a team of consisting of a social worker, behavioral technician and BCBA. Decisions regarding each child's program and made by ACES Mill Road Elementary, not be the child's school district. The intake process for each child includes the building of trust between the adult staff and the child. (Testimony, Ratchelous)

CONCLUSIONS OF LAW AND DISCUSSION:

1. The IDEA seeks to ensure that states provide a "free appropriate public education" (a "FAPE") to all eligible children with disabilities. 20 U.S.C. § 1412(a)(1)(A). "A FAPE, as the Act defines it, includes both 'special education' and 'related services,'" which refer to the individually tailored classroom instruction and non-academic support services that the child receives at school. *D.S. v. Trumbull Board of Education*, 975 F3d. 152, 156 (2021) citing *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 137 S. Ct. 988, 994 (2017)(quoting 20 U.S.C. § 1401(9)).
2. A child with a disability receives this tailored instruction and support through their individualized education program ("IEP"). An IEP must include a statement of the child's academic achievement and functional performance, the child's academic and functional goals, how the child's disability affects their progress towards achieving those goals, how the child's progress will be measured, and the services that will be provided to help the child succeed at school. *Id.* (quoting 20 U.S.C. § 1414(d)(1)(A)(i)(I)–(III)). As such, the IEP is "the centerpiece of the [IDEA's]

education delivery system for disabled children.”*Id.* (citation omitted).

3. Each child’s IEP is developed by their “IEP Team,” which is comprised of teachers, school representatives, and the child’s parents or guardians. *Id.* (citing 20 U.S.C. § 1414(d)(1)(B)). Indeed, “[p]arents and guardians play a significant role in the IEP process,” as “[t]hey must be informed about and consent to evaluations of their child under the Act,” “[t]hey have the right to examine any records relating to their child,” “[t]hey must be given written prior notice of any changes in an IEP and be notified in writing of the procedural safeguards available to them under the Act,” and “[i]f parents believe that an IEP is not appropriate,” they may seek an administrative hearing on the matter. *Id.* 957 F3d. 152, 157 citing *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 53 (2005) (internal citation omitted).
4. A child’s IEP is based in significant part on the results of statutorily mandated evaluations of the child. *See, e.g.*, 20 U.S.C. § 1414(b)(2)(A)(ii), (c)(1)–(2), (d)(3)(A), (d)(4)(A). Under the IDEA, a child with a suspected disability must receive a “full and individual initial evaluation” to determine the existence and extent of their disability and whether they are entitled to special education and related services under the Act. *Id.* § 1414(a)(1).
5. The IDEA requires that a child’s initial evaluation be comprehensive. In conducting these evaluations, a school must “use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information,” *id.* § 1414(b)(2)(A), and the school must assess the child in “all areas of suspected disability,” *id.* § 1414(b)(3)(B).
6. If a student receives an evaluation with which the parent disagrees, a parent has a right to an independent educational evaluation (“IEE”) at public expense, which means at no cost to the parent. 34 C.F.R. § 300.502, R.C.S.A Sec. 10-76d-9(c)(1) and (2). If a parent requests an IEE at public expense, the school district must, without unnecessary delay, ensure either an IEE is provided at public expense or initiate an impartial hearing to show that its evaluation is appropriate or that the evaluation obtained by the parent does not meet the school district criteria. If the impartial hearing officer finds that a school district’s evaluation is appropriate, a parent may not obtain an IEE at public expense. 34 C.F.R. § 300.502; R.C.S.A. Sec. 10-76d-9(c)(2)
7. A Functional Behavioral Assessment (“FBA”) is “an assessment that looks at why a child behaves the way he or she does, given the nature of the child and what is happening in the environment. It is the process of collecting data to determine the possible causes of problem behaviors and to identify strategies to address the behaviors.” Connecticut State Department of Education, A Parent’s Guide to Special Education. (2007), https://portal.ct.gov/-/media/SDE/Special-Education/Parents_Guide_SE.pdf
8. FBAs contribute to a child’s evaluation. FBAs are generally conducted to inform a child’s behavioral intervention plan (“BIP”) which is “a plan and/or strategies, program or curricular modifications, and supplementary aids and behaviors that

impede his/her learning or that of others [which is] positive in nature, not punitive.” Connecticut State Department of Education, A Parent’s Guide to Special Education, supra.

