

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Student¹ v. Milford Board of Education

Appearing on behalf of Student:

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Appearing on behalf of the Board of Education:

Attorney Herbert Rosen
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Appearing before:

Janis C. Jerman
Hearing Officer

FINAL DECISION AND ORDER

Procedural Posture

Student's Attorney filed a Request for Due Process Hearing pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (IDEA) via letter dated October 28, 2024. The undersigned Hearing Officer was appointed to preside over this case on October 29, 2024.

Board of Education (BOE) received the Request for Hearing on October 28, 2024. The 30-day resolution period ended November 27, 2024; the original 45-day deadline to mail the final decision and order was January 11, 2025.

At the November 7, 2024 telephonic prehearing conference, Attorney Paul appeared on behalf of Student and Attorney Rosen appeared on behalf of BOE. The following issues were identified:

1. Did the Board of Education fail to provide Student with a free appropriate public education from October 28, 2022 to the end of the 2022-23 school year, the 2023-24 school year, and/or the 2024-25 school year by:
 - a. changing Student's placement to the Life Skills Program;
 - b. failing to provide Student an appropriate Individualized Education Program in the least restrictive environment; and/or
 - c. failing to conduct comprehensive evaluations by persons experienced with working with students with Student's profile?
2. Did the Board of Education violate Student's procedural rights by failing to provide Student's Parents with timely Prior Written Notice?
3. If the answer to Issue One and/or Issue Two is in the affirmative, what shall be the remedy?

¹ In order to comply with the confidentiality requirements of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (FERPA) and related regulations at 34 C.F.R. § 99, this decision uses titles in place of names and other personally-identifiable information.

The Request for Hearing cites Section 504 of the Rehabilitation Act (Section 504). The jurisdiction of a Hearing Officer appointed under 34 C.F.R. § 300.500 *et seq.* and Conn.Reg. § 10-76h-1 *et seq.* does not include the determination of legal claims under Section 504 unless such determination is necessary to resolve the claims under the IDEA. Jurisdiction over Section 504 claims was declined on the basis that determination of them is not necessary to resolve the IDEA claims.

The Request for Hearing cites the Americans with Disabilities Act (ADA). The jurisdiction of a Hearing Officer appointed under 34 C.F.R. § 300.500 *et seq.* and Conn.Reg. § 10-76h-1 *et seq.* does not include the determination of legal claims under the ADA; jurisdiction over ADA was declined.

Student's Attorney invoked Student's Stay-Put rights in the Request for Hearing. The parties agreed as to what constitutes Student's Stay-Put placement which was maintained during the pendency of the hearing.

Hearing was scheduled for January 6, 2025. On December 11, 2024, BOE's Attorney requested that the hearing be postponed to allow the parties to participate in mediation on December 12, 2024; to work toward resolution; and to have adequate time to prepare for hearing. The request was also treated as a request to extend the deadline to mail the final decision and order. After fully considering the parties' positions, the request was granted. The January 6, 2025 hearing was postponed and the deadline to mail the final decision and order extended 30 days to February 10, 2025.

On January 3, 2025, BOE's Attorney requested an extension of the deadline to mail the final decision and order to accommodate hearing dates after the parties' scheduled January 14 mediation. After fully considering the parties' positions, the request was granted and the deadline to mail the final decision and order extended 30 days to March 12, 2025. Hearing was scheduled for March 3, 2025.

The parties filed a Joint Stipulation of Facts on February 27, 2025. Hearing was held as scheduled on March 3, 2025. On the record at the March 3 hearing, BOE's Attorney requested an extension of the deadline to mail the final decision and order to accommodate three additional hearing dates and a briefing schedule. Student's Attorney agreed with the request. After fully considering the parties' positions, the request was granted on the record. The deadline to mail the final decision and order extended to May 27, 2025. Hearings were scheduled for and held on April 1, April 7, and April 28, 2025.

The following witnesses testified under oath and subject to cross-examination: Elementary School Special Education Teacher, Middle School Special Education Teacher, School Psychologist, Speech Language Pathologist, Social Worker, Occupational Therapist, Special Education Supervisor, and Student's Mother.

On the record at the April 28, 2025 hearing, Student's Attorney requested an extension of the deadline to mail the final decision and order to accommodate a briefing schedule and time for the Hearing Officer to render a decision. After fully considering the parties' positions, the request was granted on the record. The deadline to mail the final decision and order extended to June 17, 2025. The parties timely submitted post-hearing briefs on May 19, 2025.

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

Statement of Jurisdiction

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

Findings of Relevant Fact²

Background

1. Student is currently eligible for special education and related services under the classification of Intellectual Disability. He has a Down Syndrome diagnosis. (Exh. HO-2, S-13)
2. Student attended his neighborhood elementary school within BOE's school district (Home Elementary School) from first through fifth grade. (Exh. B-1, B-2, B-3; Testimony of BOE's Elementary School Special Education Teacher (ES SpecEd Teacher))
3. BOE's elementary schools go through fifth grade. Middle school begins with sixth grade. There are two middle schools within BOE's school district that are relevant to this matter. Home Middle School is Student's neighborhood school. LSP Middle School is another middle school within the district that houses the Life Skills Program. There is a different structure in the two middle schools. (Testimony of BOE's Middle School Special Education Teacher (MS SpecEd Teacher))
4. The specialized program at LSP Middle School has embedded opportunities for students to generalize skills and provides structured socialization while protecting time with non-disabled peers. (Testimony of SpecEd Supervisor)
5. The elementary and middle school class schedules are different. The middle school schedule is based on a rotating four-day cycle, not a week. In a week, the first and fifth days are the same. (Testimony of SpecEd Supervisor)
6. BOE sends progress reports to parents three times per year around the time that report cards are sent home. (Testimony of ES SpecEd Teacher, MS SpecEd Teacher, SpecEd Supervisor)
7. Student's Parents generally get progress reports via email. (Testimony of Student's Mother)

Qualifications of BOE Staff That Testified

8. ES SpecEd Teacher holds a Bachelor of Arts degree in English with a minor in anthropology and a Master of Arts in elementary education. She holds Connecticut teaching certifications for Special Education Grades K-12 (165) and Elementary Education K-6 (013). She has worked for BOE as a special education teacher for ten years. In that capacity, she evaluates students, determines appropriate programming, develops goals and objectives, conducts annual reviews, works with students to improve their academic skills, and attends PPT meetings. She has experience working with students with intellectual disabilities and Down Syndrome. (Exh. B-38; Testimony of ES SpecEd Teacher).
9. ES SpecEd Teacher has known Student since he was in first grade and was his special education teacher and case manager in elementary school. (Testimony of ES SpecEd Teacher, Student's Mother)
10. ES SpecEd Teacher corresponded with Student's Mother weekly, if not daily, to set Student up for success. (Testimony of ES SpecEd Teacher).
11. MS SpecEd Teacher holds a Bachelor of Science degree in Education with a minor in Middle Grades Education and a Master of Special Education degree. She holds Connecticut teaching certifications for Comprehensive Special Education Grades K-12 (165), Middle School

² Hearing Officer exhibits are identified as "HO-#"; BOE exhibits as "B-#" and Student exhibits as "S-#." In the Discussion, Findings of Fact are cited as "FOF #."

English (215), and Middle School History and Social Studies (226). She has worked for BOE as a special education teacher for seven years and has worked in both Home Middle School and LSP Middle School. In her capacity as a special education teacher, she serves as a case manager for special education students, modifies curriculum materials, provides direct instruction, tracks progress, writes Individualized Education Programs (IEPs), and collaborates with team members. She has experience working with and evaluating students with intellectual disabilities, including Down Syndrome. MS SpecEd Teacher has six years experience as a special education teacher at other programs and schools where she worked with children with severe disabilities, including autism and intellectual disabilities for students in middle grades through age 22. She also worked as a paraeducator supporting students with IEPs within general education classrooms in other school districts for two years. (Exh. B-32; Testimony of MS SpecEd Teacher).

12. When a student with an IEP transitions from elementary school to middle school, MS SpecEd Teacher meets with the student's elementary school teachers to get background on the student, learn what is in their IEP, meet with the school team to determine which teacher is going to be the case manager. A transition PPT meeting is conducted prior to the transition. (Testimony of MS SpecEd Teacher)
13. MS SpecEd Teacher first met Student when he was touring Home Middle School as an elementary school student preparing to transition to middle school. (Testimony of MS SpecEd Teacher)
14. BOE's School Psychologist (School Psychologist) holds a Bachelor of Arts degree in psychology with a minor in mathematics, a Master of Arts in school psychology, and a Sixth Year Certificate in school psychology. She is a nationally certified school psychologist and holds a Connecticut Provisional Educator Certificate (070). She is in her third year working as a school psychologist at BOE's Home Middle School. She is knowledgeable about the program at LSP Middle School. She has experience working with and evaluating students with intellectual disabilities, including Down Syndrome. She worked as a school psychologist for four years in a middle school in another district. (Exh. B-34; Testimony of School Psychologist).
15. School Psychologist works with middle school students aged 10 to 14 and provides individual and group counseling, conducts psychological assessments and Functional Behavior Assessments (FBAs), attends PPT meetings, and participates on the crisis team. She conducts about 40 evaluations per year. She has evaluated students with a variety of needs, including intellectual, emotional, ADHD, autism, and deafness. When conducting evaluations, School Psychologist reviews consent forms to see what areas she is responsible for, reviews records to determine what assessment measures are best; meets with the student to conduct the evaluation; writes a report which she presents at a PPT meeting, and sometimes holds a parent meeting prior to the PPT meeting to review the information. (Exh. B-34; Testimony of School Psychologist).
16. School Psychologist first met Student when she evaluated him in September 2024 as part of his triennial evaluation. (Testimony of School Psychologist).
17. BOE's Speech Language Pathologist (SLP) holds a Bachelor of Science degree and a Master of Science degree in communication disorders. She holds a Certificate of Clinical Competence license from the American Speech Language Hearing Association, a license from the Connecticut Department of Health, and Connecticut Professional Educator certification. She is in her seventh year working as a speech language pathologist for BOE.

