

**ILLINOIS STATE BOARD OF EDUCATION  
IMPARTIAL DUE PROCESS HEARING**

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██████████,

Student,

Case No: 2020 DP 0107

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer

Glen Ellyn SD no. 41,

School District.

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**FINAL DETERMINATION AND ORDER**

**BACKGROUND**

██████████, Petitioners are the parents of ██████████ (“Student”), a twelve-year-old, seventh grade student with a disability who qualifies for special education and related services under the IDEA category of Specific Learning Disability. Glen Ellyn School District No. 41 (“District”) is the Respondent school district. Currently, Student attends Hyde Park Day School – Lemont campus due to unilateral placement by Parents after they disputed the District’s May 2, 2019 and November 22, 2019 offers of placement.

On December 16, 2019, Petitioner filed a Due Process Complaint (“Complaint”) against the Glen Ellyn School District No. 41 pursuant to the Individuals with Disabilities Education Act (“IDEA”). This Hearing Officer was appointed to preside over this case on January 3, 2020.

The parties requested a continuance of the hearing and an extension of the 45-day deadline on February 18, 2020 to allow the parties additional time to participate in mediation before the prehearing conference. The motion was granted and the 45-day timeline was extended to April 3, 2020.

On March 19, 2020, a prehearing conference was held in the above matter. The conference was conducted by telephone from 10:30 a.m. to 11:33 a.m. Participating in the

conference were: Kathleen C. Fuhrmann, Hearing Officer; Charles Fox, Esq. and Julie Welsh, Esq. of the Law Offices of Charles P. Fox for Petitioners; and, Laura Sinars, Esq. of Robbins, Schwartz, Nicholas, Lifton & Taylor, Ltd. and Laurel O'Brien, Director of Student Services for District Respondent. The parties filed a Joint Motion for Continuance on May 7, 2020 to continue the hearing and extend the 45-day deadline in light of the COVID-19 pandemic mandatory school closures and stay home orders and to allow hearing to be conducted in fall as scheduled by agreement. The Motion was granted, and the 45-day deadline was extended to October 6, 2020.

On September 4, 2020 the Post Five-Day Status Conference was convened by telephone conference call. Participating in the conference were Charles Fox, Esq. and Julie Welsh, Esq. for Parents and Laura Sinars, Esq. for the District. Parents had no objections to the District's Five-Day disclosures. District objected to the 7/30/2020 Speech Evaluation completed by Laura Collison (PD 2-9) because it was completed well after the last IEP meeting at issue in this matter, speech was not identified as an area of deficit for MC, the District never conducted a speech evaluation, and the report was not provided to or reviewed by the IEP team as not relevant. Parents respond that it is being offered to demonstrate progress over time, it was reviewed by Dr. Dawson, and has been relied upon by Hyde Park Day School's ILP team and is being offered in support of Parent's relief request. The hearing officer ruled that at this time the document will be allowed over the objection of the District because it is being offered for the remedies portion of the hearing and based on the Parents representation of the reliance upon this document by witnesses. Parents pointed out that the District did not provide CVs for the teachers and other personnel. The parties review of the joint exhibits revealed that two exhibits were missing pages. These pages will be provided and inserted as #a at the hearing opening.

Finally, Ms. Sinars informed the Parents and Hearing Officer that the District has a hard break for the building each day at 5:30 p.m. to enable the parties to exit the building before 6:00 p.m. for the District staff to clean for the next day as required by the IDPH COVID-19 pandemic guidance measures. The parties were asked to consider how they would like to manage the time warnings and we will discuss this before the hearing on Tuesday.

On September 7, 2020 (Labor Day) at 3:51 p.m. Parents tendered to the District and Hearing Officer a three-page document containing 2020 Test Scores for Student. The District objected to the late tender and requested that the Parent be barred from introducing the document or testimony concerning the document into evidence due to the late tender and the prejudice that resulted to the District due to the late tender, the District's inability to access the District staff to review on a holiday, the night before the hearing. The documents and evidence were barred as requested.

The closed hearing was held on September 8, 9, 10, and 14, 2020 as a blended virtual hearing from approximately 9:00 a.m. to 6:00 p.m. each day. Zoom™ videoconference platform was used for the virtual aspects of the hearing. Present for the hearing in the District Board Room were [REDACTED], parents with and by their attorney Charles P. Fox, Esq., Laurel O'Brien, Director of Student Services for District with and by their attorneys, Laura Sinars, Esq. and Tabitha Hill, Esq., and the court reporter. The undersigned hearing officer, Julie Welsh, Esq. and all witnesses participated remotely. Some witnesses testified via Zoom from a location outside of the District board room yet within the District offices. Closing argument was presented on September 14, 2020 at noon by Zoom™ videoconference platform. Participating in the closing argument session of this hearing remotely were Charles Fox, Esq. and Julie Welsh, Esq. for and with Parents, [REDACTED], as well as Laura Sinars, Esq. and Tabitha Hill, Esq. for and with Laurel O'Brien, Director of Student Services for the District. Veritext Legal Solutions provided transcription of the proceeding with Linda S. Idrizi transcribing on September 8, and Lydia B. Pinkawa transcribing on September 9, 10 and June Funkhouse transcribing on September 14<sup>th</sup>.

