

STATE OF CONNECTICUT

DEPARTMENT OF EDUCATION

Student v. New Hartford Board of Education

Appearing on behalf of the Parent:

Pro se

Appearing on behalf of the Board:

Attorney Peter Maher
Attorney Julie Reznik
Shipman & Goodwin, LLP
One Constitution Plaza
Hartford, CT 06103

Appearing before:

Kelly Moyher, Esq.
Hearing Officer

FINAL DECISION AND ORDER

ISSUES:

1. Was the Student denied FAPE for the 2024-2025 school year when the Board did not add recommendations from Parent-provided evaluations at the June 10, 2024?
2. If yes, what recommendations from the Parent-provided evaluations should be included in the Student's IEP for the 2024-2025 school year

PROCEDURAL HISTORY:

A prehearing conference call was held on June 27, 2024, to clarify issues for hearing and set hearing dates after attempting mediation and using one of the dates set aside for hearing for mediation. The Hearing Officer granted a 30-day extension of the mailing to the Board on July 18, 2024 to allow for continued settlement discussions in mediation and to accommodate a hearing date beyond the original mailing date. The Parents expressed concerns about the issues for hearing, noting a possible denial for FAPE stemming from the end of the 2022-2023 school year and during the 2023-2024 school year which were not included in the original Complaint. The parties discussed a possible amendment to the Complaint to include the two school years prior to the 2024-2025 school year and the Board objected to this possibility and noted the timeline of the current case. The Hearing Officer has noted the Board's objection and has noted the amount of time and resources both parties have contributed to the case. The Hearing Officer offered the Parents the opportunity to amend the Complaint, noting that an amendment would 'restart' the due process complaint timeline (C.F.R. §300.508(d)(3)(ii)). The timeline included the 30-day resolution period and the 45-day period under IDEA. The Hearing Officer gave the Parent until September 25 to submit their Amended Complaint if they so chose and the Parties agreed to reconvene a prehearing conference call on the September 25th at 2:00 p.m. The Parents

may submit an Amended Complaint anytime before this date and time and are to send the Amended Complaint via email to the Hearing Officer and counsel for the Board and with a copy to the Due Process Unit. The Parents were informed that the timeline of the case would restart on the date the Amended Complaint is submitted. The Hearing Officer also made the Parties aware that the Board may object to new issues brought by the Amended Complaint and that issues drafted in an Amended Complaint are not automatically issues set for hearing.

The Parents did not amend their complaint and the Parties were granted several extensions of the mailing date on the record to accommodate hearing dates which extend into mid-March. Hearing dates occurred on the following days: December 10th and 13th, 2024, January 6th and 29^h, February 10th, 11th, 26th and 28th, and March 11th and 24th, 2025. The Hearing Officer received exhibits and witness lists from the parties in a timely fashion¹. The Hearing Officer received the Board's Objections to Parents' Witness List on November 7th, 2024, and received the Parent's Response on November 9th, 2024. The Board has objected to 27 out of 39 of the individuals listed on the Parent's witness list. The Hearing Officer found that the Parents and the Board may call the following 12 witnesses during the hearing:

- Mrs. Special Ed.
- Mrs. Principal
- Mrs. 5th Grade Teacher
- Mrs. OT (NHB)
- Mr. Director of Student Services
- Mrs. School Social Worker
- Mrs. 4th Grade Teacher
- Mrs. SLP (NHB)
- Mrs. OT (Parent)
- Mrs. SLP (Parent)
- Mrs. School Psychologist, Parent
- University of Connecticut Private Audiologist

In addition, the Hearing Officer finds that the following witnesses may be called by the Parents over the objection of the Board:

- Mrs. PE
- Ms. Curriculum Coach
- Ms. PT, former NHB employee

The Hearing Officer found that the Parents may choose three additional witnesses from their list of 'Current New Hartford BOE Employee/Contracted Workers' or 'Other'. The Parents were to notify the Hearing Officer and the Board which three witnesses they would like to call from these lists. Of the three, counsel for the Board could not be included.

¹ In the "Filing of Documents with the Hearing Officer" section of the Hearing Notice 'Memorandum to Parties', it is noted that: "Motions and briefs must be included as an attachment to the email and not the text of the email; a signed original must be placed in the U.S. Mail on the same date as it is emailed. Such filing will be deemed timely only if both mailed and emailed on the due date." Document sharing with the Hearing Officer may occur via email, mail or courier service and should not take place at the abode of any party or the Hearing Officer.

The New Hartford Board (hereinafter “NHB”), filed exhibits B-1-B-47 and called the following witnesses: Mrs. Principal, Mr. School Psychologist, Mrs. Special Ed. Teacher, Mrs. SLP (NHB), Mrs. OT (NHB), Mrs. 5th Grade Teacher, Mrs. 4th Grade Teacher, Mr. Director of Student Services, and Mrs. Social Worker.

The Parents filed exhibits P-1-P-129. In addition to direct and cross examination of the witnesses called by the NHB, the Parents called: Mrs. OT (Parent), Mrs. PE, Mr. IT, Ms. Curriculum Coach, Mrs. SLP (Parent) and Mrs. School Psychologist, Parent.

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 InMrs. v. S & H Computer Systems, InMrs.*, 605 F. Supp. 816 (M.MR. Tenn. 1985) and *Bonnie Ann F. Callallen Independent School LPS*, 835 F. Supp. 340 (S.MR. Tex. 1993).

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.

JOINT STIPULATION OF FACTS

1. The Student is ten years old.
2. The Students Parents are Mr. and Mrs. Parent.
3. The Student and his Parents reside in New Hartford, Connecticut.
4. The Student is identified under the Individuals with Disabilities Education Act (“IDEA”) as a student with a disability under the eligibility category of Autism, since May 15, 2019.
5. The Student is enrolled as a 5th grade student at Ann Antolini School, a school within the New Hartford Public Schools.
6. The Student’s most recent triennial evaluation review date is May 12, 2022.
7. A PPT Meeting was held on March 18, 2024 for the Student’s annual review and to plan the next triennial reevaluation, which is due by May 12, 2025.
8. The Student’s March 18, 2024 individualized education program (“IEP”) includes thirty (30) minutes per week of direct speech-language instruction with a speech-language pathologist and thirty (30) minute individual counseling sessions with a school social worker thirty (30) times per year.
9. The Student’s March 18, 2024 IEP includes the following accommodations:
 - a. Manipulatives;
 - b. Flexible seating on the floor for postural support as needed;
 - c. Allow for recognition memory/pictorial options instead of fill in the blank;
 - d. List sequential steps of tasks as needed;
 - e. Visual/word schedule posted in classroom;
 - f. Minimize distractions;