- She has worked at each of BOE's middle schools, including LSP Middle School. She has worked with students with intellectual disabilities, including Down syndrome. She conducts approximately 20 speech-language evaluations per year. She previously worked as a speech language pathologist for another school district for six years. (Exh. B-35; Testimony of SLP).
18. SLP evaluates students for communication disorders, collects and analyzes data, collaborates with teacher and families to plan and execute interventions, plans and conducts initial, triennial and targeted evaluations, and progress monitors. She has experience working with students with intellectual disabilities. (Exh. B-35; Testimony of SLP).
 19. SLP met Student in spring 2024 when she was invited to a PPT meeting at Home Elementary School. Student was being assigned to her middle school case load. (Testimony of SLP)
 20. BOE's Social Worker (Social Worker) holds a Bachelor of Science degree in criminal justice, a Bachelor of Arts degree in theatre arts, and a Master of Social Work degree. He is in the process of completing his Sixth Year degree and becoming a Licensed Clinical Social Worker. He is currently a Licensed Master Social Worker and a Certified School Social Worker (071). (Exh. B-36; Testimony of Social Worker)
 21. Social Worker has worked at BOE's Home Middle School since August 2024 and is in his first academic year there. Social Worker provides individual and group counseling to students with and without IEPs and provides social skills supports. He currently has 25 students with IEPs on his caseload. He previously worked as a school social worker at an alternative education school where he provided individual and group counseling services to students, including those with disabilities, who need extra support in social skills and managing behavior. Social Worker has worked with students with intellectual disabilities. (Exh. B-36; Testimony of Social Worker)
 22. Social Worker met Student in September 2024 when he was assigned to Social Worker's caseload. (Testimony of Social Worker)
 23. BOE's Occupational Therapist (OT) holds a Bachelor of Arts degree in psychology and a Master of Science degree in occupational therapy. She has worked as an occupational therapist for BOE for just under two years. She works with students with an IEP or Section 504 Plan, conducts evaluations, provides direct and indirect service hours to students, attends PPT meetings, and completes required documentation. (Exh. B-37; Testimony of OT)
 24. OT first met Student in August 2024 when he began school at Home Middle School and was on her caseload for direct services. (Testimony of OT)
 25. BOE's Special Education Supervisor (SpecEd Supervisor) holds a Bachelor of Science degree in elementary education and special education with a minor in behavioral studies, a Master of Science degree in special education, and a Sixth Year Degree in Educational Leadership. She holds a Connecticut Provisional Educator Certificate for Intermediate Administration or Supervision (092), a Professional Comprehensive Special Education K-12 Endorsement (165), and a Professional Elementary Education certificate (013). She is in her first full academic year with BOE where she supervises and evaluates middle school staff and programs and ensures that students receive appropriate educational programs. She previously worked as a special education supervisor for two years and as an acting elementary special education supervisor for seven years in another school district. SpecEd Supervisor is very familiar with LSP Middle School as she is there weekly, if not more often. (Exh. B-33; Testimony of SpecEd Supervisor)

26. SpecEd Supervisor became familiar with Student early in the 2024-25 school year when she had conversations about incoming middle school students. She reviewed Student's IEP at the beginning of the school year. (Testimony of SpecEd Supervisor)

Student's 2021 Triennial Evaluation

27. Student's triennial evaluation conducted in autumn 2021 consisted of a Psychological Evaluation, Educational Assessment, and Speech Language Evaluation. (Exh. B-1, B-2, B-3)
28. The psychological evaluation, conducted by BOE's Elementary School Psychologist, consisted of administration of the Behavior Assessment System for Children 3rd Edition (BASC-3), Vineland Adaptive Behavior Scales 3rd Edition (Vineland-3), Wechsler Intelligence Scale for children 5th Edition (WISC-V), comprehensive file review, and informal student interview. The evaluation demonstrated that Student's overall abilities were in the exceptionally low range of functioning compared to his same-age peers. His cognitive skills were significantly delayed. He was more successful completing concrete and conceptualized tasks than abstract or decontextualized tasks. His communication, daily living, and socialization skills were all significantly delayed. (Exh. B-1)
29. The educational assessment, conducted by ES SpecEd Teacher, consisted of administration of the Functional Independence Skills Handbook (FISH) and Kaufman Test of Educational Achievement 3rd Edition (KTEA-3). Student performed well on the FISH which tested his academic-based functional skills. Student scored in the exceptionally low range on the KTEA-3 which is a standardized age-normed assessment. (Exh. B-2; Testimony of ES SpecEd Teacher)
30. The speech language evaluation, conducted by BOE's then-speech language pathologist, consisted of administration of the Peabody Picture Vocabulary Test 4th Edition (PPVT-4), Expressive Vocabulary Test 2nd Edition (EVT-2), Clinical Evaluation of Language Fundamentals 5th Edition (CELF-5), Goldman Fristoe Test of Articulation 3rd Edition (GFTA-3), and Student observation. The evaluation noted that Student presents with weaknesses in expressive language, receptive language, language content, language memory, and oral motor skills. Vocabulary was an area of relative strength, even though below average as compared to same-age peers. The evaluator noted that Student does best when presented with material in short paragraphs or chunks, with visual supports, and repetition. (Exh. B-3)
31. Triennial evaluation results were reviewed at a November 10, 2021 Planning and Placement Team (PPT) meeting. Student's Mother "had a chance to review the evaluations and did not have any questions or concerns at this time." The PPT, including Student's Parents, agreed on an IEP for Student effective November 23, 2021. The IEP included reading, math, writing, and academic/behavioral instruction, occupational therapy, and speech-language services. The IEP called for Student to spend 21.5 of 33.75 (63.7%) total weekly school hours with non-disabled peers. (Exh. B-4)

October 28, 2022 to end of the 2022-23 School Year

32. As mandated by the State of Connecticut, BOE implemented the CT-SEDS portal as the repository for IEPs, progress reports, and other related documents. There was initial confusion about how to handle progress reports and IEPs in CT-SEDS. (Testimony of ES SpecEd Teacher)

33. Student's Parents have access to Student's records in CT-SEDS. (Testimony of Student's Mother, SLP).
34. During the 2022-23 school year, Student was in fourth grade and attended Home Elementary School. ES SpecEd Teacher was Student's case manager. (Exh. B-5, B-7, B-9, B-11; Testimony of ES SpecEd Teacher)
35. The PPT met on November 2, 2022 to conduct Student's annual review. Student's Parents attended and participated in the meeting. Student's Mother stated that she would like for Student to begin learning how to use a calculator and asked for ideas on how she can get Student to tell her more about his day at school. (Exh. B-6, B-7; Testimony of ES SpecEd Teacher)
36. Student's November 2, 2022 IEP indicates that his difficulty reading and generating sentences; engaging in basic writing tasks; understanding academic language and number sense; deficits in language, articulation, and oral motor skills; engaging in work independently and transitioning; deficits in executive functioning; delays in fine motor and perceptual motor skills; and delays in self-care skills impact Student's ability to fully participate in the general education setting and require specialized instruction and support. IEP services include one hour per week academic/behavior push-in; 2.5 hours per week reading pull-out; 3.75 hours per week math pull-out; 1.5 hours per week writing pull-out and 1 hour per week push-in; 2 hours per week speech therapy; half hour per week feeding; one hour per week occupational therapy; paraprofessional support three hours per day for academic support; assistive technology; modified grades and homework; and supplemental accommodations. The IEP includes ten goals with accompanying objectives in the areas of writing, reading, math, behavior, fine motor skills, and language/communication. One of his math objectives includes use of a calculator. The IEP, which was effective November 9, 2022, calls for Student to spend 21 of 33.75 (62.22%) total weekly school hours with non-disabled peers. The IEP indicates that Student does not require special transportation as a related service. The IEP states that Procedural Safeguards in Special Education and A Parent's Guide to Special Education, among other resources, were provided to parents at the meeting or sent electronically with parental permission. (Exh. B-7)
37. Prior Written Notice was provided to Student's Parents on November 2, 2022. (Exh. B-8)
38. Student's first progress report of the school year was issued on December 16, 2022. It indicates that he made satisfactory progress on Goals 1, 2, 4, 7, 8, 9, and 10; that his limited progress on the newly introduced Goal 5 was considered satisfactory; and that Goals 3 and 6 were not yet introduced. (Exh. B-9; Testimony of ES SpecEd Teacher)
39. Given the difficulties with progress reports in CT-SEDS, ES SpecEd Teacher sent hard copy progress reports with handwritten notes to Student's Parents when due in March and June 2023. She does not know if those progress reports were eventually uploaded to CT-SEDS. (Testimony of ES SpecEd Teacher)
40. The PPT met on May 10, 2023 to review or revise Student's IEP for ESY services. Student's Parents attended and participated in the meeting. The PPT reviewed Student's Parents' input, present levels of performance, and Student's progress on his goals and objectives and made recommendations for ESY. The PPT recommended that Student receive ESY tutoring in the form of two 30-minute sessions in reading and two 30-minute sessions in math per week and eight total speech lessons of 30 minutes each. (Exh. B-10, B-11; Testimony of ES SpecEd Teacher)