9. The initial evaluation conducted by the School Team was not sufficiently comprehensive despite best efforts by the School Psychologist to obtain the information necessary to formulate an appropriate IEP. The Student was not attending school during the time of the evaluation. The FBA did not obtain adequate information about triggers of the negative behaviors such that an appropriate BIP could be designed. The academic and psycho-educational evaluation could have been more accurate if the Student had been cooperative. While the initial evaluation provided good information about the Student’s functioning, the information was not complete. The evaluation was inappropriate. Therefore, the Parent is entitled to an Independent Educational Evaluation at public expense. The Hearing Officer is cognizant of the fact that the inappropriateness of the evaluation is due in part to the Parent’s conduct in removing of the Student from school. Nevertheless, the Parent consented to the evaluation and made the Student available for the assessments that were conducted. *Finding of Facts No. 28.*
10. Because the FBA was based on limited information, the BIP that was provided to the Student in the March 17, 2022 IEP was inappropriate and ineffective. The Student needs more supports from highly qualified professionals with specialized training so that there the Student is safe and can be in an environment that is supportive of the Student’s ability to learn. *Finding of Facts No. 31, 32, 22, 34 and 35.*
11. The Board’s proposal of placement in the ACES Urban Youth Program at ACES Mill Road Elementary. Placement in ACES Mill Road Elementary will provide Student the support of highly qualified professionals who can address his individualized needs in a supportive environment. The staff at ACES Mill Road Elementary are freer to tailor activities to the Student’s individual needs from day to day and with social work support. The approach of ACES staff to work to gain trust from the Student as part of intake is appropriate and critical for the Student to adjust to the environment and view adults in a different way so that defiance can be reduced. *Finding of Facts No. 36.*
12. The Parent is a very important member of the Planning and Placement Team. See 34 CFR 300.116 (The educational placement of a child of a disability ensures the placement decision is made by “a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options”.)
13. IDEA regulations provide for related services in counseling and training of parents. “The purpose of the counseling and training is to provide support and information to the parents in order to better equip them to participate in their child’s educational program.” 71 Fed. Reg. 46,573 (2006). Related services, a necessary part of the provision of FAPE, are defined to include parent counseling and training. 34 CFR 300.324. The term “counseling services” means “services provided by qualified

social workers, psychologists, guidance counselors, or other qualified personnel.” 34 CFR 300.34(c)(2). The Parent is insufficiently educated about the PPT process as well as the nature of the Student’s disability.

14. In order to develop an appropriate IEP in the ACES program, it is necessary to gather information to provide specially tailored supports for Student that are positive and not punitive. A trial placement for diagnostic purposes is a structured program, of not more than forty days duration, the purpose of which is to assess the needs of a child for whom the evaluation is inconclusive or the data insufficient to develop an appropriate IEP. A trial placement for diagnostic purposes is not a placement but an evaluation. RCSA 10-76d-14.

FINAL DECISION AND ORDER:

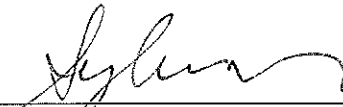
1. The March 17, 2022 IEP was inappropriate.
2. The placement at ACES Urban Youth Program at ACES Mill Road Elementary is appropriate.
 - a. The April 7, 2022 IEP is modified to place the Student at ACES Urban Youth Program for the 2022-2023 school year; to create and implement an IEP after a Trial Placement by Diagnostic Purposes.
 - b. The IEP is further modified to include a 40 day Trial Placement for Diagnostic Purposes which shall be an evaluation study of the Student in the new school setting. The purpose of the evaluation study is to provide information for a new IEP at the end of study. The PPT shall include staff members of ACES only. The chair of the PPT shall be an administrator from the Board’s central office.
 - c. The IEP is further modified to include the related services of counseling and training of the Parent to educate him on the PPT process and implementation of IEPs, the nature of his child’s disability, including providing scientific and psychological information, so that he is equipped to participate as a member of the PPT. The counseling and training shall be no less than 30 minutes per week via zoom or telephone conference or in person. This shall be immediately implemented on enrollment to the ACES Urban Youth Program contemporaneous with the diagnostic placement. The counseling and training shall be provided by the staff of ACES Mill Road Elementary and may include social workers and BCBA’s. Staff counselors shall listen to the Parent concerns and discuss options and scientifically researched based options to address the areas of concern. Staff will also counsel and train Parent on home to school communication, including daily check-ins with Parent, to create consistency and collaboration to support the Student until the Student is adapted and functioning well in the new school environment.
 - d. At the conclusion of the 40 day Trial Placement the PPT shall meet to design the IEP. The team shall consider all relevant data including the information gathered from independent evaluators as described in

paragraph 3 below. The PPT shall also receive information from the Student's private therapist and take the information into account when creating a new IEP. The new IEP may be amended and revised as often necessary so that the Student adjusts to the new environment.

3. The initial evaluation was inappropriate. The Parent is entitled to an Independent Educational Evaluation ("IEE") at public expense. The IEE shall be conducted by independent professionals that are not employed by New Haven Public Schools nor ACES Mill Road Elementary School. The school district shall provide the Parent with a list of independent evaluators that meet District criteria as provided by Connecticut law. The evaluations shall include academic, psychological, social work and FBA assessments. An independent evaluator shall be given access to ACES Mill Road Elementary to conduct observations and gather data for independent FBA and conduct the independent evaluation contemporaneous with the Trial Placement for Diagnostic Purposes. The independent evaluators' reports will be reviewed alongside information gathered in the Diagnostic Placement in the creation of the Student's new IEP. The independent FBA evaluator shall be invited, but not required, to attend and contribute to the PPT. If the independent FBA evaluator does attend, payment shall be included as part of the independent evaluation.

If the local or regional board of education or the unified school district responsible for providing special education for the student requiring special education does not take action on the findings or prescription of the hearing officer within fifteen days after receipt thereof, the State Board of Education shall take appropriate action to enforce the findings or prescription of the hearing officer.

Appeals from the hearing decision of the hearing officer may be made to state or federal court by either party in accordance with the provisions of Section 4-183, Connecticut General Statutes, and Title 20, United States Code 1415(i)(2)(A).



Hearing Officer Signature

Sylvia Ho

Hearing Officer

Name in Print