- g. Clear view of teacher/board;
 - h. Preferential seating;
 - i. Flexible seating options – standing desk available;
 - j. Reduce auditory and visual stimuli, including classroom lights as appropriate;
 - k. Breaks between tasks as needed;
 - l. Clear, consistent expectations;
 - m. Prompt for attention;
 - n. Allow approved (by staff/Parents) and preferred (the Student) manipulatives for self-regulation;
 - o. Positive reinforcement;
 - p. Notifications to change in schedule in advance as appropriate;
 - q. Rest breaks as needed;
 - r. Movement breaks incorporating sensory diet as needed;
 - s. Home-school communication system;
 - t. No requirement for eye contact;
 - u. Allow hat wearing at school;
 - v. Check for understanding;
 - w. Chunk directions;
 - x. Extra time for verbal responses;
 - y. Multimodal instruction;
 - z. Multisensory approach;
 - aa. Repeat/restate directions and essential information as needed;
 - bb. Repeat/review directions as needed;
 - cc. Pair auditory and visual information;
 - dd. Allow extra time for snack and access to water;
 - ee. Access to nurses bathroom for toileting support;
 - ff. Refer to Asthma Action Plan and Bleeding Plan;
 - gg. Contact parent if medical or safety concerns;
 - hh. Share CBM data, benchmark data, and school work with family contemporaneously;
 - ii. Advanced notice of unexpected transitions;
 - jj. Don't call on [REDACTED] unless hand is raised; and
 - kk. After a negative peer interaction, [REDACTED] will follow up with the speech-language pathologist or school social worker to process the interaction and complete the Blueprint from the RULER curriculum.
10. The Student's March 18, 2024 IEP includes the following assistive technology:
- a. Graphic organizers;
 - b. Slant board as needed;
 - c. Computer mouse;
 - d. Pencil grips;
 - e. Noise cancelling headphones; and
 - f. Modified paper.
11. The Student's March 18, 2024 IEP includes the following indirect services:
- a. Observations by the speech-language pathologist across educational settings (ex. academics, lunch/recess, specials) for social interactions for ten (10) minutes per week.
 - b. Consultation with the classroom teacher, speech-language pathologist, social worker, occupational therapist, and special education teacher for fifteen (15) minutes per week.

- c. Consultation between general education teacher, physical education teacher, and physical therapist to review the Student's Ehlers-Danlos syndrome (EDS) diagnosis and modifications to his physical activities for thirty (30) minutes per trimester.
12. The Parents provided consent on March 23, 2024 to the triennial reevaluation planned at the March 18, 2024 PPT Meeting.
13. A PPT Meeting was held on June 10, 2024 to review and consider three private evaluations obtained by the Parents at private expense: a multidisciplinary evaluation conducted by the Stern Center for Language and Learning in October 2023, an occupational therapy evaluation conducted by Creative Development LLC dated April 23, 2024, and an audiological evaluation conducted by UCONN Speech and Hearing Clinic dated April 24, 2024, as well as the Student's programming.
14. On June 11, 2024, the Parents filed for due process.

FINDINGS OF FACT:

The Hearing Officer adopts the Parties Joint Stipulation of Facts as Findings of Fact #1-14.

15. As of the March 18, 2024 PPT, the Student was in 4th grade and left his classroom for direct counseling and communications services once per week and spends the majority of his time in the general education setting. These direct services are provided by Mrs. SLP (NHB), and Mrs. Social Worker. The recommendations for these services listed in the Student's IEP are as follows; Social pragmatic instruction 1x per week for 30 minutes, Observations of the Student's social skills across the educational setting 1x per week for 10 minutes, Counseling 1x per week for 30 minutes, Consultation between general education teacher, speech and language, social worker, OT and special education teacher targeting academic performance, social skills, and social-emotional skills 15 minutes 1x per week, Consultation between the general education teacher, speech and language, social worker, OT and special education teacher targeting EDS diagnosis and modifications as needed to physical activities 30 minutes 1x per trimester. Also recommended by the PPT in March of 2024: Implement the accommodations and modifications, including allowing the Student to process negative social interactions with the SLP and social worker using RULER Blueprint and update accommodations to only allow the Student to utilize approved (by staff/Parents) and preferred (by the Student) manipulatives for self-regulation. (B-19).
16. The Student was reported to be making satisfactory progress in March of 2024 on all of his IEP goals with satisfactory progress on one underlying objective and mastering all other objectives introduced. Due to several challenging social interactions during 2023-2024 school year, social-emotional goals were added at the March 18, 2024 PPT to focus on positive and negative social interactions with peers as well as increasing the Student's ability to reflect upon peer conflicts by identifying his thoughts, feelings and actions expressed by himself and others, and improving his self-regulation through grounding and mindfulness. At the end of the 2023-2024 school year, the Student had mastered the IEP goals that were set the previous year and was making satisfactory progress on the new goals that were set at the March 18, 2024 PPT. (B-19 and B-25).

17. The Student's 4th grade teacher did not have any concerns about the Student's ability to engage in or benefit from classroom work, instruction or activities. The Student was able to access classroom materials, engage in and comprehend lessons and make progress with assignments and activities. The Student had one instance of work refusal during the school year regarding showing his work for a math strategy, however it was an isolated incident and many students can be uninterested in certain assignments at times. (Testimony, Mrs. 4th Grade Teacher, 1570-1572, 1604-1605).
18. Report cards for the 2023-2024 school year showed the Student to have met or exceeded expectations in all areas except for "respects and follows rules, routines and procedures" where he received an approaching expectations mark for the last trimester. The Student was also noted to have a messy desk and loose papers that were not in folders for the second and last trimester and received an approaching expectation mark for "prepares and organizes self, work, and materials effectively". (B-26).
19. Mrs. 4th Grade Teacher noted that fourth graders are often seen with messy desks and disorganization of materials and she did not have any concerns regarding the Student and his desk materials and paper work. It is noted that Mrs. 5th Grade Teacher also pointed out that these areas are areas 5th graders can struggle with and are working to address. Mrs. 5th Grade Teacher also did not see this as major areas of concern for the Student. She has not seen the Student have any issues with work refusal for the 2024-2025 school year. (Testimony, Mrs. 4th Grade Teacher, 1565-15-71, Mrs. 5th Grade Teacher, 1432-1440).
20. NHB staff at the Student's school utilize the STAR benchmark assessments to track student progress and performance. STAR is a summative assessment aligned to the Common Core state and grade standards. For the STAR math benchmark, the Student received a Level 4 which is the highest level and received Level 3 for the reading benchmark, which is meeting grade level expectations. The Student also took part in SBAC testing in 2024. For ELA, the Student achieved a Level 4, Exceeds, with reading and listening above standard and writing and research/inquiry was approaching standard. In Math, the Student again achieved a Level 4, Exceeds, scoring above standard in concepts and procedures, problem solving and modeling and data analysis and communicating and reasoning. (B-13, 14 and 24).
21. Mrs. Principal testified that during the 2023-2024 the Student was less engaged during his school day, but seems more lively now during the 2024-2025 school year, has made social growth all around, is active with friends at lunch and during the school day and is bright and highly achieving. She has seen the Student initiate contact with peers and adults and is self-advocating and has seen the Student apply what he is learning. The Student is accessing the general education curriculum and is happy and performing well and Mrs. Principal expressed concern that pulling the Student out for additional services could be detrimental. (Testimony, Mrs. Principal, 200-232).
22. Mrs. Special Education Teacher, who has been consulting on the Student's team since his kindergarten year and taught him in 3rd grade, sees the Student excelling in school and making and keeping friends. The consultation time for Mrs. Special Education Teacher is appropriate as she can see and compare how he is doing now to the past, can see his IEP goals, objectives and many accommodations at work and can make recommendations if changes need to be made. While the Student has assistive technology supports, the Student

doesn't always need them and should remain in the classroom and not have pull out services. She has seen the Student make progress in social situations and with self-advocacy and can see the Ruler blueprint model addressing emotional support with the same language across all settings working for the Student. She noted a difference between what staff see at school with the Student and what the Parents see at home and observed that the Student has undergone much more testing than the average Student and for long periods of time. (Testimony, Mrs. Special Education Teacher, 950-965).