41. The PPT determined that Student does not require special transportation as a related service for ESY. Student's Parents expressed concern about not having transportation for ESY. ES SpecEd Teacher spoke to her supervisor about it and responded to Student's Mother that special transportation was not available for ESY students not needing a specific adaptive mode of transportation. The IEP states that Procedural Safeguards in Special Education and A Parent's Guide to Special Education, among other resources, were provided to parents at the meeting or sent electronically with parental permission. (Exh. B-11; Testimony of ES SpecEd Teacher, Student's Mother)
42. Prior Written Notice was provided to Student's Parents on May 10, 2023. (Exh. B-12)

2023-24 School Year

43. During the 2023-24 school year, Student was in fifth grade and attended Home Elementary School. ES SpecEd Teacher was Student's case manager. Student's pull-out services were in the resource room alongside up to three peers with similar educational needs. (Exh. B-14, B-17, B-19; Testimony of ES SpecEd Teacher)
44. The PPT met on October 24, 2023 to conduct Student's annual review and plan for his triennial evaluation. Student's Parents attended and participated in the meeting. The PPT dove deeper into Student's present levels of performance, identified areas of need, and developed goals and objectives. (Exh. B-13, B-14; Testimony of ES SpecEd Teacher)
45. Student's October 24, 2023 IEP services include direct instruction of half hour per week behavior support with special education teacher push-in; two hours per week reading pull-out; 3.75 hours per week math pull-out; 2.5 hours per week writing pull-out; one hour per week executive functioning support with special education teacher push-in; two hours per week speech/language therapy (1x for feeding); one hour per week occupational therapy; half hour per trimester consult with school social worker; paraprofessional support 2.5 hours per day; assistive technology; modified grades and homework; accessible materials; and supplemental accommodations. The IEP includes ten goals with accompanying objectives in the areas of writing, reading, math, behavior, fine motor skills, and language/communication. The IEP calls for Student to spend 21 of 33.75 (62.22%) total weekly school hours with non-disabled peers. The PPT determined that Student does not require special transportation as a related service. The IEP states that Procedural Safeguards in Special Education and A Parent's Guide to Special Education, among other resources, were provided to parents at the meeting or sent electronically with parental permission. (Exh. B-14; Testimony of ES SpecEd Teacher)
46. Student's Parents signed consent for the triennial evaluations recommended by the PPT on October 24, 2023. (Exh. B-16); Testimony of Student's Mother, ES SpecEd Teacher).
47. Student's October 24, 2023 progress report indicates that he made satisfactory progress on Goals 1, 2, 4, 5, 6, 7, 8, 9 (mastered one of eight objectives), and 10 (mastered two of four objectives); and that he was making progress on Goal 3 (mastered one of three objectives). (Exh. B-14A; Testimony of ES SpecEd Teacher)
48. Prior Written Notice was provided to Student's Parents on October 24, 2023. (Exh. B-15)
49. Student's March 28, 2024 progress report indicates that he made satisfactory progress on Goals 1, 3, 4, 5, 6, 7, 8, 9 and mastered the two objectives under Goal 2. (Exh. B-17; Testimony of ES SpecEd Teacher)
50. The PPT met on May 22, 2024 to review or revise Student's IEP and discuss Student's transition to middle school the following school year. Student's Parents attended and

participated in the meeting. (Exh. B-18, B-19; Testimony of ES SpecEd Teacher, MS SpecEd Teacher)

51. MS SpecEd Teacher and SLP, who have experience working at LSP Middle School, and staff who worked with Student at Home Elementary School were present at the PPT meeting. MS SpecEd Teacher met with Student's Home Elementary School teachers prior to the PPT meeting to make sure she understood what they were working on and to get a full picture of Student to be able to plan for his transition to middle school. SLP spoke with the prior speech-language pathologist who conducted the 2021 evaluation prior to the PPT meeting; they discussed Student's goals and objectives and progress. (Testimony of MS SpecEd Teacher, SLP)
52. The PPT recommended continuing Student's service level for the remainder of the 2023-24 school year with the addition of one hour per week social skills (half group and half individual). The PPT determined that Student does not require special transportation as a related service. (Exh. B-19)
53. The school-based members of the PPT recommended instruction and service levels for Student in middle school and recommended that Student attend LSP Middle School "to participate in a full, specialized program" known as the Life Skills Program. In that program, students work on their IEP goals and objectives and there is a lot of opportunity to generalize their skills through hands-on learning, repeated practice, exposure to different settings, visual supports, social skills, and communication which is all integrated. The program is individualized for each student and includes time with nondisabled peers. The school-based members of the PPT thought that program will best meet Student's educational needs. (Testimony of MS SpecEd Teacher)
54. Student's Parents did not agree with the proposed placement at LSP Middle School and stated that they wanted Student to attend Home Middle School. The PPT agreed that Student will attend Home Middle School, staff will track data, and the placement will be reviewed after his fall 2024 triennial evaluations. The IEP states that Procedural Safeguards in Special Education and A Parent's Guide to Special Education, among other resources, were provided to parents at the meeting or sent electronically with parental permission. (Exh. B-19; Testimony of Student's Mother, MS SpecEd Teacher, SpecEd Supervisor)
55. Prior Written Notice was provided to Student's Parents on May 22, 2024. (Exh. B-20)
56. Student's June 10, 2024 progress report indicates that he made satisfactory progress on Goals 1, 3, 4, 5, 6, 7, 8, and 9, mastered the two objectives under Goal 2, and that Goal 10 was not yet introduced as it was just added on the May 22, 2024 IEP. (Exh. B-21)

2024-25 School Year

57. During the 2024-25 school year, Student was in sixth grade at Home Middle School. (Exh. HO-2; Testimony of Student's Mother, MS SpecEd Teacher)
58. Student's IEP calls for Student to be with non-disabled peers 48% of the time and includes:
Direct instruction: 3x 50 minutes per four-day cycle small group for each reading, writing, and math; 3x 50 minutes per four-day cycle speech/language (1 individual for feeding/oral motor and 2 for group); and 2x 30 minutes per four-day cycle OT.
Paraprofessional hours: 3x 50 minutes per four-day cycle for each science and social studies; 2x 50 minutes per four-day cycle unified arts; and support for hallway and lunch.
Grades modified and Pass/Fail; adjusted curriculum for resource; modified homework; monitor transitions in hallway/help with his schedule; assistive technology; enlarged font

as much as possible; and meeting with parents and middle school team 30 days into school year. (Exh. B-19)

59. MS SpecEd Teacher worked with Student in the resource classroom at Home Middle School in a one-to-one setting. There were not other students working on the same or similar goals and objectives so there were no other students to group together. When attending general education academic classes, Student has a paraprofessional who facilitates, prompts, and tracks Student's communication. (Testimony of MS SpecEd Teacher)
60. At Home Middle School, Student is learning everything from an adult and is not learning with or from other kids. The opportunity to learn and problem solve with kids is different than with an adult. Learning and working with other students helps develop social and communication skills. For Student, connecting academic skills with hands-on activities increases his engagement and learning. (Testimony of MS SpecEd Teacher)
61. BOE's data collection in September 2024 indicates that Student requires more prompting and support during academic times than during non-academic time. He engages in hands-on projects like art or exploring musical instruments with greater independence than academic tasks like reading, writing or solving math problems. (Exh. B-23; Testimony of MS SpecEd Teacher)
62. MS SpecEd Teacher conducted an Educational Assessment of Student in September 2024. She reviewed Student's 2021 evaluation and his IEP and progress marks and administered the KTEA-3, which is the most recent version available. She administered the KTEA-3, which is normed against Student's age range. according to the test protocols. (Exh. B-26; Testimony of MS SpecEd Teacher)
63. Student wanted to do well and complied with the assessment even though it was challenging for him. Student generally needed a movement or other break after ten minutes of work. Student did not always understand what was being asked of him. MS SpecEd Teacher repeated or rephrased directions and sometimes gave Student an additional example to support his understanding of the directions to get the fullest picture of Student's ability. (Exh. B-26; Testimony of MS SpecEd Teacher)
64. Student scored in the lowest descriptive category in almost all areas tested. Consistent with previous testing, academics were very challenging for Student. His reading scores dipped from 2021 to 2024 compared to same age students because he learns at a slower pace. There is a higher baseline in 2024 compared to 2021 because the KTEA-3 compares Student to kids who are older now and whose pace of growth is faster than Student's acquisition of reading skills. The dip was not shocking or a "huge dramatic amount." MS SpecEd Teacher did not consider other testing because the KTEA-3 is comprehensive and gave her a good snapshot of Student's abilities. (Exh. B-26; Testimony of MS SpecEd Teacher)
65. MS SpecEd Teacher sent the evaluation report to Student's Parents prior to the October 15, 2024 PPT meeting so that they can review it in advance and ask questions. (Testimony of MS SpecEd Teacher)
66. School Psychologist conducted a psychological evaluation of Student in September 2024 as part of his triennial evaluation. As part of the evaluation process, she reviewed Student's records including his 2021 psychological evaluation, observed Student, and administered the Kaufman Assessment Battery for Children 2nd Edition (KABC-II), Vineland-3, and BASC-3. School Psychologist noted that the WISC-V was administered during the 2021 psychological evaluation and the evaluator noted that Student had difficulty completing the verbal tasks. For the 2024 evaluation, School Psychologist administered the KABC-II which provides

cognitive scores for children and is less dependent on expressive language skills to get the score. (Exh. B-24, B-1; Testimony of School Psychologist).