Testimony was received at the hearing from Tanya Pearce, Sara Gillmar, Michelle Spratt, Heather Beaman, Thomas Hekma, Lauren Canfield, Karen Grieger, Michelle Masny, Jay A. Smith, Dr. Nichole Dawson, [REDACTED] Ann Stec, [REDACTED], and Laurel O'Brien. Joint Exhibit pages 1 to 10, 16 to 112, 118 to 441, 448 to 452 459 to 463, 466 to 500, and 504 to 520, Parent Exhibit pages 2 to 15, 27 to 31, 37 to 47, and 99 to 103, District Exhibit pages 29 to 30, 39 to 44, 64 to 65, 72 to 74, 103, 108, 133 to 144, and IHO Exhibits 1 to 3 were admitted into evidence. Finally, closing arguments and points of

authority documents tendered by Parents and District were made part of the hearing record at the close of the hearing.

### **JURISDICTION**

The undersigned has subject matter jurisdiction over this matter pursuant to the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §1400 *et seq.* and the Illinois School Code, 105 ILCS 5/14/8.02a *et seq.* The personal jurisdiction in this matter of the undersigned is limited to the parties to this matter, specifically Student, Parents, and Central Community Unit School District 301.

Under the IDEA, the party initiating the proceeding bears the burden of proof and persuasion. *Marshal Joint Sch. Dist. No. 2 v. C.D. ex rel. Brain D.*, 616 F.3d 362 (7<sup>th</sup> Cir. 2010) and *Schaffer v. Weast*, 546 U.S. 49, 2005). The standard of proof in impartial hearings under the IDEA is a preponderance of the evidence. 20 U.S.C. § 1415(i)(2)(C)(iii). Here, the Parents are party seeking relief.

### **ISSUES PRESENTED**

The issues to be determined are as follows:

Issue One: Whether the District denied Student a FAPE for the two years prior to filing, by failing to appropriately evaluate Student in the area of Assistive Technology for reading and written expression support in other academic areas?

Issue Two: Whether the District failed to consider the 2019 outside neuropsychological evaluation related to Student’s specific learning disability provided by the parents which resulted in a denial of a FAPE?

Issue Three: Whether, beginning with the October 2, 2017 and continuing to present, the District denied Student a FAPE by failing to write a sufficient IEP for Student that included:

- i. meaningful goals in the reading decoding, sight word identification, fluency, and comprehension and language arts (written expression),
- ii. needed and effective methodological interventions in r reading decoding, sight word identification, fluency, and comprehension and language arts (written expression), and/or
- iii. appropriate academic instruction in reading decoding, sight word identification, fluency, and comprehension, and language arts (written expression) and reading support in courses where reading is a fundamental part of the coursework, such as Science and Social Studies?

Issue Four: Whether, beginning with the October 2, 2017 and continuing to present, the District denied Student a FAPE by failing to propose a placement with sufficient and appropriate academic instruction for Student to make appropriate academic progress, including private, therapeutic schools and/or structured literacy intervention programs that are explicit, direct, cumulative, sequential, intensive, multi-sensory, that teach mastery and are delivered with fidelity to address Student's reading deficits (reading decoding, sight word identification, fluency, and comprehension)?

Issue Five: Whether, beginning with the October 2, 2017 and continuing to present, the District denied Student a FAPE by failing to account for Student's lack of progress in reading (reading decoding, sight word identification, fluency, and comprehension ) and revise her IEP appropriately?

Issue Six: Whether, beginning with the October 2, 2017 and continuing to present, Student's emotional and social regression was a result of the District's failure to provide Student with appropriate academic instruction? If so, did this result in the denial of a FAPE to Student?

Petitioner seeks the following remedies:

i. an order requiring the District to place Student, at its expense at Hyde Park Day School with appropriate transportation,

ii. An order requiring the District to write an IEP with meaningful, measurable goals that address Student's academic needs in reading decoding, sight word identification, fluency and comprehension, and written expression,

iii. as compensatory education, an order requiring the District to reimburse Student's parents for any expenses already incurred for placement at Hyde Park Day School, including transportation, private Wilson tutoring, and the outside neuropsychological evaluation, and other education related expenses, e.g. social work services to address her Anxiety Disorder, and

iv. as further compensatory education, an order requiring the District to maintain Student's placement at Hyde Park Day School through her 8<sup>th</sup> grade year, including ESY (extended school year) and transportation.