23. Mrs. SLP (NHB), is the Student's case manager and oversees the Student's IEP and collaborates with him daily. She finds the Student to be very inquisitive, wanting to know everything and is generally very kind. She loved learning about the way that the Student thinks and he thinks really creatively and outside of the box. She noted the Student received an award this school year for being a good team player and appears happy in social interactions which she sees in class and at recess. Mrs. SLP spends a lot of time with the Student and checks in with all of the Student's teachers. She noted that the Student had language and social pragmatic support 2x per week for 30 minutes during the 2022-2023 school year and that the Student mastered his goals in these areas in June of 2023. The Student has since been building on old goals with new goals in his 1x per week 30 minute session. The Student is engaged and happy in structured and non structured activities, has had lots of eye contact and has many interests. She noted no concerns in the area of auditory processing and also noted the amount of testing the Student has undergone as well as discrepancies between staff and parental views of the Student. The Student is accessing grade level text and content and there have been no conflicts with peers during the current school year. The Student can now remove himself from situations rather than engage, uses sarcastic language and no concerns were noted for figurative language. Mrs. SLP also noted that the Student does not need push-in or pull-out services and has seen the Student make progress in his areas of disability. (Testimony, Mrs. SLP, 531-552).
24. Mrs. OT (NHB), described the Student as a bright and motivated kid who has warmed up after previously being reserved. The Student has worked very hard to get to where his is and has made tremendous progress. The Student has mild to moderate coordination deficits but well above average fine motor precision. The Student has beautiful handwriting and has made much progress with his letter formation, spacing between words, letter and line orientation. Mrs. OT now consults with the Student after direct OT service was discontinued after the March 18, 2024 PPT. The Student has many OT accommodations in his IEP such as noise-cancelling headphones, pencil grip, a slant board, and an external computer mouse. Preferential seating, fidgets and frequent breaks if the Student feels fatigued were reported as accommodations for ADHD. The Student's IEP also includes visual/word schedules, listing sequential steps of tasks (i.e., checklists) and all students have access to a Chromebook. Mrs. OT also noted quite a different perception of the Student between NHB staff and the parents. No issues were noted with bilateral coordination in gym or at recess and no concerns have been raised with Mrs. OT by any other staff member. Mrs. OT will be administering the Sensory Processing Measure, the developmental test of visual perception and the Bruininks-Oseretsky Test of Motor Proficiency for the Student's triennial evaluation as well as a classroom observation. (Testimony, Mrs. OT, 1000-1009).
25. Mrs. Social Worker, who has worked with the Student since 2nd grade, has observed improvements in the Student's confidence, self advocacy and self regulation over the year

and has noted improved peer relationships this year as well as improved coping skills. The Student is fully engaged and feeling good in school academically and socially. The Student works well with scaffolding and the Ruler accommodation was useful to help the Student with peer conflict. Ruler reinforces a lot of the skills that the Student already learned about perspective taking and understanding his emotions, and also relating to others which reinforces and builds on his capacity to work through challenges in a more confident way. Through the Student's IEP, staff are collecting data and tracking his ability to use skills in the general education setting and teachers will give Mrs. Social Worker a lot of feedback on how the Student is able to advocate and how that's shown in the classroom setting, as well as with peers. The Student is able to negotiate and collaborate with peers in a positive way. The team has a multidisciplinary approach in its collaboration for the Student, ensuring that his accommodations are being implemented within the classroom while maintaining his progress with his goals and objectives in the IEP. The Student mastered goals and objectives that were in place for the 2023-2024 school year and had either mastered or was making satisfactory progress toward new goals and objectives during the 2024-2025 school year which were added at the March 18, 2024 PPT. (B-7, 9 and 19, Testimony, Mrs. Social Worker 1145-1166).

26. Mrs. 5th Grade Teacher testified that the Student is very kind-hearted and has a good sense of humor and is a great critical thinker. has noted positive interactions between the Student and peers, that he's performing well academically, has not had any work refusal, needs few reminders and has not taken any rest breaks this year. The Student is meeting expectations in all areas and is putting forth his best effort. She noted the Student has many accommodations but does not use some of them. Mrs. 5th Grade Teacher noted working on the Student with organization of materials through Tier one support and this is something she is working on with many of her 5th grade Students. The Student has needed less reminders throughout the school year about organizing his materials. Several student's, including the Student, utilize a crate at the side of their desks to organize larger materials. The Student raises his hand in class and may need a prompt occasionally to get started in class which is common for students in 5th grade. She is in communication with the school nurse regarding the Student's asthma and bleeding issues. The Student loves using his Chromebook and does not have any issue accessing the curriculum. The Student doesn't always make eye contact, which part of the Student's accommodations, or appear to be listening, but the Student's performance, class work and assessment show he is engaged and accessing the curriculum. Mrs. 5th Grade teacher has noticed some issues with handwriting after the Student returned to school in January after the winter break. The Student's letter formation is not as good and she has seen him start his writing in the middle of the page. She has also noticed some issues with focus since January of 2025. However, the Student continues to perform well overall and has met expectations on report cards and with STAR assessments, is performing at grade level and is accessing his education. (Testimony, Mrs. 5th Grade Teacher, 1420-1430).
27. Most of the NHB staff working with the Student have noticed some changes is the Student's performance as of January 3, 2025. This has been attributed to medication trials and changes for the Student's health issues and is corroborated by the Parents in their brief.
28. On June 10, 2024, a PPT was convened at the request of the Parents. The Parents had provided NHB staff with three evaluations on June 4, 2024. The evaluations consisted of a Multidisciplinary Evaluation which was conducted by the Stern Center in October of 2023,

an OT Evaluation conducted by Creative Development dated April 23, 2024 and a Audiological Evaluation conducted by the UCONN Speech and Hearing Clinic dated April 24, 2024. The Parents requested reimbursement for the costs of the evaluations which was denied as the NHB had previously granted a request for fund a neuropsychological IEE. The evaluations were reviewed and considered prior to the June 10, 2024 PPT and the following were present at the meeting: Mrs. Principal, Mr. Director of Student Services, the Parents, Mrs. Special Education Teacher, Mrs. 5th Grade Teacher, Mrs. OT (NHB), Mrs. OT (Parent) Mrs. SLP (NHB) and Mrs. Social Worker. The PPT recommended continuing with the Student's IEP from the March 2024 IEP and did not adopt any of the recommendations from the three Parent evaluations. The NHB staff who were present at the PPT testified that the decision was made not to include any recommendations from the private evaluations because of the Student's progress with his current IEP goals and objectives, because of his academic performance and because many of the recommendations made in the private evaluations were already being provided in the Student's IEP. (B-24, Testimony, Mrs. Principal, 384-385, Mrs. Special Education, 918-920, Mrs. OT, 1010, Mrs. SLP, 918-920, Mrs. Social Worker, 1168, Mrs. 4th Grade Teacher, 1592 and Mr. Director of Student Services, 1743-1745).