67. The KABC-II is normed against an age range. School Psychologist used the most recent version available and administered it consistent with test protocols. Student scored a 46 for his IQ and 51 for nonverbal IQ, both of which are the lower extreme. School Psychologist opined that the results were a valid measure of Student's abilities. (Exh. B-24, S-16; Testimony of School Psychologist)
68. School Psychologist administered the Vineland-3 which assesses adaptive behavior and is normed against Student's age range. She administered the most recent version and did so consistent with test protocols. She believes that the results are valid and reliable measures of Student's social and emotional functioning. The assessment indicated that Student has significant deficits in adaptive skills and he is more successful demonstrating skills at home, as reported by Student's Mother on the rating scale, than at school. (Exh. B-24; Testimony of School Psychologist)
69. School Psychologist administered the BASC-3 which is normed against Student's age range. She administered the most recent version and did so consistent with test protocols. She believes that the results are valid and reliable measures of Student's social and emotional functioning. The assessment indicated that Student has strengths in emotional regulation; he is consistently a happy child with no anxiety, depression or concerns in that realm; there were significant concerns with his behavioral regulation, some adaptive skills including communication, and some executive functioning skills. The school rating scales were more elevated than the home rating scales completed by Student's Mother. (Exh. B-24; Testimony of School Psychologist)
70. OT conducted an occupational therapy evaluation of Student in September and October 2024 as part of his triennial evaluation to assess his fine motor skills, visual motor integration skills, and visual perception skills. The evaluation consisted of administration of the Beery-Buktenica Development Test of Visual-Motor Integration, Visual Perception and Motor Coordination 6th Edition (VMI), the Developmental Test of Visual Perception 3rd Edition (DTVP-3), clinical observation in the educational environment, and staff interviews. The standardized assessments are normed against Student's age range and are the most recent versions available. OT administered the assessments according to the testing protocols. (Exh. B-25; Testimony of OT)
71. Student's scores on the standardized assessments were low and very low. OT opined that the results are valid and reliable measures of Student's visual-motor integration, visual perception, and motor coordination abilities. (Exh. B-25; Testimony of OT)
72. After administering the VMI, OT administered the DTVP-3 which is more in-depth with five subtests to look at skills in isolation. Student scored below average in the very poor range on the five subtests. (Exh. B-25; Testimony of OT)
73. OT did not consider additional assessments because she utilized technically sound standardized instruments and non-standardized measures to develop a whole picture of Student at school. The evaluation was administered to yield accurate results and was not biased. OT has the training and knowledge required to administer the assessments. The results provide information on what areas need to be addressed with Student in his IEP. Areas to be targeted include fine motor, visual motor and keyboarding skills and following multistep tasks in school. (Testimony of OT)

74. SLP conducted a speech-language evaluation of Student in September and October 2024 as part of his triennial evaluation to assess Student's current functioning in the areas of oral motor functioning, articulation, receptive, expressive, and social language, and to determine continued eligibility for speech and language services. The assessment consisted of administration of PPVT 5th Edition (PPVT-5 Form A), EVT-2 Form A, CELF-5, GFTA-3, Children's Communication Checklist 2nd Edition (CCC-2), observations of Student in physical education, art, and science classes and at lunch; Student's Mother's completion of the Intelligibility in Context Scale (ICS); evaluation of Student's jaw stability using bite blocks and a chewy tube; and review of student's 2021 speech-language evaluation. SLP has the training and knowledge necessary to administer the assessments. She administered the most recent versions of the standardized assessments and did so according to the test protocols. Each evaluation tool is normed for Student's age. SLP opined that the results were valid and reliable measures of Student's functioning. SLP did not consider additional assessments because she thought the evaluation was comprehensive, that it looked at each area of concern, and Student's Parents other service providers would also share information from their assessments and experience with Student. (Exh. B-27; Testimony of SLP)
75. Student's October 15, 2024 progress report was sent to Student's Parents prior to the October 2024 PPT meeting and indicates that he made satisfactory progress on one of four objectives under Goal 1; mastered one of two objectives under Goal 2; mastered two of six objectives under Goal 3; mastered two of three objectives under Goal 4; mastered one of four objectives under Goal 5; made satisfactory progress on one of two objectives under Goal 6; made no progress on one objective, made satisfactory progress on the second objective, and made limited/minimal progress on the third objective under Goal 7; made no progress on three objectives and limited/minimal progress on one objective under Goal 8 with one additional objective not yet introduced; made satisfactory progress on one objective and no progress on two objectives under Goal 9; and made satisfactory progress on two objectives, limited/minimal progress on two objectives, no progress on one objective under Goal 10 with one additional objective not yet introduced. (Exh. B-28; Testimony of MS SpecEd Teacher)
76. The PPT met on October 15, 2024 to conduct Student's annual review and review the triennial evaluation results. Student's Parents attended and participated in the meeting. The first item on the PPT meeting agenda is "Review Procedural Safeguards" and includes a hyperlink to the electronic version. The PPT reviewed Student's October 15, 2024 progress report and triennial evaluations. (Exh. B-29, S-4; Testimony of MS SpecEd Teacher, School Psychologist, SpecEd Supervisor, SLP)
77. BOE handed Student's Mother a copy of the Procedural Safeguards at the October 15, 2024 PPT meeting. (Testimony of Student's Mother)
78. MS SpecEd Teacher reviewed the educational assessment at the PPT meeting. Student's Parents were disappointed that Student's reading dipped over the course of three years compared to other students. Reading is a priority for Student's Parents and is important for his learning. (Testimony of MS SpecEd Teacher)
79. SLP reviewed her evaluation at the PPT meeting. The speech-language evaluation confirmed that Student still has needs in that area. SLP proposed goals for articulation, oral motor, receptive and expressive language, and social language. She did not include goals relative to tolerating food textures because Student can safely eat in the cafeteria with his peers and his limited palate does not impede access to his education. Student's Parents disagreed with the feeding objectives. (Testimony of SLP)

80. The PPT shared recommendations for Student's programming based on the evaluations and what staff observed working with Student to that point in time. The school-based members of the PPT recommended that Student receive his special education and related services through the specialized program offered at LSP Middle School instead of Home Middle School. The program at LSP Middle School includes students with many different profiles, all of whom need some level of support. Each student in the program has individual needs across a spectrum of functioning. Student needs more support than most of the other students in the program. Last school year, there were 6-7 students in the program with one special education teacher and three paraprofessionals. (Exh. HO-2, B-22, B-29; Testimony of MS SpecEd Teacher, SLP, SpecEd Supervisor)
81. The school-based members of the PPT recommended LSP Middle School because it will provide structured supports to meet Student's learning needs, support generalization with repeated practice, and hands-on learning opportunities in an environment that is not limited to one-on-one teaching. The program at LSP Middle School will allow Student to learn with other children in a similar context and be able to communicate with them about the material they are learning. The program at LSP Middle School will benefit Student in the social language realm where there are embedded opportunities to regularly work with peers across different settings. At Home Middle School, Student has limited opportunity to socialize with other students about schoolwork and what he is learning. The program at LSP Middle School will provide Student with more peer engagement than at Home Middle School. (Exh. B-19, B-29; Testimony of MS SpecEd Teacher, School Psychologist, SpecEd Supervisor, SLP)
82. The October 15, 2024 IEP calls for Student to be with non-disabled peers 64.6% of the time and includes:
- Direct instruction: 3x 60 minutes per four-day cycle for reading, writing, and math; 3x 60 minutes per four-day cycle EF and functional skills; 3x 30 minutes per four-day cycle speech/language; 2x 30 minutes per four-day cycle OT; and 2x per four-day cycle social skills.
- Paraeducator support: 3x 50 minutes per four-day cycle for each science and social studies; 3x 100 minutes per four-day cycle unified arts (2 periods per day); and support for recess, lunch, and all transitions throughout the school (hallways, fire drills, to/from bathroom, nurse, media center)
- All classes pass/fail based on mastery of IEP goals and objectives; classroom accommodations and modifications; CTAA; Mapping consent form to be sent home to parents; special education teacher and assistive technology specialist to consult 1x/quarter; small bus for transportation; functional life skills at LSP Middle School for blend of academic and hands-on learning experience to help Student generalize and retain skills.
- The IEP states that Procedural Safeguards in Special Education and A Parent's Guide to Special Education, among other resources, were provided to parents at the meeting or sent electronically with parental permission. (Exh. B-29, S-5)
83. Prior Written Notice, dated October 15, 2024, was provided to Student's Parents electronically via the parent portal. Student's Parents received it on or before October 22, 2024. (Exh. B-30, HO-1)
84. Student's Parents agreed with the IEP goals and objectives and disagreed with the school-based members' recommendation for a change in placement. They filed for due process on

October 28, 2024, invoking Stay-Put at Home Middle School. (Exh. HO-2; Testimony of Student's Mother)

85. Student's Parents received Student's January 29, 2025 progress report. (Exh. S-3).

Conclusions of Law³

1. Student is eligible for special education and related services as defined in the IDEA.⁴
2. A Hearing Officer appointed under 34 C.F.R. § 300.500 *et seq.* and Conn.Reg. § 10-76h-1 *et seq.* has the authority (A) to confirm, modify, or reject the identification, evaluation or educational placement of or the provision of a free appropriate public education (FAPE) to the child or pupil, (B) to determine the appropriateness of an educational placement where the parent or guardian of a child requiring special education has placed the child or pupil in a program other than that prescribed by the PPT, or (C) to prescribe alternate special educational programs for the child.⁵
3. BOE has the burden of proving the appropriateness of a student's program or placement by a preponderance of the evidence.⁶
4. "Planning and placement team" or "PPT" means the individualized education program team as defined in the IDEA and who participate equally in the decision-making process to determine the specific educational needs of a child with a disability and develop an individualized education program for the child.⁷
5. The PPT includes the parents of a child with a disability.⁸
6. The FAPE mandated by federal law must include "special education and related services" tailored to meet the unique needs of a particular child and be "reasonably calculated to enable the child to receive educational benefits."⁹
7. The standard for determining whether FAPE has been provided is a two-pronged inquiry: first, whether the procedural requirements of the IDEA have been met, and second, whether the IEP is reasonably calculated to enable the child to receive educational benefits.¹⁰
8. Where parents allege a procedural violation under the IDEA, a Hearing Officer may find a denial of FAPE if the violation 1) impeded the child's right to FAPE; 2) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of FAPE; or 3) caused a deprivation of educational benefits.¹¹
9. To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.¹²

³ In the Discussion, Conclusions of Law are cited as "COL #."