## FINDINGS OF FACT

After considering all the evidence, as well as the arguments of both counsels, this Hearing Officer's Findings of Fact are as follows:

### Background

1. Student attended Ben Franklin first through fifth grade. Report cards for Student indicated that she was generally making progress in obtaining grade level standards, despite her difficulties in learning to read and write. (Testimony of Mother, JE pages 1 to 7, and JE 16 -17.) Parents were not provided with special education report cards during this period, they were given goal updates at the annual review meetings. (Testimony of Father.)
  
2. Parents requested a case student evaluation for Student during her first grade year due to reading and writing delays she was experiencing. Student was determined NOT eligible for special education and related services despite her great difficulties in reading under IDEA on June 4, 2015. (Testimony of Mother and Pearce<sup>1</sup>, and JE 18 to 54.) Student was given a Section 504 plan on September 22, 2015. (JE 64.)
  
3. Parents provided an outside psychological evaluation completed in May 2015. (JE 103 to 112.) Parents' concerns included Student's inconsistent achievement and inattention. Student struggled with reading and written expression. Student's overall intellectual abilities were found to be in the average range and evenly developed with no areas of significant impairment and significant strength in visual categorization as measured by the Weschler Intelligence Scale for Children – IV. (JE 105.) Other testing revealed a strong indicator of attention-related deficits. (JE 105.) Student's language processing scores in receptive auditory processing were average. Student's phonological processing scores were in the low average range (16<sup>th</sup> percentile). The report states "she has distinct difficulty with phonological processing." (JE 106.) Other testing revealed impairment in visual memory and potential

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<sup>1</sup> Pearce is a special education teacher for District. She has 24 years of teaching experience and holds a Masters degree in reading. Pearce holds a teaching license and has participated in Wilson Training 3 day training course in 2011 and 2019. She completed Wilson Just Words training in 2018 and recently attended a conference session introducing Wilson Reading System 4<sup>th</sup> edition. Pearce has taught Wilson Reading to approximately 15 to 20 students to date. (Testimony of Pearce and IHO 2- to 2-2 and IHO 3-1- to 3-2.)

problems with visual discrimination. Rating scales completed by parents and teachers indicated that Student had difficulty with inattention at school and home. (JE 107.) The examiner recommended use of the Wilson Method as remediation for phonological processing difficulties. (JE 109.)

4. Parents requested a full case study evaluation in May 2015. The District determined that additional time and data was needed to determine if Student was responding adequately to Tier 3 interventions in reading. (Testimony of Mother, and JE 62.)

#### October 27, 2015 IEP

5. In fall of 2015, Student's MAP scores were low in areas of literature, vocabulary acquisition and use, and informational text. Her MAP scores were within the average range in math. (JE 62.) The District's testing indicated that Student's phonological awareness skills were average overall. Yet the report notes that her readiness skills were in the 4<sup>th</sup> percentile. Student's word attack skills were noted to be inconsistent with vowel pairings and blends and her word identification and passage comprehension were below average. Student's listening comprehension and oral fluency were average. (JE 63.) In addition, Student was unable to retain the sight word that she had previously master. (Testimony of Pearce, and JE 55 to 122.)

6. Student was being provided Wilson instruction thirty (30) minutes per day ("mpd") in a 2:1 student/teacher setting, sight word development, monitoring fluency and accuracy. The literacy teacher noted use of Words their Way strategies. She was at substep 1.3 and was experiencing difficult applying the skill to blend words. The District had also used an Orton-Gillingham method for mastery of sight words, and Snapwords, word cards with sentences, kinesthetic and visual cues for (JE 63.) In June 2015 Student was given 1:1 instruction in sight words due to her difficulty retaining sight words. In April 2015 a new program was implemented to work on word families. (Testimony of Pearce, JE 64, and JE 451.)

7. On October 27, 2015, Student was found eligible for special education and related services under the IDEA category of Specific Learning Disability or SLD. (JE 70 to 71.)

8. IEP goals were developed for Student in the area of reading areas of sight word acquisition, decoding, reading accuracy and comprehension. (JE 74 to 81.) Student was given pull out resource support in the area of literacy for 120 minutes per week (mpw). (JE 86.) She was given accommodations for instruction and assessments in her general education and special education classrooms. (Testimony of Pearce and JE 82 to 85.)

### Third Grade - 2016/2017 School Year

9. On October 18, 2016 an IEP meeting was held by the District for its annual review of Student's IEP. Both parents and their private tutor participated in the IEP meeting. (JE 122.) Mother noted that Student had a good start to third grade with less anxiety than the prior year. The tutor requested as much support as possible to enable Student to read before leaving elementary school. (JE 124.)

10. The literacy teacher reviewed Student's MAP and Fountas and Pinnell scores noting that Student was not reading at grade level but was doing well with comprehension. Student had recently met all writing post-test items, but spelling was a struggle. The classroom teacher stated that she was eager to learn from the private tutor how to work with Student. Mother noted that Student regressed on sight words. (JE 124.) The team recommended that fluency be worked on at home. (JE 125.)