29. At the June 10, 2024 PPT, Mrs. OT, Parent, attended and reported out on the Creative Development OT evaluation. Mrs. OT (Parent) is a licensed occupational therapist with Creative Development and is also an adjunct professor at Quinnipiac University. She first met with the Student in May of 2023 to look at issues regarding visual and sensory processing skills. The Student is gifted and she testified that her evaluation of the Student was conducted for purposes of reassessing his eligibility for private OT services and was not a school-based evaluation. As part of the evaluation, Mrs. OT (Parent) observed the Student during an ELA class. The DTVP-3 was administered to get a closer look at his fine motor and visual motor skills. Visual perception came out to be average and above average for visual closure, he scored poor on eye-hand coordination and copying was also average. The Student may have fatigued but he worked hard and followed directions. During observation of the Student in school, Mrs. OT (Parent) noticed he was very spread out at his desk, was distracted by a rug near his chair and used multiple fidgets during class. She found it took the Student 50 minutes to become engaged and he relied on a partner during partner work. She testified that the Student's difficulties with convergence and body awareness and the fact that he was moving the whole time, by having everything spread out, he knew where everything was. She found that because the Student does have some difficulties with executive functioning, it was hard for him to organize his materials in a way that wasn't spread out like that. Mrs. OT (Parent) went on to testify that the Student is very smart and can compensate because he's so smart, but that executive functioning difficulties make it challenging for him to initiate, plan and organize his materials. (B-21, Testimony, Mrs. OT (Parent), 1360-76, 1380-1385).

30. Several instruments were used by Mrs. OT (Parent) for the private OT evaluation. The BRIEF-2 was performed to assess the Student's ability to perform executive functioning skills within the home environment. Mrs. OT (Parent), noted that the Student has made steady progress in executive functioning over the past year. He scored in the typical range for self-monitor, emotional control, initiate, plan/organize, task monitor and behavioral regulation, and scored in the mildly elevated range for inhibit and working memory. The Student scored in the potentially clinically elevated range for emotional regulation and clinically elevated range for shift. Shift assesses the ability to move freely from one

situation, activity, or aspect of a problem to another as circumstance demands, and emotional control looks at the manifestation of executive functions within the emotional realm and the child's ability to modulate their emotional response. The evaluation also looked at the BRIEF-2 in the school environment and all scores were rated as typical except for self-monitor which assess awareness of the impact of one's own behaviors on other people and outcomes. The SPM-2 home and school form were also provided to look at the Student's sensory function such as vision, hearing, taste, touch, smell, body awareness, balance and motion, sensory total, planning and ideas and social participation. The Parents noted moderate difficulties in all areas except for a severe difficulty in touch and a typical in social participation. At school, all scores were typical except for a moderate difficulty in social participation. The BOT-2 was administered to look at gross and fine motor performance in the areas of fine manual control, manual coordination, body coordination and strength and agility. All scores were in the average range except for bilateral coordination. A below average score is noted and Mrs. OT (Parent) did note that the Student made improvements with his ability to complete tasks involving bilateral control with simultaneous coordination of the left and right sides of his body. The evaluator noted this may impact skills of daily living. Several errors are noted within the evaluation report and a corrected version was not provided. The Student currently has counseling goals in his IEP to address self-monitoring, as well as the RULER accommodation. The Student's IEP also addresses shift in the form of accommodations such as listing sequential steps, advance notice for a change in schedule, graphic organizers and not calling on the Student unless his hand is raised. The Student also has goals and objectives in his IEP addressing social participation and none of the Student's teachers have witnessed the Student exhibiting any issues with bilateral coordination. (B-19 and 21, Testimony, Mrs. OT (Parent), 1450-55).

31. For visual processing and tracking, the Student was noted to have extreme visual fields compared to others his age. The Student wears an adult-sized baseball hat to assist with blocking out the extreme peripheral fields. Even with the hat, the Student still has a wide range of visual input coming at him increasing distractibility which manifests in the Student's increased need for movement during class instruction as well as the need to sit in the back of the classroom. Extreme peripheral fields can cause increased inability to follow multi-step directions and difficulties processing information quickly from a visual and auditory standpoint. (B-19 and 21, Testimony, Mrs. OT (Parent), 1378-1390).
32. On the DTVP-3, the Student scored average or better on all subtests except eye-hand ("EH") coordination, on which he received a poor score because and Mrs. OT (NHB) attributed this to the Student picking up his pencil. With the EH coordination score, the Student scored just below average on the overall visual-motor coordination composite. On the BOT-2, the Student scored average on the fine motor precision, fine motor integration, manual dexterity and upper-limb coordination subtests, all of which require eye-hand coordination skills. On the BOT-2, a student does not get penalized for lifting their pencil, unlike on with the DTVP-3. With EH coordination issues, issues with writing, typing, gym participation and any other activity that involves pairing a visual motor task with motor output would be observed. There have not been any concerns raised by staff regarding the Student's EH coordination. The Student does have IEP accommodations that address EH coordination and the physical aspects of writing, including modified paper, a slant board and a pencil grip. (B-19 and 21, Testimony, Mrs. OT (NHB), 1028-37, Mrs. OT (Parent), 1387).

33. Turning to the Multidisciplinary Evaluation, which took place at the beginning of the Student's 4th grade year in October of 2023 and was performed by Mrs. SLP (Parent) and Mrs. School Psychologist (Parent), of the Stern Center for Language and Learning, neither evaluator found any normative weakness and relative weaknesses that were found need not be addressed through special education services. There was no direct communication with NHB staff during the evaluation and there was no observation of the Student at school. (B-15, Testimony, Mrs. SLP (Parent), 770-779, 827-829, 853-854, 867-869, 853, Mrs. School Psychologist (Parent), 923-925 and 938-949).
34. On the WISC, Woodcock-Johnson and WRAML-3, the Student scored average or better on all of the composite of index scores and on all of the subtests within those composites and indices, with the exception of one WRAML-3 subtest. On the Social-Emotional Functioning Rating Scales. Mrs. Special Ed. Teacher rated the Student as typical in all areas and Ms. SLP rated the Student as mildly elevated on the anxious/depressed and withdrawn/depressed scales. (B-15; Testimony, Mrs. Special Education Teacher, 1377.)
35. The Student scored average or better on all composites and subtests of the CTOPP-2; the WIAT-4 phonemic proficiency, decoding, reading fluency and written expression tests; the OWLS-2 reading comprehension test and the FAW (which assesses writing ability). On the WIAT-4 writing fluency composite, the Student earned a low average, but still average, score due to his score on the alphabet writing subtest, which was attributed to him not stabilizing the paper. NHB staff did not report any concerns regarding the Student's writing and letter formation. On the WIAT-4 math composites and fluency index, the Student scored above average and very superior. NHB have reported math to be an area of strength for the Student. The Student scored average or better on the TWF-3 (which assesses accuracy and speed of retrieval), on the TOLD – I:5 (which looks at word relationships and the relationship between concepts), on all indices of the CELF-5 (which assesses general receptive and expressive language, language memory and language content) and on the narrative language ability index of the TNL-2. (B-15, Testimony, Mrs. Special Education Teacher, 926-41, Mrs. 5th Grade Teacher, 942, 1418, Mrs. School Psychologist, NHB, 783, 837-838, 842-43, 876-880).
36. On the OPUS, which assesses listening comprehension, the Student scored low average, but the OPUS does not include visual support. The Student has visual supports contained in his March 2024 IEP and NHB staff have no concerns regarding the Student's listening comprehension skills. Also, fourth and fifth graders are actively being taught how to inference as part of the general education curriculum. On the Children's Communication Checklist (CCC), Mrs. Social Worker reported the Student to be within normal limits, and the Parents endorsed concerns in the areas of withdrawal or depression and thought problems. Nonverbal communication is addressed in the Student's March 2024 IEP goals because assessment of nonverbal communication is a skill necessary to engage and interact with peers. On the SLDT-E:NU social language development index, which assesses inferencing, perspective taking and social language skills, the Student scored slightly below average. Mrs. SLP (Parent) and Mrs. SLP (NHB) both found that the slightly below average score was the result of the Student answering questions in the second person rather than the first. The Student identified appropriate solutions to hypotheticals posed as part of this index. Learning how to inference is part of the general education curriculum in fourth and fifth grade. Additionally, the Student has 5 social-pragmatic goals in his IEP which target