⁴ 20 U.S.C. § 1401, *et seq.*; C.G.S. § 10-76a, *et seq.*

⁵ C.G.S. § 10-76h(d)(1).

⁶ Conn.Reg. § 10-76h-14.

⁷ Conn.Reg. § 10-76a-1(14)

⁸ 34 C.F.R. § 300.321.

⁹ Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176, 207; Walczak v. Florida Union Free Sch. Dist., 142 F.3d 119 (2d Cir. 1998).

¹⁰ Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176 (1982).

¹¹ 20 U.S.C. § 1415(f)(3)(E); 34 C.F.R. § 300.513(a); Winkelman v. Parma City Sch. Dist., 127 S. Ct. 1994, 2001 (2007).

¹² Endrew F. v. Douglas County School District RE-1, 580 U.S. 386, 137 S.Ct. 988, 999 (2017).

10. The proper gauge for determining educational progress is “whether the educational program provided for a child is reasonably calculated to allow the child to receive ‘meaningful’ educational benefits.”¹³
11. Factors to be considered in determining whether an IEP is reasonably calculated to provide a meaningful educational benefit is whether the proposed program is individualized on the basis of the student's assessment and performance and whether it is administered in the least restrictive environment.¹⁴
12. An appropriate public education under IDEA is one that is “likely to produce progress, not regression.” The IDEA does not require that the school district provide the best available educational program, one that maximizes a student's educational potential, or the one deemed most desirable by parents.¹⁵
13. The proposed program or placement must be reviewed in light of the information available to the PPT at the time the IEP was developed.¹⁶
14. Because the law expresses a strong preference for children with disabilities to be educated, “to the maximum extent appropriate,” together with their non- disabled peers, special education and related services must be provided in the least restrictive setting consistent with a child's needs.¹⁷
15. Changes to an IEP may be made at a PPT meeting or by agreement of the parents and board of education.¹⁸
16. In conducting an evaluation, BOE must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent; not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.¹⁹
17. BOE must ensure that 1) assessments and other evaluation materials used to assess a child under this part (i) are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; (iii) are used for the purposes for which the assessments or measures are valid and reliable; (iv) are administered by trained and knowledgeable personnel; and (v) are administered in accordance with any instructions provided by the producer of the assessments; 2) assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient; 3) assessments are selected and administered

¹³ Mrs. B. v. Milford Board of Education, 103 F.3d 1114, 1120 (2d Cir. 1997).

¹⁴ 20 U.S.C. §1412(a)(5)(A); 34 C.F.R. § 300.114(a); A.S. v. Board of Education of West Hartford, 35 IDELR 179 (D. Conn. 2001), *aff'd*, 47 Fed. Appx. 615 (2d Cir. 2002); M.C. ex rel. Mrs. C. v. Voluntown Bd. of Educ., 122 F.Supp.2d 289, 292 n.6 (D.Conn. 2000).

¹⁵ Walczak v. Florida Union Free Sch. Dist., 142 F.3d 119, 130 (2d Cir. 1998); Mrs. B. v. Milford Bd. of Educ., 103 F.3d 1114, 1121 (2d Cir. 1997).

¹⁶ B. L. v. New Britain Bd. of Educ., 394 F. Supp. 2d 522, 537 (D. Conn. 2005).

¹⁷ 20 U.S.C. § 1412(5); 34 C.F.R. § 300.114.

¹⁸ 34 C.F.R. § 300.324(a)(4), (6).

¹⁹ 34 C.F.R. § 300.304(b).

so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure); 4) the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities; 5) the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified; and 6) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.²⁰

18. As part of a re-evaluation, BOE must review existing evaluation data on the child, parent input, classroom-based observations, observations by teachers and related service providers, and any additional data needed to determine the educational needs of the child.²¹
19. The school district must give parents of a child with a disability a copy of the Procedural Safeguards one time each school year. They may place a current copy of the Procedural Safeguards notice on their web site.²²
20. Parents of a child with a disability can elect to receive Procedural Safeguards via email.²³
21. Prior Written Notice (PWN) is a procedural safeguard. The school district must give parents of a child with a disability Prior Written Notice not later than ten school days before they propose to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.²⁴

Discussion

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

BOE argues that LSP Middle School is more specialized to meet Student's needs and is the best program for him; that the proposed program provides Student time with non-disabled peers; that they provided Student specialized instruction in Home Middle School and he immediately struggled to make progress or benefit from that environment; that the way Student learns is not best met at Home Middle School; that LSP Middle School is more tailored to Student's learning needs and gives him the opportunity to demonstrate progress and an opportunity to access his education alongside non-disabled peers.

Student argues that there is clear law that a school district cannot segregate children with disabilities; that Student has regressed not because he is in the wrong school program but because BOE's evaluations of Student were not done by people who have experience with children with Down syndrome; that Student's special education hours have decreased; that

²⁰ 34 C.F.R. § 300.304(c).

²¹ 34 C.F.R. § 300.305.

²² 34 C.F.R. § 300.504(a)-(b).

²³ 34 C.F.R. § 300.505.

²⁴ 34 C.F.R. § 300.503(a); Conn.Reg. §§ 10-76d-8(a)(5), 10-76a-1(5).

progress reports are missing and data is lacking because many of Student's goals are not measurable; that BOE has set the bar low for Student; that Student needs to be in school with his friends and with non-disabled peers; and that BOE needs guidance from outside entities to evaluate and program for Student in a non-segregated environment.

The standard for determining whether FAPE has been provided is a two-pronged inquiry: first, whether the procedural requirements of the IDEA have been met, and second, whether the IEP is reasonably calculated to enable the child to receive educational benefits. (COL 7)

PROCEDURAL COMPLIANCE WITH IDEA

Student's Parents argue that BOE failed to comply with the IDEA's procedural requirements by failing to provide regular progress reports and Procedural Safeguards; disregarding parent input; changing Student's placement without convening a PPT meeting; and predetermining Student's program by staff without knowledge or experience with the program.

Where parents allege a procedural violation under the IDEA, a Hearing Officer may find a denial of FAPE if the violation 1) impeded the child's right to FAPE; 2) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of FAPE; or 3) caused a deprivation of educational benefits. (COL 8)

Progress Reports

Student's Parents argue that BOE did not provide them with progress reports, making it impossible to participate in the PPT process. Credible evidence indicates that it is BOE's practice to send progress reports to parents three times per year around the time that report cards are sent home and that Student's Parents generally get progress reports via email. (FOF 6, 7)

The record includes one progress report (in December 2022) between October 28, 2022 and the end of the 2022-23 school year. (FOF 38) ES SpecEd Teacher credibly testified the State implemented and mandated use of CT-SEDS portal and that there was initial confusion about how to handle progress reports in the portal. (FOF 32, 33) ES SpecEd Teacher testified that she knew that something had to go home to Student's Parents and, at her supervisor's direction, she sent hard copy progress reports with handwritten notes in March and June 2023. (FOF 39) She did not recall whether she sent those two progress reports via email or hard copy. Student's Mother testified that she did not receive the two progress reports. At the May 10, 2023 PPT meeting, which Student's Parents attended, the PPT discussed Student's progress, present level of performance, strengths, and concerns/needs. (FOF 40) ES SpecEd Teacher also testified that she corresponded with Student's Mother weekly, if not daily, to set Student up for success and discuss his progress. (FOF 10)

The record reflects three progress reports (in October 2023 and March and June 2024) during the 2023-24 school year. (FOF 47, 49, 56) ES SpecEd Teacher testified that she was Student's case manager and special education teacher during the 2023-24 school year, that she oversaw completion of the October 2023 progress report, and that it was provided to Student's Parents. Student's Mother testified that she did not receive the October 2023 progress report. The October 2023 progress report is dated the same day as Student's October 24, 2023 IEP which reflects that the PPT discussed Student's progress, present levels of performance, strengths, concerns and needs, and staff and parent input. (FOF 44)

The record reflects two progress reports (October 2024 and January 2025) during the 2024-25 school year. (FOF 75, 85) Additional progress reports would be due in March and June

2025, which is after the actions that form the basis of the Request for Hearing and after the hearing began.