11. The team modified the assignment notebook for Student as an accommodation. At the suggestion of the tutor Franklin Speller was added as an assistive technology accommodation. (JE 118 to 156.)

12. The District reported that Student was sweet, complimentary, and hard working. The District reported that Student was organized and completed her work. Mother reported that at home Student is often disorganized or cannot complete multi-stepped tasks. The tutor said Student may be scattered and that multi-sensory activities help her stay focused. (JE 124.)

13. Mother and tutor questioned the connection between sight word goal and Wilson instruction, the Fountas and Pinnell goal appropriateness as related to the other goals. Mother asked about the need for a specific spelling goal. The team discussed adding a spelling goal in the future. No spelling goal was added. (JE 125.)

14. The IEP provided goals (for the remainder of the 3<sup>rd</sup> grade year and for beginning 4<sup>th</sup> grade) in reading sight word identification, decoding, and reading accuracy and comprehension. The goals were nearly identical to the goals from the prior IEP in all areas but decoding. The sight word goal required 100% mastery of three grade level sight word lists which seems unrealistic in light of Student's failure to master the same lists over the past three years. The reading accuracy and comprehension goals contained the current Fountas and Pinnell ("F & P") instructional level and a target of three level gain to level J, noting that the criteria for the F & P level is 90 – 94% accuracy with excellent/satisfactory comprehension or 95-100% accuracy with limited comprehension and that progress would be monitored at least four times per trimester. (JE 128 to 133.) The decoding goal was specific to phonetic decoding skills as found in a scope and sequence for an unnamed reading program. (JE 132 to 133.) If Student achieved these goals she would be reading at an instructional level of end of first/beginning of second grade by the beginning of her fourth grade year.

15. Parents asked about extended school year ("ESY") for Student. The special education teacher "suggested" that Student would not qualify for this service. Parents asked to meet early in the new year to discuss Student's progress. (JE 125.)

16. Parent signed an Authorization for Release/Exchange of Information to Gail Sonkin, private on October 24, 2016 to enable the tutor and school staff to collaborate concerning Student. (JE 121.)

#### Fourth Grade – SY 2017-2018

17. Student's fourth grade annual review of her IEP was completed on October 2, 2017. (JE 157 to 188.) Both parents participated in the meeting. Mother reported that Student has convergence problem with her eyes, has trouble prioritizing her homework and needs help

with executive functioning. Parents asked what homework is critical enable them to help Student prioritize and keep her from being overwhelmed. (JE 158.)

18. Student's progress on her goals was reviewed. Student did not meet her sight word identification goal, she was able to identify 84/91 Kindergarten word, 135/158 first grade words, and 55/118 words from the district sight word lists. Student failed to retain sight words learned over the summer and had not recouped the loss at the September benchmark measurement date. (JE 180 – 181.) Her reading accuracy and comprehension goals indicated that student moved from F & P level H to K with 93% accuracy and satisfactory comprehension which exceeded the goal by one level. (JE 182.) Student was still 2 years below grade level on her F & P scores. (P37-38.) Student met two of three benchmarks for her decoding goal. The pattern for the third benchmark was not introduced. (JE 183 to 184.) Hekma<sup>2</sup> reported that Student's comprehension is solid, she shares in literacy class and generates ideas but doesn't always use her tools for writing. Hekma also reported Student was "very organized in her writing," and she is breaking her writing into paragraphs. Student participated in the Lucy Calkin's language arts curriculum with assistive technology support. (Testimony of Hekma and JE 158.) Student used Learning Ally, Google Read & Write, Bookshare, Snapverter, word prediction and voice to text applications on her Chrome Book at school and received support from Pearce with these applications. These tools allowed Student to access grade level materials without being able to read them. Pearce also scanned some classroom materials to pdf format to allow Student to access using assistive technology. Student was able to use these tools and was able to teach the whole class but had to be reminded to use the tools on classwork completed in class. (Testimony of Pearce and Hekma.)

19. Mother requested a writing goal. Pearce agreed to collect data for writing and spelling for goal development. No spelling goal was written. Hekma encouraged the use of speech to

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<sup>2</sup> Hekma a District general education teacher in his 5<sup>th</sup> year of teaching. Hekma holds a BA in elementary education from Wheaton College. He holds a teaching license with endorsements in English and History. Hekma teaches at Ben Franklin. He was Student's 4<sup>th</sup> grade literacy teacher and 5<sup>th</sup> grade math and science teacher. (Testimony of Hekma, and IHO 2-1 to 2, and IHO 2-1 to 2.)

text for lengthy writing projects and found that Student was proficient in writing tasks when she used to support in her IEP Student had a lot of problems with spelling. Mother brought suggestions for goal revision from private tutor for consideration and the team modified the goal to include the suggested addition. Mother noted Student is more comfortable with herself and her differences this year. (Testimony of Hekma and JE 158.)