inferencing, perspective taking, and social language. (B-15, 19, Testimony, Mrs. SLP (NHB), 571, 573-574 580-582, Mrs. 5th Grade Teacher, 1451, Mrs. School Psychologist, 904-906.)

37. On the CELF-5 metalinguistics, the Student scored in the low average range, as a result of scoring one point below average on the multiple meanings subtest, while scoring average on the figurative language subtest. The Student received an overall score in the low end of average on the meta-semantics index which is in the average range and learning words with multiple meanings is part of the fifth-grade curriculum. (Testimony, Mrs. SLP (NHB), 583-85; Mrs. School Psychologist, 836.)

38. The Stern Center Evaluation made the following recommendations which are included in the Student's Marc 2024 IEP as goals and objectives, accommodations or are taught in the general education setting:

-In the area of oral language, the Student "would benefit from explicit instruction on how to use graphic organizers to support his ability to recall and synthesize information." The Student's IEP includes graphic organizers, and he receives instruction within the general education curriculum on how to use them. (B-15 and B-19; Testimony, Mrs. 5th Grade Teacher, 1449, Mrs. 4th Grade Teacher, 1595).

-For social-pragmatic, encourage participation "by modeling and allowing opportunities for the Student to initiate conversation." This is addressed through communication goals in the Student's IEP. (B-15, Testimony, Mrs. SLP (NHB) 606-08).

-For social-pragmatic, demonstrate how adding a thought or asking follow-up questions shows reciprocity and extends conversations, teach "the why" and ask about others' interests. Mrs. SLP, NHB practices these skills with the Student through her direct instruction. The Student is able to maintain conversations with Mrs. SLP, NHB and she has observed him to interact appropriately and maintain conversations with others. (B-15, Testimony, Mrs. SLP (NHB), 607).

-For social-pragmatic, The development of vocabulary "as it relates to his own emotional experiences and those of others would also be beneficial." This is addressed through the Blueprint RULER and the Student's direct communication and counseling IEP instruction. (B-15, Testimony, Mrs. SLP (NHB), 611.)

-For social-pragmatic, the Student "would benefit from exploring social processing tools to better understand the deeper thoughts, feelings, and motivations of others." This is addressed in the Student's IEP through his counseling goals and his Blueprint RULER accommodation. (B-15, Testimony, Mrs. Social Worker, 1172).

-For social-pragmatic, Use of strategies like "cartooning and social behavior mapping" to "break down the cause-and-effect of social interactions." The Blueprint RULER involves behavior mapping and the Student discusses the cause-and-effect of social interactions during counseling. (B-15, Testimony, Mrs. SLP (NHB), 613).

-For social-pragmatic, consider “how natural consequences of social situations benefit and sustain or harm relationships with others.” This is addressed through the Student’s communication goals, which target peer interactions and the consequences of choices, as well as his counseling goals, which focus on peer conflicts. (B-15, Testimony, Mrs. SLP (NHB), 613-14, Mrs. Social Worker, 1172-73).

-For social-pragmatic, Use of “video clips, video modeling, and group interactions to support learning.” Mrs. SLP, NHB utilizes these techniques in her sessions with the Student and this is also addressed by the multimodal instruction accommodation in his IEP. (B-15, Testimony, Mrs. SLP (NHB) 616.)

-For social-pragmatic, Provide “consistent routines and expectations.” Two accommodations in the Student’s IEP cover this: notification before a change in schedule and clear and consistent expectations. (B-15, Testimony, Mrs. SLP (NHB), 617-18).

-For the area of written expression, the Student “will benefit” from the use of scaffolds, including “graphic organizers, sentence frames, word banks for transitions, and editing instructions for using different sentence types and syntax reminders.” The Student’s IEP contains graphic organizers. (B-15 and B-19.)

-For the recommendation for accommodation to provide extra time before prompting the Student or reframing questions, allow him to initiate by raising his hand and check for understanding. The Student’s IEP includes accommodations for not calling on him unless his hand is raised, extra time to provide verbal responses, checking for understanding and repeating and restating directions or essential information. (B-15, B-19, Testimony, Mrs. Special Education Teacher, 955-57, Mrs. School Psychologist, 848).

-For the recommendation for accommodation to provide consistent structure including writing the goal of the activity and key takeaways or learning objectives on the board and providing a printed “skeleton” of a lesson with the main idea, learning objectives and key vocabulary/concepts to assist in notetaking, The Student’s IEP contains graphic organizers, accommodations for sentence frames and clear and consistent expectations. Lesson objectives are communicated through workbooks and on the board. (B-15 and B-19, Testimony, Mrs. Special Education Teacher, 957-960, Mrs. 5th, Grade Teacher, 1450-51, Mrs. 4th Grade Teacher, 1599-1600.)

-For the recommendation for accommodation to have access to scaffolding tools that have been explicitly taught to the Student, the IEP includes accommodations for graphic organizers, clear and consistent expectations and repeating and reviewing directions as needed. Sentence frames and word banks are made available as part of the general education curriculum. (B-15 and B-19; Testimony, Mrs. Special Education Teacher, 960.)

39. The Stern Center evaluation also made recommendations that were not in the March 2024 IEP and included the following:

-For oral language. “Connect new learning to previously learned vocabulary or concepts whenever possible.” There were not any concerns raised by NHB staff about the Student’s vocabulary and teaching vocabulary is part of the general education curriculum. (B-15, Testimony, Mrs. 4th Grade Teacher, 1592-94, Mrs. 5th Grade Teacher, 1448-49).

-For oral language, use “age-appropriate reading materials to help the Student understand longer sentences.” Use of age-appropriate reading materials is part of the general education curriculum and the Student is accessing grade level text regularly. (B-15, Testimony, Mrs. 4th Grade Teacher, 1593-95, Mrs. 5th Grade Teacher, 1449.)

-For oral language, the Student “would likely benefit from explicit training in narrative structure that is augmented with visual supports to aid in organizing stories he hears or produces.” There is no evidence to show that the Student is unable to accurately tell stories, and the IEP has visual supports to assist in organizing narrative structure, including graphic organizers. (B-15 and B-19, Testimony, Mrs. SLP (NHB), 601-02).

-For oral language, “Instruction in how to interpret and use signal words or phrases that express relationships between ideas.” The Student is performing age appropriately in writing and Mrs. School Psychologist, Parent, testified that the Student is “capable of using complex syntax structures and complex sentence structures.” (B-15, Testimony, Mrs. SLP (NHB), 606, Mrs. School Psychologist, Parent, 788).