The credible evidence supports a finding that BOE staff kept in constant communication with Student's Parents to update them on Student's progress and to receive updates from them and included them as equal members of the PPT. The record reflects significant and sufficient communication between BOE and Student's Parents to allow them to meaningfully participate in the PPT process and decision-making.

Procedural Safeguards

Student's Mother testified that she was never given Procedural Safeguards until the PPT meeting in which BOE recommended that Student attend LSP Middle School. BOE must give parents of a child with a disability a copy of the Procedural Safeguards one time each school year and may place them on their web site and distribute them via email at parent's election. (COL 19, 20)

Each of Student's IEP's (November 2, 2022; May 10, 2023; October 24, 2023; May 22, 2024; October 15, 2024) state that Procedural Safeguards in Special Education and A Parent's Guide to Special Education, among other resources, were provided to parents at the meeting or sent electronically with parental permission. (FOF 36, 41, 45, 54, 82) Student's Mother testified that, at each PPT, she was advised that Procedural Safeguards were available and that BOE "might have addressed that it was on CT-SEDS." She also testified that she was given a physical copy of Procedural Safeguards at the PPT meeting wherein the program at LSP Middle School was proposed. (FOF 77)

Credible evidence in the record supports a finding that Procedural Safeguards were provided to Student's Parents electronically in the 2022-23, 2023-24, and 2024-25 school years and that they were hand-delivered to Student's Parents at the October 15, 2024 PPT meeting.

Parent Input

Student's Parents argue that BOE disregarded their input and specifically cite the recommendation to place Student at LSP Middle School; scheduling Student to tour LSP Middle School; and not providing Student with transportation for ESY.

The PPT includes the parents of a child with a disability as critical participants. The IDEA does not require a school district to agree to parent demands without considering other appropriate options. A school district does not violate the IDEA simply by denying parental requests. (COL 4, 5, 12)

There is credible evidence in the record that BOE did not disregard Student's Parents' input. Examples:

- ES SpecEd Teacher asked Student's Mother if Student could take a tour of LSP Middle School since a bus was scheduled to go there. Student's Mother said no. BOE honored that request and did not send Student on the tour. (Exh. S-42; Testimony of Student's Mother)
- At a PPT meeting, Student's Mother stated that she would like Student to begin learning how to use a calculator. Student's IEP references Student's Mother's input and reflects an objective relative to him using a calculator, as requested by Student's Mother. (FOF 35, 36)

- Student's Mother stated that she had concerns about Student's vision. Student's IEP included use of larger font and providing Student a clear view of the board, teacher, and screen. (Exh. B-4, B-7, B-11, B-14, B-19)
- In May 2024, BOE recommended that Student attend LSP Middle School for the 2024-25 school year. Student's Parents did not agree and wanted Student to attend Home Middle School. BOE honored that request and Student attended Home Middle School for the 2024-25 school year.²⁵ (FOF 54)
- Student's Parents expressed that reading is a priority. Student's reading service hours were increased. (FOF 45, 58, 82) When asked about Student's goals and objectives, MS SpecEd Teacher testified that one of the reasons they are more academically-weighted in terms of reading – incorporating decoding, rhyming, phonological awareness – is because Student's Parents' perspective was "highly considered."
- Student's IEPs and triennial evaluation reports in the record indicate Student's Parents' participation and input. (FOF 35, 40, 41, 44, 46, 50, 54, 65, 68, 69, 74, 75, 76, 78, 79, 84)

Credible evidence in the record supports a finding that BOE included Student's Parents as equal members of the PPT and provided them a meaningful opportunity to participate in the decision-making process regarding provision of FAPE to Student.

Predetermination

Student's Parents argue that school-based PPT members without knowledge of or experience with the program predetermined Student's placement at LSP Middle School. In support of the argument, they cite testimony that Social Worker, OT, School Psychologist, and ES SpecEd Teacher have never visited the program at LSP Middle School.

Social Worker, OT, and School Psychologist were not present at the May 22, 2024 PPT meeting where placement at LSP Middle School was first discussed; ES SpecEd Teacher was present. MS SpecEd Teacher, who has worked at LSP Middle School, was present at the May 22, 2024 PPT meeting, along with staff who have worked with and are familiar with Student. (FOF 11, 50, 51)

MS SpecEd Teacher, School Psychologist, SLP, and SpecEd Supervisor are all familiar with the program at LSP Middle School and were present at the October 15, 2024 PPT meeting where LSP Middle School was again discussed and recommended, along with Home Middle School staff who were working with Student. (FOF 11, 14, 17, 25, 76, 78, 79, 80, 81)

Credible evidence supports a finding that school-based PPT members had knowledge of and experience at LSP Middle School and experience with Student to be able to evaluate the appropriateness of the program for Student and that the determination was not made by people without requisite knowledge.

Change of Placement

Student's Parents argue that BOE changed Student's placement without convening a PPT meeting when they changed his transportation during the 2024-25 school year. Student's Mother testified that Student began riding the school bus in middle school; that he was bullied on the

²⁵ Per the May 2024 IEP, Student was placed at Home Middle School at Student's Parents' request even though the school-based members of the PPT felt that LSP Middle School was more appropriate for Student. In October 2024, after Student's triennial evaluation, BOE again recommended that Student be placed at LSP Middle School. He continued at Home Middle School under Stay-Put rights. That recommended change is a subject of this hearing.

bus; that BOE did not inform her of the bullying; and that BOE changed his transportation service from the regular bus to a small bus that picked him up in front of their house instead of at the bus stop.

Student's IEPs prior to the October 15, 2024 IEP that is being challenged in this case indicate that Student does not require special transportation as a related service. (FOF 36, 41, 45, 52) Transportation was not part of his IEP. When asked, on direct examination, whether Student was taken off the regular bus and put on another bus, Student's Mother answered that "it was floated as a suggestion and it was very strongly worded that this was the best thing for [Student] for his safety."

There is no evidence that BOE changed a related service in Student's IEP without convening a PPT meeting.

Prior Written Notice

The Request for Hearing alleges that Student's Parents "did not receive Prior Written Notice until October 22, 2024, and the change in placement is now listed as November 6, 2024." (Exh. HO-1) The uncontroverted evidence in the record indicates that the Prior Written Notice (PWN), which is dated October 15, 2024, was uploaded to the parent portal. Whether it was received on the date of the notice (October 15) or the date alleged in the Request for Hearing (October 22), Student's Parents had ten school days' notice of the change in placement prior to its implementation date of November 6, 2024.²⁶

BOE did not violate Student's procedural rights by failing to provide Student's Parents with timely Prior Written Notice.

BOE did not violate Student's or Student's Parents' procedural rights under the IDEA.

SUBSTANTIVE COMPLIANCE WITH IDEA

Student's Parents argue that BOE failed to conduct comprehensive evaluations by persons experienced working with students with Student's profile; Student's IEPs were not reasonably calculated to enable Student to receive educational benefits and that he regressed; that BOE reduced Student's services and he failed to make meaningful progress; that Student's goals and objectives were repeated year after year with minimal change; that BOE showed bias toward students with Down syndrome; that BOE failed to implement a research-based reading program; and that BOE failed to modify classroom assignments to enable Student to access his education in the mainstream setting.

The FAPE mandated by federal law must include special education and related services tailored to meet the unique needs of a particular child and be reasonably calculated to enable the child to receive educational benefits. (COL 6) To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (COL 9)

Factors to be considered in determining whether an IEP is reasonably calculated to provide a meaningful educational benefit is whether the proposed program is individualized on the basis of the student's assessment and performance and whether it is administered in the least restrictive environment. (COL 11)

²⁶ Student's Parents filed their Request for Hearing on October 28, 2024 allowing them to invoke Stay-Put prior to implementation of the proposed IEP with which they disagree.

Student Assessments

The Request for Hearing alleges that “had [BOE] conducted comprehensive evaluations by persons experienced with working with students with Student’s profile, appropriate present levels of performance (PLOP) would have been established, goals and objectives would have been appropriate, and Student would have made meaningful progress.”

Student’s 2024 triennial evaluations were conducted by MS SpecEd Teacher, School Psychologist, SLP, and OT.²⁷ (FOF 62, 66, 70, 74) MS SpecEd Teacher, School Psychologist and SLP each credibly testified that they have experience working with and evaluating students with intellectual disabilities including Down Syndrome.²⁸ (FOF 11, 14, 17) They testified about their experience crafting, administering, and interpreting evaluations. They reviewed prior testing results, IEPs, progress data, and parent, teacher, and related service provider input and conducted classroom-based observations. (FOF 62, 66, 70, 74)

The BOE evaluators testified about their processes and results. MS Spec Ed Teacher stated in her evaluation report that “though testing is standardized, the evaluator repeated directions, rephrased directions, and sometimes gave an additional example to try to support understanding of the directions. This was a professional decision to try to get the fullest picture of [Student’s] ability, not his understanding of the directions.” (FOF 63).

MS SpecEd Teacher’s exercise of professional judgement to provide Student with support to demonstrate his abilities does not jeopardize the comprehensiveness of the evaluation. As she testified, her approach allowed Student to respond so that she could evaluate his actual abilities while acknowledging his difficulty with directions. His IEP includes services addressing both his academic and executive functioning skills and deficits that were reflected in this evaluation.

Each of the evaluations identified Student’s strengths and weaknesses that impact his education and are consistent with teacher observations, present levels of performance, and parent reports.

On cross-examination, Student’s Attorney questioned the evaluators about assessments that are specifically created for or targeted to children with Down Syndrome. Each evaluator indicated that they are not aware of such disability- or diagnosis-specific evaluation tools; the evaluation tools help identify academic and functional strengths and weaknesses for students with different disabilities or needs.