20. The IEP present levels of performance section notes that although Student has demonstrated growth in sight words, she has not retained many words from spring to fall. Similarly, Student regressed in Fountas and Pinnell levels from spring to fall by moving from an *independent* reading level K in spring back to an *instructional* level K in fall. Finally, in decoding the section notes that Student mastered all patterns on her last IEP but needs to develop automaticity for reading words with the vowel consonant e pattern. (Testimony of Pearce and JE 171 to 158.)

21. New IEP Goals for Student included sight words (grades 1 and 2), accuracy and comprehension at instructional level M, and decoding multi-syllable words with various patterns (JE 161 to 165.) The IEP provided classroom and assessment supports including reading directions and tests, preferential seating, extended time, “assistive technology” and dictation, as well as others. (JE 166 to 171 and 174 to 179.) Special education reading instruction was given as pull out resource for 200 mpw, no changes from the prior year. Despite noting the regression in sight words and reading accuracy and comprehension extended school year services were not offered. (Testimony of Pearce and JE 171 to 173.) Despite Student’s deficits in spelling and writing no goals were written in these areas. Pearce provided encoding instruction to Student as part of Wilson instruction. (Testimony of Pearce.)

22. On February 20, 2018 an IEP meeting was convened to review Student’s IEP and to review existing data to generate a plan for reevaluation of Student. Both parents participated in the meeting. (JE 189 to 195.) Executive functioning and test anxiety concerns were noted by Mother. The team agreed to complete assessments in the areas of academic achievement, functional performance, health, hearing and vision, and social emotional status. (Testimony

of Mother, Canfield<sup>3</sup> and JE 194 to 195.) No speech/language evaluations were completed despite the recommendation contained in the 2015 private psychological evaluation. (JE 109.)

23. On May 22, 2018 the IEP team met for an Eligibility and IEP meeting. (JE 189 to 280.) Both parents participated in the meeting. (JE 489.)

24. Academic assessments revealed that Student was not making progress in reading. She her reading composite score on the Kaufman Test of Educational Achievement (KTEA) was in the 2<sup>nd</sup> percentile (low range), with letter and word recognition subtest scores in the 1<sup>st</sup> percentile (low range) and reading comprehension in the 5<sup>th</sup> percentile (below average range). Student's Reading Fluency Composite was in the 2<sup>nd</sup> percentile (low) with the silent reading fluency and word recognition fluency in the 9<sup>th</sup> and 4<sup>th</sup> percentiles respectively (both below average range) and decoding in the 0.4<sup>th</sup> percentile (low range). Notably, Student's Listening Comprehension was in the 61<sup>st</sup> percentile (average range). Student's Written Language Composite was in the 3<sup>rd</sup> percentile (below average) with written expression subtest in the 4<sup>th</sup> percentile (below average) and spelling subtest in the 4<sup>th</sup> percentile (below average). (Testimony of Canfield and JE 196.) 46. Student was given the Comprehensive Test of Phonological Processing – Second Edition (CTOPP-2). Her Phonological Awareness Composite was in the below average range (21<sup>st</sup> percentile), her ability to blend words and phoneme isolation were average. Student had difficulty manipulating sounds. Her Phonological Memory, Rapid Symbolic Naming, blending Nonwords and Segmenting Words were all below average range. (Testimony of Canfield and JE 196 to 207.) Student's MAP scores in Reading fell in the 2 to 5% range. (JE 214.) Her AIMSweb scores measured her progress on first grade reading text and she was on target (as measured against herself) while reading at a level that was three grade levels below her peers. (JE 204.)

25. Student scores on the CEFI revealed below average scores in working memory in school and at home. Behavior Observation of Students in Schools found that Student was on

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<sup>3</sup> Canfield is a District school psychologist assigned to Ben Franklin. She has been employed by the District for four years and completed six years in other school districts. Canfield holds a MA in school psychology.

task more than her peers. The social emotional report indicated that Student is struggling with her emotions that go along with being a different type of learner. She is aware and self-conscious about leaving the class for support and was feeling insecure with her differences. Student had friends at school and was a steady voice of reason with peers in peer drama. (Testimony of Canfield, Gillmar<sup>4</sup> and JE 199.) Mother reported that Student had a depressed/irritable mood at times and was struggling with having a learning disability and some difficult social situations, was easily frustrated, feeling worthless, low self-esteem, anxious and fearful. She was having difficulty making decisions, cried easily, and a poor appetite. (JE 246.) The Health report echoed concerns for Student's mental health noting that she is down on herself and frustrated, stating that she doesn't like being different. (and JE 243.) Parents and teachers noted anxiety related to testing and unexpected schedule changes. (JE 202.) Student reported that she did not want to go to school due to reading anxiety and she was sad. (Testimony of Gillmar and JE 202.) Student has an outside diagnosis of ADHD-inattentive type. (JE 201.) A social work goal was added for the remainder of the fourth-grade year to address Student's self-esteem and social work services of 60mpm were added. (Testimony of Gillmar, JE 258, and JE 264)

26. Student's IEP provided Wilson reading instruction in a small group, two students and one teacher for 200 mpw 2017-2018 SY. An addition of 80 mpw of pull out resource and 60 mpm for social work were added to the IEP to address writing and social emotional concerns in October (JE 264, JE 286, and JE 353.)