-For oral language, describe daily routines and problem solve aloud to expose the Student to vocabulary and complex sentence structures. No concerns have been raised by NHB staff regarding the Student’s ability to use vocabulary in a complex sentence structure, however IEP accommodations support daily routines and problem solving. (B-15, Testimony, Mrs. SLP (NHB), 604-06).

-For social-pragmatic, explore figurative language and instruction in idioms. Mrs. SLP (NHB) does not have concerns regarding the Student’s understanding of figurative language, which is part of the general education curriculum. The Student makes jokes, uses sarcasm and understands sarcasm. (B-15, Testimony, Mrs. SLP (NHB)).

-For social-pragmatic, the Student “would benefit from direct instruction in words with multiple meanings.” The Student understands words with multiple meanings and accesses them appropriately and works with multiple meanings is being taught as part of the grade level curriculum. (B-15, Testimony, Mrs. SLP (NHB), 616).

-For reading fluency, the Student may benefit from using syntactic scooping to help him chunk words and phrases together. The Student is able to read fluently and comprehend on grade level. The Stern Center testing did not reveal any reading fluency concerns, as he scored above average on the WIAT reading fluency composite. The Student reads aloud in his fifth-grade class a few times each month with proper fluency. (B- 15, Testimony, Mrs. Special Education Teacher, 944-46; Mrs. 5th Grade Teacher, 1474-75).

-For reading comprehension, use “high-interest reading materials” that allow for manipulation of the Lexile level. The Student “could read a story at a lower Lexile,” then reread it at a higher Lexile and the use of high interest books is embedded in the general education curriculum. (B- 15, Testimony, Mrs. Special Education Teacher, 947-49, Mrs. School Psychologist, 844-45).

-For written expression, use a content-based writing approach to allow the Student “to apply his background knowledge and thinking skills to his writing and support the development of paragraph-level skills.” This approach is embedded in the general education curriculum and there is not evidence that the Student has any difficulty applying background knowledge or with paragraph skills. (B-15, Testimony, Mrs. Special Education Teacher 951-953).

-The recommendation for an accommodation giving “extra time (50% or more) on all assignments, tests and quizzes.” There has been no evidence regarding the Student’s ability to take tests or to complete assignments within an allotted period of time. (B-15, Testimony, Mrs. Special Education Teacher, 953).

-The Recommendation for an accommodation to use multiple choice assessments. Mrs. School Psychologist, Parent, testified that this is an example of how to support a “relative weakness,” but does not need to be in an IEP. There has been no evidence of any concerns of NHB staff regarding the Student’s listening or reading comprehension skills that would necessitate the use of such assessments and there are no concerns regarding his ability to provide written responses in class. (B-15, Testimony, Mrs. School Psychologist, 852, Mrs. 5th Grade Teacher, 1451-54, Mrs. 4th Grade Teacher, 1601-03).

-The recommendation for an accommodation to explore speech-to-text software and keyboarding “to mitigate the impact of his relative weakness in graphomotor skills.” The Student does not require additional assistive technology to access the curriculum and all students have access to a Chromebook, which includes speech-to-text software. In fourth grade, the Student used his Chromebook with a similar frequency to other students in his general education classroom. His fifth-grade class uses their Chromebook daily for longer responses and English language arts, as well as for Typing Club (which focuses on typing skills) and Dream Box (an adaptive math program). (B-15, Testimony, Mrs. Special Education Teacher 962-63, Mrs. 5th Grade Teacher, 1453-54, Mrs. 4th Grade Teacher, 1603).

40. It is notable that both witnesses for the Stern Center, Mrs. School Psychologist, Parent and Mrs. SLP (Parent), testified that the recommendations were not required components of an IEP and could be implemented through general education and good teaching practices. It is also noted that the evaluators use the phrase “may benefit” throughout their recommendations. Both evaluators testified that they would have used the word “required” if the Student needed a recommendation. The recommendations were intended to cover the next two to three years and the evaluators would not expect any school team to be able to implement all of them. (Testimony, Mrs. SLP (Parent), 944-956, Mrs. School Psychologist, 827-829, 840-850, 945-946).

41. An audiology evaluation, conducted by an audiologist at the UCONN Speech and Language Clinic was presented by the Parents to NHB staff and considered at the March 10, 2024 PPT. The audiologist was not present at the PPT and did not testify at the due process hearing. Mrs. SLP (NHB), completed an audiology practicum as part of her graduate programing which involved working with an audiologist to conduct hearing tests for adults and children. Mrs. SLP (NHB), testified that auditory processing is generally not conducted on a Student with ADHD and/or ASD because it is difficult to determine whether difficulty attending to auditory stimuli is due to an auditory disorder or ADHD and/or ASD. The audiologist who performed the evaluation stated that the scores should be interpreted with caution due to the Student's diagnosis of Autism and that a diagnosis of an auditory processing disorder could not be given because auditory processing measures are not normed for neurodiverse students. Mrs. SLP (NHB) testified that the Student's audiometry, immittance and tymp tested normal and he tested slightly below the norm in three auditory measures but that if there was an issue in these areas for the Student they would have manifested in other areas such as listening and reading comprehension and following directions (B-22, Testimony, Mrs. SLP (NHB), 619-630.)

42. The following recommendations were made in the audiological evaluation which are in the IEP as of the March 2024 PPT"

-For environmental recommendations, the Student "may benefit from some environmental management to improve his instruction in a classroom setting." The Student has accommodations for preferential seating, flexible seating options (including use of a standing desk), clear view of the teacher and board, multimodal instruction, pairing auditory and visual information, minimizing distractions and reducing auditory and visual stimuli. (B-19 and B-22, Testimony, Mrs. SLP (NHB), 631-638).

-For decoding, the recommendation provides for the performance of missing word, syllable and phoneme exercises. There has not been any evidence that there are concerns with the Student's decoding skills, or his ability to decode grade level text. The Student scored in the "very superior" (99th percentile) range in each subtest of the WIAT-4 Decoding Composite in the Stern Center Evaluation (B-15 and B-22, Testimony, Mrs. SLP (Parent), 637-639).

-For decoding the recommendation provides, "Children should speak and read the target word a few times so that the sight and sound of the word becomes familiar. They should be provided with a definition of the word and then they should use their own words to define the word" and "be encouraged to use contextual cues to predict the meaning of new vocabulary." Mrs. SLP (NHB) testified that the Student has a strong vocabulary and understanding of word relationships. The Stern Evaluation noted also noted that the Student "demonstrated an age-appropriate ability to incorporate targeted vocabulary to produce simple, compound, and complex sentences" (B-15 and B-22. Testimony, Mrs. SLP (NHB), 637-639).

-For the final decoding recommendation provides for training in prosody, reading aloud with emphasis on intonation, stress and rhythm, and organizing the training with the least difficult activity using nonverbal stimuli. Mrs. SLP (NHB) testified that she works with the Student on understanding verbal cues, tone, stress and such matters as part of their

direct intervention sessions. She does not perceive him as having difficulty regarding prosody or requiring specially designed instruction in this area and has received no contrary information from colleagues. (B-22, Testimony, Mrs. SLP (NHB), 638-40.)