There is credible evidence in the record to find that BOE’s evaluators have experience with students with intellectual disabilities; they used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about Student, including information provided by Student’s Parents; did not use any single measure or assessment as the sole criterion for determining an appropriate educational program for Student; used technically sound instruments; and used the most recent versions of the assessments. They credibly testified that the assessments were normed and standardized for Student’s age and that they conducted the evaluations according to testing protocols. (COL 16, 17, 18)

²⁷ Student’s post-hearing brief cites testimony from ES SpecEd Teacher regarding her experience evaluating Student in 2021. However, she did not conduct any of Student’s 2024 triennial evaluations. The 2021 evaluation is outside the scope of this hearing.

²⁸ OT was not asked on direct or cross-examination whether she had experience working with children with intellectual disabilities other than Student.

The 2024 triennial evaluations were conducted by personnel with experience working with students with intellectual disabilities, including Down Syndrome, and were sufficiently comprehensive to identify Student's special education and related services needs.

Reduction in Services

Student's Attorney argues that there was a pattern of reduced services beginning in November 2021 through October 2024. The record reflects both decreases and increases in services across different academic and adaptive areas over the three school years.

Compared to the November 2, 2022 IEP, the October 24, 2023 IEP reflects reading services decreased from 30 minutes five times per week to 30 minutes four times per week, and behavior support (targeting his behavior and executive functioning goals and objectives) decreased from 30 minutes twice a week to 30 minutes once per week. The October 24, 2023 IEP adds 30 minutes of study skills twice per week in the general education setting to assist with his executive functioning goal and objectives. These changes resulted in no change in the total number of weekly special education hours. (FOF 36, 45)

It is a little harder to compare the October 24, 2023 IEP for elementary school to the May 22, 2024 IEP for middle school due to the change in schedules between elementary and middle schools. Elementary school IEPs reflect weekly service hours and the middle school IEP reflects service hours over a four-day rotating cycle. (FOF 5)

Examples of changes from the October 24, 2023 (elementary school) IEP and the May 22, 2024 (middle school) IEP:

- Writing changes from 30 minutes five times per week (150 minutes per week) to 50 minutes three times in a four-day cycle (150 minutes every four days).
- Reading increases from 30 minutes four times per week (120 minutes per week) to 50 minutes three times per four-day cycle (150 minutes every four days). This increase in services is consistent with Student's Parents comments in the PPT meeting that reading is a priority.
- Math decreases from 45 minutes five times per week (225 minutes per week) to 50 minutes three times per four-day cycle (150 minutes every four days). Student's present level of performance notes indicate that he is "continuing to maintain previously learned skills" in math. His 2024 educational evaluation indicated that his "math growth is an area of relative strength."
- Social skills twice a week for 30 minutes each was added.
- Behavior support increases from 30 minutes one time per week to 30 minutes three times in a four-day cycle.
- Executive functioning support increases from 30 minutes twice per week (60 minutes per week) to 30 minutes three times in a four-day cycle (90 minutes every four days).

(FOF 45, 58)

Compared to the May 22, 2024 IEP, the October 15, 2024 IEP reflects reading, math, and writing services each increased from 50 minutes three times to 60 minutes three times per four-day cycle; executive functioning increased from 30 minutes three times to 60 minutes three times per four-day cycle; and occupational therapy decreased from 30 minutes twice to 30 minutes once in a four-day cycle. (FOF 58, 82) The October 15, 2025 IEP notes indicate that math and reading are priorities for Student's Parents.

The changes in service hours reflect evaluations results, present levels of performance, Student's Parents' input, and differences in elementary school and middle school schedules.

Repeated Goals and Objectives

Student's Attorney argues that progress reports from December 16, 2022 to October 15, 2024 show the same goals repeated each year with minimal changes to objectives.

Comparing the November 2, 2022 IEP with the October 24, 2023 IEP, the following is noted:

Goal 1 (fine motor) is stated the same in both IEPs. The accompanying objectives are different.

Goal 2 (activities of daily living) is deleted.

Goal 3 (communication) is stated the same in both IEPs. One of the objectives is the same; one is new; and two are deleted.

Goal 4 (communication) is stated the same in both IEPs. Four of the objectives are the same; one is the same task with a decrease in the number of prompts permitted to master the objective; one is new; and one is deleted.

Goal 5 (communication) and accompanying objectives are the same.

Goal 6 (reading) and accompanying objectives are different.

Goal 7 (writing) and accompanying objectives are different.

Goal 8 (behavior) and accompanying objectives are different.

Goal 9 (math) is stated the same in both IEPs. Two of the objectives are the same; two are different in the percent accuracy required to master the objective; one is new; and four are deleted.

Goal 10 (executive functioning) and accompanying objectives are different.

Comparing the October 24, 2023 IEP with the proposed October 15, 2024 IEP, the following is noted:

Goal 1 (fine motor) is different. One objective is the same, six are new, and three are deleted.

Goal 2 (activities of daily living) is deleted.

Goal 3 (communication) is changed by adding "speech articulation" to "speech intelligibility" as skills to be improved. Two of the objectives are similar to the previous IEP and two are new.

Goal 4 (communication) is stated the same in both IEPs. The objectives are different.

Goal 5 (communication) is different. Two objectives are new and one is similar.

Goal 6 (reading) is deleted.

Goal 7 (writing) is deleted.

Goal 8 (behavior) is deleted.

Goal 9 (math) is deleted.

Goal 10 (executive functioning) is deleted.

Goal 12 (reading) and accompanying objectives are new and are different than the previous reading Goal 6.

Goal 13 (writing) and accompanying objectives are new and are different than the previous writing Goal 7.

Goal 14 (executive functioning) and accompanying objectives are new and are different than the previous executive functioning Goal 10.

Goal 15 (social/emotional) and accompanying objectives are new.

Goal 16 (communication) and accompanying objectives are new.

Goal 17 (functional) and accompanying objectives are new.

Goal 18 (executive functioning) and accompanying objectives are new.

Goal 19 (math) and accompanying objectives are new and are different than the previous math Goal 9.

Goal 20 (functional) and accompanying objectives are new.

The evidence in the record supports a finding that Student's goals and objectives were not repeated year after year. The changes in goals and objectives, many of which are increasingly more challenging, reflect evaluations results, present levels of performance, and Student's Parents' input.

Regression

Student's Attorney argues that BOE gave up on Student, that his goals and objectives were repeated year after year, and that he regressed as a result. As evidence of regression, Student's Attorney cited MS SpecEd Teacher's testimony that Student's reading dipped and that his standard score in reading composite decreased during his evaluation. At the October 15, 2024 PPT meeting, Student's Parents commented that Student's reading "dipped quite a bit."²⁹

In discussing Student's 2024 educational evaluation, MS SpecEd Teacher testified "I mean, he scored in the lowest descriptive category in just about all, all areas in here. So clearly the academics was very, very challenging, and that is consistent with previous testing. Nothing here was glaring or a red flag. His reading did dip somewhat, but I was not surprised by that because when you compare the fact that he is, these scores are measuring and comparing him to kids who, who are of his same age. And so the way that he learns, he is going to learn at a slower pace... you have to consider the child, you know, when you are, when you are putting test results into context." Her evaluation report states "as text becomes increasingly complex with fewer pictures and visual support, the gap has continued to grow." (Exh. B-26).

MS SpecEd Teacher did testify that she saw lack of retention in math and limited progress in writing during the 2024-25 school year when Student was at Home Middle School. Lack of retention and limited progress were not described by any witnesses as regression in Student's skills. When MS SpecEd Teacher was questioned about regression, she discussed it in relation to the norm-aged assessments. For example, when asked on cross-examination why she thought Student was regressing in reading, Ms SpecEd Teacher testified "as I stated earlier, I think that given the nature of his disability, as the reading continues to get harder, he's, it is harder for him to keep pace with that."

Student's Attorney also cited certain results of Student's psychological and speech-language evaluations as evidence of regression. Student scored in the Low range for Daily Living Skills on the Vineland, which is normed for Student's age population, in both the 2021 and 2024 evaluations. (Exh. B-1, B-24) When asked on cross-examination whether the change in scores was significant, she testified that it would be if the two evaluations (2021 and 2024) were comparing the same age range and that the amount of raw points needed to achieve average changes as students get older.

Similarly, Student scored in the Below Average range on the PPVT, which is normed for Student's age population, in both the 2021 and 2024 evaluations. (Exh. B-3, B-27) When asked

²⁹ Student's Mother testified that Student "was at his highest reading performance coming out of COVID" because she spent a lot of time reading with him and that, after returning to school, Student wasn't as interested in books as he had been previously. She testified that might have occurred in third grade but was not sure. Student's third grade year is outside the scope of the issues in this case.

about the scores on the two evaluations, SLP testified that in 2024 Student was not being compared to the same age range as in 2021; the baseline changes as part of the age-norm; the test requires the administrator to collect the raw score of how many questions Student answered correctly and compare that to same-age children. Student remained in the Below Average range which does not indicate regression.

Student's scores dipped as compared to his same-age peers because he is learning at a slower pace. Student may still be progressing in his skills while the gap between him and same aged peers increases as they get older.

Modification of Classroom Assignments

Student's Attorney argues that BOE failed to modify classroom assignments to enable Student to access his education in the mainstream setting as evidenced by Student learning a completely different curriculum from other students in the general education classroom, causing him to be isolated. Student's Attorney argues that BOE set the bar low for Student.