27. Student remained eligible for special education and related services under the IDEA disability category of SLD in basic reading skills, reading fluency and written expression. Student was progressing at a significantly slower rate than expected and was significantly discrepant from her peers. Student did not achieve her sight word, reading accuracy and comprehension or decoding goals. (Testimony of Pearce, JE 220, and JE 275 to 280.)

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<sup>4</sup> Gillmar, the Ben Franklin school social worker is a licensed school social worker with a type 73 certificate and has been a licensed clinical social worker for 17 years. Gillmar holds a BA and MA plus 60 hours in social work from the University of Kentucky. She has been employed by the District since the 2017/2018 school year and had worked in schools for 4 years prior to raising her own children. (Testimony of Gillmar, IHO 2-1 to 2, and IHO 3-1 to 2.)

28. Student's goals for her fifth grade year remained about the same, reading sight words at the K to second grade level in isolation and phrases, reading accuracy and comprehension at an instructional level M (F & P level M is second grade level (see P 37 to 39) and decoding in isolation and now in sentences. A written expression goal was added that required the use of word prediction software and editing checklist to compose sentences with correct spelling, capitalization and punctuation. A social work goal was added to address self-esteem by identifying positive attributes and accomplished goals. (Testimony of Pearce, and Gillmar, JE 250 to 258 and P 37 to 38.) There was no specific spelling goal for Student.

29. Student was given classroom and testing accommodations such as preferential seating, simply complex directions, break assignments to smaller chunks, read tests, extra time, word banks, dictation, small group testing, visuals, use of assistive technology, reduce items, and read directions and problems. The focus of these accommodations was to allow Student to participate in general education class activities without being able to read the materials or write her own responses. (JE 166 to 170 and 173 to 179.) Student demonstrated good listening comprehension, the ability to grasp content area concepts, good peer relationships and strong social/emotional skills in school. (Testimony of Pearce and Hekma.)

30. Student was given special education push-in for 80 mpw, resource pull- out in reading for 200 mpw and pull out social work services for 60 mpm. No ESY services were provided despite the recognition that Student was not retaining sight words and other decoding skills previously mastered. (Testimony of Pearce, and JE 264 to 266.)

31. Despite her inability to read above a second grade instructional level, Student's fourth grade report card indicates that she is was satisfactory or proficient in her performance of grade level standards in all areas except reading to comprehend informational text, applying conventions, grammar and vocabulary knowledge. (Testimony of Hekma and JE 8 and 8a.)

32. Parents hired a private tutor, Stec, who provided reading tutoring in coordination with Pearce to supplement her school Wilson program. Pearce observed Stec's working with

Student on Wilson because she was at a loss on how to teach Student. (Testimony of Mother, Pearce and Stec.)

33. At home, Student's emotional state reflected her daily struggles in 4<sup>th</sup> and 5<sup>th</sup> grade. Student was grumpy, quick to tears and not herself on a regular basis. Student's emotions were increasingly "spring-loaded" and she would explode at home, bursting into tears with negative self-talk. In addition, Student began having difficulty in the morning, with somatic complaints and not wanting to go to school. Parents communicated with the District on these occasions. Parents engaged a private therapist. (Testimony of Mother, DE.)

34. Student willingly and actively participated in social work services. She seemed to enjoy the sessions and appeared to experience the normal ebb and flow of emotions as her peers while at school. Gillmar used Cognitive Behavioral Therapy to reframe Student's thoughts, to learn that thoughts lead to feelings, and to practice the skill of reframing thoughts to change feelings. Gillmar also reviewed strategies Student was learning in outside therapy. As fifth grade progressed, Student was "writing" (i.e. dictating) her own goals for the week and processed her personal strengths with Gillmar. Gillmar saw Student more frequently after long breaks, but once Student started class, she was able to remain in class on challenging days. Student's teachers did not see Student as teary, sad or not engaged in learning activities. (Testimony of Gillmar. Hekma, Pearce, DE 64 – 65, and DE 103.)