40. The Parents, in their Brief, assert that visual and auditory issues interfere with the Student's access to the educational environment. And while Mrs. Social Worker agreed that the Student is affected by these issues, his access to the educational environment is not impacted due to the services and accommodations that address these issues which are in the Student's IEP. The Parents also point out that the Student has had adjustments and new trials of medication during the winter of 2024 and into 2025 which impacted the Student's attendance and performance in school. Such changes for the Student were noted by many, if not all, of the staff working with the Student. The impact of the medications adjustments and changes did not rise to the level of change in performance for the Student that would trigger an expectation for the Student to be reevaluated in any area, as the Parents suggest in their Brief. The Parents also assert that the NHB has not considered how deficits in functional and adaptive behaviors contribute and combine for the Student. The Parents also claim that the NHB is only looking to the Student's current academic performance in the general education setting in refusing to add recommendations from the evaluations. The Parents state that the Student is doing poorly on STAP assessments, the SBAC assessments show critical issues and the Student is regressing. (Parent's Brief, 8, 10-12, 21-22).

CONCLUSIONS OF LAW AND DISCUSSION:

1. There is no dispute that Student is eligible to receive a free and appropriate public education (FAPE) and related services as set forth in the Individuals with Disabilities Education Act (IDEA), 20 U.S.C Sec 1401, et seq. and its implementing regulations codified at 34 CFR §300 et. Seq., and under Conn. Gen. Stat. Sec. 10-76h. (Finding of Fact, #3).
2. The purpose of the IDEA is to ensure that all children with disabilities have available to them FAPE that emphasizes "special education and related services designed to meet their unique needs" and "prepare them for further education, employment and independent living" and "to ensure that the rights of children with disabilities and parents of such children are protected..." 20 U.S.C. §1400(d)(1).
3. The Act defines FAPE as special education and related services which "(A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State Educational Agency; (C) include an appropriate preschool, elementary, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under Sec. 614(d)." 20 U.S.C. §1401 (8).
4. The NHB has the burden of proving the appropriateness of the Student's program and placement, which burden shall be met by a preponderance of the evidence. Regulation of Connecticut State Agencies (R.C.S.A.) Sec 10-76h-14.

5. The NHB must offer an Individualized Education Program [IEP] that is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances, and "[t]he instruction offered must be 'specially designed' to meet a child's 'unique needs'" (Emphasis in original.) *Endrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-I*, 580 U.S. 386, 400, 137 S. Ct. 988, 197 L. Ed. 2d 335 (2017); 20 U.S.C. §1401(29), (14). The IDEA, 20 U.S.C. § 1400 et. seq., requires that a student's goals and objectives meet the needs resulting from the child's disability in order to enable the child to be involved in and make progress in the general education curriculum. 34 C.F.R. § 300.320(a)(2)(i)(A). Such progress must be markedly more than de minimus. *See Endrew F.*, supra, 580 U.S. at 402-03.
6. Both achievements in "educational and personal skills identified as special needs" must be considered. *Town of Burlington v. Dep't of Edu.. For Com. of Mass.*, 471 U.S. 359 (1985). Services to be provided under special education must target all areas of need whether they be academic, physical, social or emotional. *Mr. I. ex rel. L.I. v. Maine Sch. Admin. Dist. No. 55*, 480 F.3d 1, 12 (1st Cir. 2007).
7. Programs should be individualized based on the student's assessment and performance. *See A.S. v. LPS of Edu. of West Hartford*, 245 F. Supp. 2d 417, 428 (D. Conn. 2001), *aff'd* 47 Mr. Appx. 615 (2d Cir. 2002). The IEP must enable a child to derive "meaningful" educational benefit. *LPS of Edu. v. Rowley*, 458 U.S. 176, 192, 102 S. Ct. 3034, 73 L. Mr. 2d 690 (1982).
8. The standard for determining whether the NHB has provided a free appropriate public education is set forth as a two-part inquiry in *Endrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-I*, 580 U.S. 386, 400, 137 S. Ct. 988. The first question to be determined is whether the NHB complied with the procedural requirements of the Act. The second question to be determined is whether the Individualized Educational Program is "reasonably calculated to enable the child to receive educational benefits" and whether the IEP enables the child to make progress in light of the child's circumstances, *Rowley*, 458 U.S. at 206-207. The NHB has complied with all procedural requirements.
9. "The 'reasonably calculated' standard recognizes that developing an appropriate IEP requires prospective judgment by the IEP Team. Generally, this means that school personnel will make decisions that are informed by their own expertise, the progress of the child, the potential for growth and the views of the child's parents. IEP Team members should consider how special education and related services, if any, have been provided to the child in the past, including the effectiveness of specific instructional strategies and supports and services with the student. In determining whether an IEP is reasonably calculated to enable a child to make progress, the IEP team should consider the child's previous rate or academic growth, whether the child is on track to achieve or exceed grade level proficiency, any behaviors interfering with the child's progress and any additional information and input provided by the child's parents. As stated by the Court, "any review of an IEP must consider whether the IEP is reasonably calculated to ensure such progress, not whether it would be considered ideal. The essential function of an IEP is to provide meaningful opportunities for appropriate academic and functional advancement, to enable the child to make progress" *Id.*
10. "The IEP "must be likely to produce progress, not regression, and must afford the student with an opportunity greater than mere trivial advancement." *M.H. v. N.Y.C. Dep't of Educ.*,

685 F.3d 217, 224 (2d Cir.2012) The Student was not denied FAPE 2024-2025 school year when the NHB did not include recommendations from parent provided evaluations. The Student had mastered all of his IEP goals and objectives by the end of the 2023-2024 school year and was making satisfactory progress toward additional goals that were added at the March 2024 PPT. The Student's 4th grade teacher did not have any concerns about the Student's ability to engage in or benefit from classroom work, instruction or activities and the Student's 5th grade teacher has endorsed the same for this current school year.. The Student is able to access classroom materials, engage in and comprehend lessons and make progress with assignments and activities. Report cards for the 2023-2024 school year showed the Student to have met or exceeded expectations in all areas except for "respects and follows rules, routines and procedures" where he received an approaching expectations mark for the last trimester. The Student also earned scores at or above grade level on all formal administrations of the STAR and SBAC during the 2023-2024 school year. While it was reported that the Student at times had a messy desk and an unorganized work folder, such occurrences are common among elementary age children who are learning, whether through general or special education, how to work on organizational skills. There is no evidence to suggest that this was a common occurrence for the Student, or that he would be unable to meet these expectations successfully. While the Student is diagnosed with ADHD, the instances of a messy desk and/or work folders are not impeding him from accessing the curriculum and successfully performing in school. As the Student progresses through elementary school and into middle school, such issues can be addressed if these instances of disorganization persist or increase. Addressing negative peer interactions during the 2023-2024 and 2024-2025 school year, the Student has been successful in working with NHB staff to address these situations and the new goals and objectives which were added at the March 2024 PPT. It is notable that the Student has not had any such interactions during the 2024-2025 school year. NHB staff, who previously or currently work with the Student, all testified the Student has made notable progress in his areas of weakness addressed through the services and supports in his March 2024 IEP. They testified to the Student's ability to initiate and engage in conversation with peers has improved and that his ability to develop and maintain friendships has improved. Staff also noted that the Student's ability to self-advocate has improved, that his self-confidence has improved and that his ability to problem solve and utilize appropriate coping strategies has improved. The IEP for the 2024-2025 school year is "reasonably calculated to enable the child to receive educational benefits" and the IEP enables the child to make progress in light of the child's circumstances, in accordance with *Rowley*. Likewise, the Student's program for the 2024-2025 school year is individualized based on the student's assessment and performance in accordance with *A.S. v. LPS of Edu. of West Hartford*. Services that are provided under special education target all areas of need for this Student including academic, physical, social or emotional in accordance with and the Student has derived meaningful educational benefit. (Finding of Fact, 16-26).