School Psychologist observed Student in Social Studies class where he worked one-on-one with the paraprofessional on a modified curriculum while the rest of the class worked on a lesson about the paleolithic period. Student then worked with the classroom teacher and paraprofessional on a document to see what the class was working on. Student needed step-by-step instructions to complete the task. Student then returned to working on his individualized packet of work with the paraprofessional while the class continued the grade-level lesson. "Overall, [Student] was present in the classroom, but his lesson was completely separate from the grade level curriculum. The teacher did show [Student] what they were working on, but [Student] was not able to engage in grade-level activities." Student did not interact with other students and was dependent on adult prompting to complete his tasks. (Exh. B-24)

Social Worker testified that he observed Student in Social Studies and History classes where Student was working on a different curriculum than the rest of the class. "Even though they were working together as a group, [Student's] work was on a very different page than the other students. So, the other students were talking, [Student] was not communicating with the other students." He further testified that teachers include Student in group lessons, that his "ability to comprehend and work with the information that the other kids are working on was not there," and that Student needed adult prompting to work on his assignments.

ES SpecEd Teacher testified that in elementary school, she and the general education teacher worked together to modify Student's work for his general education classes. Student participated in group work by sitting and listening but was not an active participant because he was not at the same level of academic rigor. Student was not able to do the work if not modified or without support.

Student's Mother testified about materials sent home with Student about a black history month unit in Social Studies class. The packet included information about different people Student was to learn about for black history month and had a note stating that Student and his parents could read through it together to reinforce the information being learned in the general education Social Studies class. (Exh. S-2) Student's Mother testified that she read the packet, which was modified and "definitely at a lesser level," but Student couldn't read it.

The credible evidence indicates that BOE did modify assignments for Student in the general education classroom to allow him to work toward progress on his goals and objectives while having an opportunity to interact with nondisabled students. Student's goals and objectives and assignments were individualized based on his needs and capabilities as required by the

IDEA. BOE did not exclude Student from the general education classroom based on his need for a modified curriculum or one-on-one assistance.

Research-based Reading Program

Student's Attorney argues that BOE failed to provide a research-based reading program for Student and questioned the training that ES SpecEd Teacher and MS SpecEd Teacher have in research-based reading programs.

Student's Mother and ES SpecEd Teacher each testified that Student is not always motivated to read. ES SpecEd Teacher testified that Student is a visual learner and has a lot of difficulty decoding words; she is trained in Spire, Orton-Gillingham and Wilson reading systems; she did not use Orton-Gillingham or Spire with Student because they teach decoding, which does not suit Student's needs; she collaborated with the reading specialist and other special education teachers to identify an appropriate reading program for Student; she began using the Unique program with Student by fifth grade to help motivate and engage him in reading; the Unique program uses visuals and was "geared and catered towards him."

MS SpecEd Teacher testified that Student needs text supported by pictures, repeated practice, and practice across context (i.e. talking about it, going over it, and ideally learning in a social context with others who are working on a similar level to be able to have a conversation about the topic); she teaches "scientifically-based reading, scientifically research-based strategies and methods;" she uses components of the Wilson system with Student; she has to "really heavily and highly adapt the structured literacy for his so he can engage;" Student requires a lot of modelling and her goal is to be able to fade modelling. She testified that "reading is not taught by teaching a program. It is taught through methods and strategies that are scientifically based."

The credible evidence indicates that ES SpecEd Teacher and MS SpecEd Teacher are trained in special education and multiple reading programs, that they use scientifically-based strategies tailored to Student's needs and capabilities to allow him to progress on his reading goals and objectives.

ESY Transportation

Student's Attorney argues that when an IEP recommends ESY, transportation becomes a related service that BOE is obligated to pay for and that failure to do so violates Section 504 and the ADA. As noted above, and as indicated in the Hearing Officer's November 7, 2024 Memorandum and Orders, jurisdiction over Section 504 claims and ADA claims was declined.

As noted above, Student's IEPs covering 2023 and 2024 ESY indicate that Student does not require special transportation as a related service. (FOF 36, 40, 41, 45, 52) ES SpecEd Teacher and SpecEd Supervisor testified that ESY students are not provided with transportation unless it is part of their IEP, which is determined on an individual basis. Transportation was not part of Student's IEP. Determination of the need for such related services under the IDEA is made on an individualized basis. Whether other children receive transportation to ESY or tutoring services over the summer, as Student's Mother testified happens, does not control whether Student requires such related service.

Bias

Student's Attorney argues that BOE has shown bias towards student with Down Syndrome and cites testimony that there are currently no other such students at Home Middle School; that MS SpecEd Teacher thinks Student can improve his reading skills but isn't sure how

much further he will advance; that Student will better be able to develop relationships with children with similar interests and social level; that Down Syndrome students are known to be stubborn; and that despite knowledge of research indicating that students with Down Syndrome should be mainstreamed, school-based PPT members recommended that Student attend LSP Middle School.

Other than the stereotyping comment about children with Down Syndrome being stubborn, the other cited testimony demonstrated BOE personnel's individualized knowledge of and experience with Student and their efforts to provide him an appropriate education. BOE staff testified consistently that they think the LSP Middle School program is the best program for Student. There was absolutely no evidence of any bias against Student, or other children with Down Syndrome, based on their diagnosis. To the contrary, there was ample evidence that staff feel Student is a joy to have in school and a "positive force" in the school community.

Life Skills Program

The proposed placement at LSP Middle School is the crux of the issues presented in the Request for Hearing. Student's Parents want Student to remain at Home Middle School where he has friends that he has known throughout elementary school. Student's Mother testified that Student has friends in and out of school and doesn't need to go to LSP Middle School to make meaningful friendships. In her hearing testimony and at the May 22, 2024 PPT meeting, Student's Mother said that she wants Student to be pushed as far as he can be pushed and that she doesn't want his goals to be around vocational tasks that she can work on with him at home. She stated that reading and math are priorities, and she wants more than socializing for Student.

Student's Attorney argues that the proposal to place Student at LSP Middle School is BOE's way of saying that he "should be with those of his own kind;" that they have given up on Student; and that it was not based on any reasonable analysis of Student's needs or a comprehensive evaluation by people experienced with children with Student's profile. She also argues that there is no clear description of the program and it is unclear whether the program is individualized to each student's needs. BOE witnesses were consistent on the proposed program and why they think it is appropriate for Student.

As indicated above in the Predetermination section, MS SpecEd Teacher, who has worked at LSP Middle School, was present at the May 22, 2024 PPT meeting, along with staff who have worked with and are familiar with Student. (FOF 11, 50, 51); MS SpecEd Teacher, School Psychologist, SLP, and SpecEd Supervisor are all familiar with the program at LSP Middle School and were present at the October 15, 2024 PPT meeting where LSP Middle School was again discussed and recommended, along with Home Middle School staff who were working with Student. (FOF 11, 14, 17, 25, 76, 78, 79, 80, 81). MS SpecEd Teacher testified that the recommendation to place Student at LSP Middle School was based on data gathered about Student's prompting, skills, and abilities.

Home Middle School and LSP Middle School have different structures of special education programming. (FOF 3) BOE witnesses, including the four staff members who have experience with LSP Middle School, testified that the proposed program is individualized and is less restrictive than Student's program at Home Middle School; the program will allow Student to work on his IEP goals and objectives where there are a lot of opportunities to generalize his experiences through hands-on learning, repeated practice, visual supports, and social communication; there is time with non-disabled peers; learning happens in a social setting and

the LSP Middle School program will allow Student to learn more in a social setting than an isolated setting.

BOE staff expressed concerns about Student's high dependence on and preference for adults and lack of engagement with same-age peers.³⁰ There was consistent testimony that the proposed program at LSP Middle School has embedded supports that foster independence and less reliance on adults.

MS SpecEd Teacher testified that Student needs to develop social skills, functional skills, and communication skills, in addition to academic skills like reading, writing, and math and that the LSP Middle School program offers those opportunities. She testified that the placement recommendation was not made for the purpose of Student making friends.

Credible evidence supports a finding that school-based PPT members had knowledge of and experience at LSP Middle School and experience with Student to be able to evaluate the appropriateness of the program for Student and that the determination was not made by people without requisite knowledge. The LSP Middle School program is an appropriate program for Student.

As discussed above, Student's evaluations, present levels of performance, parent input, and BOE personnel's knowledge of and experience with Student were considered in developing Student's IEPs from October 28, 2022 through the October 15, 2024 IEP recommending LSP Middle School.

BOE has met its burden of proving that Student's IEPs were reasonably calculated to enable Student to receive a meaningful educational benefit; were individualized based on Student's evaluations and performance; and administered in the least restrictive environment.

FINAL DECISION AND ORDERS

1. No, the Board of Education did not fail to provide Student with a free appropriate public education from October 28, 2022 to the end of the 2022-23 school year, the 2023-24 school year, and/or the 2024-25 school year by a) changing Student's placement to the Life Skills Program; b) failing to provide Student an appropriate Individualized Education Program in the least restrictive environment; or c) failing to conduct comprehensive evaluations by persons experienced with working with students with Student's profile.
2. No, the Board of Education did not violate Student's procedural rights by failing to provide Student's Parents with timely Prior Written Notice.
3. The answers to Issue One and Issue Two are negative; therefore, Issue Three is moot.

³⁰ The October 15, 2025 IEP states "[Student's Father] shared that [Student] likes to play by himself outside of school rather than with other kids. He prefers communicating with adults."