### Summer 2018

35. Parents enrolled Student at HPDS for Summer 2018. Student participated in the Wilson reading program at HPDS. She began the summer on step 3.1 but had gaps in step 1 and 2 skills, especially in spelling and her inconsistent use of her Wilson core tools to read and spell words correctly coupled with her need to break her habit of guessing slowed her progress and caused instruction to be focused on Wilson step 2. At the end of the summer the HPDS recommendation was that she continues with Wilson until she demonstrates mastery of concepts and consistent use of tools. In addition, HPDS worked on a novel and research project. Student needed one-to-one assistance with Google Read & Write. Her spelling and printing continued to be a challenge and use of assistive technology would help

but practice was needed to gain proficiency. HPDS strengthened her Wilson skills and use of assistive technology during the summer. (JE 466 to 474.)

36. Student attended HPDS summer program with a chip on her shoulder. Attending HPDS Student began to learn that she had peers who learned as she did. However, Student experienced ongoing frustration because she had to redo work she had completed at Ben Franklin so that she could master and retain those skills. As the summer progressed Student's emotional state improved. (Testimony of Mother.)

#### Fifth Grade – SY 2018-2019

37. Student's fifth grade teachers in general education classroom included Hekma for math and science and Spratt<sup>5</sup> for literacy and social studies. Student's general education teachers collaborated with other 5<sup>th</sup> grade teachers regularly and with the special education teachers both formally at PLC meetings and informally through spontaneous conversations and emails. (Testimony of Hekma, Spratt, and Pearce.) Spratt discussed Student with Pearce primarily surrounding the provision of assistive technology support to Student and aid her access to and understanding of grade level text and concepts. Student used Reading Ally to read along the texts being used in Spratt's literacy and social studies classes. Student was able to use speech to text to share her thinking. She also used word prediction software in her writing. Student was able unable to read the text but was able to grasp and apply the literary concepts to class materials that she accessed through technology. Student generally performed well on assessments that were graded with the accommodations provided in her IEP. Student, with the accommodations provided in her IEP, was graded as satisfactory or proficient in all content areas except Fractions. Student did experience challenges in written expression, but with support/accommodations including chunking and breaking down materials, she was able to make satisfactory progress with grade level expectations. (Testimony of Spratt, Hekma, JE 9 to 10, JE 259 to 263, and 267 to 272.)

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<sup>5</sup> Spratt is a District general education teacher at Ben Franklin with 29 years of teaching experience. She is a licensed teacher and currently serves as a reading specialist. Spratt holds a BA in Elementary Education and a MA in Curriculum and Instruction, plus 60 additional hours in reading and writing. (Testimony of Spratt, IHO 2-1 to 2, and IHO 3-1 to 2.)

38. An IEP meeting was convened on October 5, 2018 and the decoding goal was amended to 100 % mastery level due to Student's failure to transfer skill to daily reading tasks at the request of Parents. In addition, writing support was changed to pull out resource service for 80 mpw. (Testimony of Pearce, and JE 281-287.)

39. Student was provided with the assistive technology and other supports in general education classroom. In addition to using the District writing curriculum, Pearce used portions of *Step Up to Writing* with Student. (Testimony of Pearce.) Spratt testified that Student's greatest need was word attack and fluency reading skills. (Testimony of Spratt.)

40. Student began having difficulty coming to school. Mother would alert the school staff through emails. Parents encouraged Student to go to school and Gillmar would meet Student at the door, walk into school with her, talk with her upon arrival to remind her of a strategy or distract her and then check in with her throughout the day as needed. Student discussed with Gillmar how reading was a challenge for her. The focus of Student's anxiety was almost exclusively related to school. (Testimony of Gillmar and P 27 to 28, SD 29 to 30, SD 64 to 65, and SD 103.)

41. Student's emotional state returned to the same level as 4<sup>th</sup> grade. Student began to resist after school tutoring. Mother observed that Ben Franklin just wore Student down. (Testimony of Mother.)

#### Private Literacy Assessment April 2019

42. Stec<sup>6</sup>, the private tutor who provided Wilson instruction to Student two one-hour sessions per week since September 2018, completed a Literacy Assessment at parents' request. The report was dated April 12, 2019. Student started on Wilson book 3, Step 1 and had progressed to book 4, step 1 (over a period of seven months). Stec notes that Student receives

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<sup>6</sup> Stec, a private reading tutor, holds Illinois teaching certificate K-9 Reading and Language Arts with Middle School endorsement, a type 10 Reading license and ELL endorsement. Stec is Wilson level 1 certified. Stec is a literacy coach/reading specialist for CUSD 203 since 2007. She has taught in public schools continuously since 1992. Stec has completed six courses toward Dyslexia advocacy certification. (Testimony of Stec and P 14 to 15.)

Wilson instruction from her special education teacher, but that explicit strategies taught in these sessions are not embedded in the rest of Student's literacy time with the regular education teacher. Stec observes that this impacts Student's ability to generalize her learning across her day and limits her automaticity with the word study patterns and structural analysis taught in special education. This lack of carry-over and Student's attention negatively impacts her ability to retain the information. Stec observes that Student's enjoyment of reading has decreased over time and that she lacks stamina and prefers to listen to text being read to her. (Testimony of Stec and JE 288 to 312 at 289.)