11. Looking at each Parent provided evaluation specifically, starting with the Stern Center Multidisciplinary Evaluation, many of the recommendations put forth are either already included in the Student's IEP whether as a direct service or an accommodation. Still other recommendations are addressed through the general education curriculum. For oral language, vocabulary is part of the general education curriculum and there is not evidence of any deficit regarding the Student's vocabulary skills. The Student scored in the average range or better on the verbal comprehension index of the WISC (which has a vocabulary

subtest), the TWF (which assesses word finding and retrieval), the expressive language index of the CELF-5, the relational vocabulary subtest of the TOLD-I:5 and the TNL-2 (which targets vocabulary). While the Student's IEP has visual supports that assist him with organizing narrative structure and with paragraph-level skills, including graphic organizers, the Student has access to grade-level texts and is performing at an age-appropriate level in writing. The reading comprehension and written expression recommendations that are not in the March 2024 IEP are embedded in the general education curriculum, and the general education curriculum uses high-interest reading materials and a content-based writing approaches so the Student can apply his background knowledge and thinking skills to his paragraph-level writing. In regards to the fluency recommendation for reading and syntactic scooping, the Student scored above average on the WIAT reading fluency composite, with subtest scores ranging from average to superior, and on his comprehension testing, the Student scored at least average on all indices. Also, NHB staff and the Stern Center evaluation itself show the Student has strong reading skills and is able to read fluently. (Finding of Fact, 32-39).

12. The Multidisciplinary Evaluation also makes several social pragmatic recommendations and recommendations for extra time, multiple choice assessments and speech-to-text software. The Student scored in the low end of average, but still in the average range, on the CELF-5 meta-semantics index and scored a six out of six on the supralinguistic portion of the OWLS-2 which looks at nonliteral language, inferencing, verbal reasoning, figurative language and humor. Mrs. SLP (NHB) has testified that the Student makes jokes, uses sarcasm and uses figurative language appropriately and instruction of figurative language and words with more than one meaning are both taught in the general education curriculum. There has been no evidence offered that the Student struggles to complete work or timed tests, nor has any evidence been offered that the Student struggles with listening or reading comprehension. All students have access to a Chromebook with speech-to-text software which targets what the evaluators found to be a relative weakness in graphomotor skills and not a normative weakness. (Finding of Fact. 23 and 37).
13. In the OT evaluation, two of the three recommendations put forth, a visual check-list for multi-step assignments and visual reminders for organization of materials, are addressed in the Student's IEP. For the recommendation regarding a Chromebook for writing tasks, the Student regularly uses his Chromebook throughout the day as part of the general education curriculum. On the BOT-2 the Student scored one point below average on the bilateral coordination subtest and scored within the average range on all of the fine motor components. Likewise, none of the NHB staff who work with the Student have any concerns regarding bilateral or EH coordination. (Finding of Fact, 24, 29-31).
14. For the audiological evaluation, decoding recommendations were suggested for missing word, syllable and phoneme exercises, using contextual cues to predict the new meaning of vocabulary and training is prosody. However, there have been no concerns raised by NHB staff that the Student struggles with decoding. The Student has also shown strong performances on evaluations, in-school testing measures and with school work. The UCONN audiologist did not testify, but was careful to point out that a diagnosis of an auditory processing disorder could not be made, especially in light of the Student's ADHD and Autism diagnoses. (Finding of Fact, 40 and 41).

15. A district need not furnish “every special service necessary to maximize each handicapped child’s potential.” *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 199 (1982). Instead, an IEP is adequate if it “is likely to produce progress, not regression.” *Mr. P v. W. Hartford Bd. of Educ.*, 885 F.3d 735, 757 (2d Cir. 2018). It is noted that the Stern Center Evaluators did not offer any evidence about any deficiencies in the Board’s programming or that they found any issues with the Student’s IEP. Also of note is the frequent use of the word “benefit” in the recommendations, rather than the words require or necessary. Providing services that may merely be beneficial to a child is not the standard for FAPE under the IDEA, nor does a district need to furnish “every special service necessary to maximize each handicapped child’s potential.” *Rowley*, 458 U.S. at 207. An IEP is deemed adequate if it “is likely to produce progress, not regression.”, and there was no evidence that the Stern Center evaluators believed that the Student was not accessing the curriculum or progressing successfully with his IEP. It is also noted that several NHB staff remarked upon the negative impact they believed the Student would suffer from should he receive push-in or pull-out services at this time. The Student benefits from his inclusion in the general education setting and has demonstrated that he is able to apply what he is learning in speech and counseling sessions. *Mr. P*, 885 F.3d at 756. (Finding of Fact, 32 and 39).
16. The Student has made appropriate progress in the regular classroom setting which is the standard for FAPE for students such as this Student who are mainstreamed in the general education setting. The Parents may believe the IEP is not ideal, but as stated in *Rowley*, any review of an IEP must consider whether the IEP is reasonably calculated to ensure such progress, not whether it would be considered ideal. The essential function of an IEP is to provide meaningful opportunities for appropriate academic and functional advancement, to enable the child to make progress. The Student has shown progress during the 2024-2025 school year socially, emotionally and academically due the comprehensiveness of the goals and objectives in his IEP. During his 5th grade year, the Student performed well on his report cards, on his STAR assessments and continues to make progress on all IEP goals and objectives. The Student has a robust IEP which addresses needs and concerns that have been raised by the evaluators and NHB staff alike.
17. The Student is being provided with FAPE under the IEP that was created and adopted at the March 18, 2024 PPT for the 2024-2025 school year.

FINAL DECISION AND ORDER:

The Student was not denied FAPE for the 2024-2025 school year when the Board did not add recommendations from Parent-provided evaluations at the June 10, 2024.

APPENDIX

Mrs. Special Ed.- [REDACTED]
Mrs. Principal- [REDACTED]
Mr. School Psychologist- [REDACTED]
Mrs. 5th Grade Teacher- [REDACTED]
Mrs. OT, NHB- [REDACTED]
Mr. Director of Student Services- [REDACTED]
Mrs. School Social Worker- [REDACTED] t
Mrs. 4th Grade Teacher- [REDACTED]
Mrs. SLP, NHB- [REDACTED]
Mrs. OT, Parent- [REDACTED]
Mrs. SLP, Parent
Mrs. School Psychologist, Parent
University of Connecticut Private Audiologist
Mrs. PE- [REDACTED]
Ms. Curriculum Coach- [REDACTED]
Mr. IT- [REDACTED]

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).

A handwritten signature in blue ink, appearing to be "KMS", written over a horizontal line.

Hearing Officer Signature

A handwritten name in blue ink, "Kelly Mayher", written over a horizontal line.

Hearing Officer Name in Print