43. Stec reviewed Student's Fountas and Pinnell Benchmark Assessment scores provided by her special education teacher and noted that her has excellent comprehension at a second (2<sup>nd</sup>) grade level. Stec assess Student's listening comprehension using fifth grade non-fiction probes and found that her listening comprehension was satisfactory at that level. Stec indicated that Student is developing literacy skills, but the development of these skills is limited by the complexity of the text she is able to read. Stec recommended that Student has access to technology that allows her to use text to speech for literacy instruction to allow her to discuss content and to provide her with daily reading instruction that includes guided teacher instruction and technology to build her comprehension and vocabulary at or above grade level. (Testimony of Stec, and JE 288 to 312 at 290.)

44. Stec also gave Student the Test of Silent Work Reading Fluency. Student scored in the 14<sup>th</sup> percentile. Stec recommended that Student has a goal to increase reading stamina by chunking text passages and making notes to increase her memory of text. (Testimony of Stec and JE 290 to 291.)

45. Stec administered the Word Identification and Spelling Test (WIST). The WIST provides information concerning what decoding and encoding skills Student has available for reading and writing. Student's word identification, spelling, and fundamental literacy ability index skills are below the 1<sup>st</sup> percentile and indicate that she is functioning below second grade level. Stec recommended that Student receive explicit, systematic instruction/intervention by an instructor certified to deliver programming to dyslexic students. The strategies Student

uses should be shared with all academic teachers and Student should be required and supported in using them in her writing throughout the day. Stec recommended training for Student's teachers in these explicit strategies. Stec reasserted her recommendation for Student's use of assistive technology to support reading and writing in all areas of curriculum. Stec recommended parent training in technology to support dyslexic learners to support homework completion. (Testimony of Stec and JE 291 to 292.)

46. Stec described the process of becoming a Wilson certified level 1 instructor. After completion of the 6 hours of coursework the instructor must work one-to-one with a student daily for 18 months. During the 18-month period of daily Wilson work with a student, a Wilson trainer will complete at least 6 observations and provide feedback and support for this instructional process with the student. Prior to completing the certification process Stec had completed the three-day training and was instructing students using the Wilson Reading system. During her certification training, Stec realized that she had been unintentionally cutting corners, moving too quickly, and skipping essential components with her Wilson students and she had knowledge gaps previously unknown to her. This had a negative impact on her teaching and the learning and retention of her students. Stec does not believe that teachers who complete the three-day Wilson training course have the ability to deliver Wilson instruction with the intensity and fidelity needed for dyslexic students. (Testimony of Stec.)

#### April 15, 2019 IEP

47. On April 15, 2019, an IEP meeting was convened to review Student's IEP, a transition meeting to middle school and consider Parents' request for outside placement. The IEP team included Ben Franklin staff and Hadley Junior High School staff. In reviewing Student's strengths and challenges, the staff noted that Student uses assistive technology including Google Read and Write with text to speech and speech to text. The team reviewed the District's recent assessment results and her current school performance. Student's AIMSweb scores on second grade level probes were below target. (JE 216.) Masny reviewed the Literacy Assessment, summarizing that Student struggled. The report states Student's "Reading and Writing is not functional." (JE 335.) Masny noted that Student's reading levels were 2/3 years below her peers, yet Student has higher listening skills and

comprehension, she learns vocabulary auditorily and is extensively using her brain to process information at a higher level. These factors make placement of Student more difficult. (Testimony of Pearce, Beaman<sup>7</sup>, Gillmar, Masny and JE 328 to 329.) A review of IEP goals shows that Student did not achieve her sight word goal (she master at 97% of district 2<sup>nd</sup> grade sight word list), she did not achieve her reading accuracy and comprehension goal (she missed by two F & P levels and remained at a 2<sup>nd</sup> grade level.), she did not meet her decoding goal as she mastered only 2/3 benchmarks. (JE 355 to 363.)

48. Parents raised their concerns for Student's emotional status, noting that tears and hate for school are becoming more pronounced. Mother noted that parents have high expectations of Student and are asking her to participate in something where she doesn't feel she is successful or that she is making progress. Parents indicated that Student needs direct instruction to be successful and that Student smart enough. Parents believe that Student will learn to read with the right intervention. Mother gave the example of how this is impacting Student's life in stress she experienced when taking a babysitting class and was not able to read her notes and expressed stress concerning reading the instructions and contents during the class. (JE 328 to 329.) Notably, the update for the social work goal was not included in the IEP. The new social work goal was remarkably like the prior goal, it was to be measured by observations during sessions with mastery criteria by number of trials. (Testimony of Gillmar and JE 355 to 363.)

49. The Beaman and Mansy<sup>8</sup> shared that Hadley would be able to implement the Wilson program for 40 mpd and provide Student with a co-taught literacy for further opportunities to

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<sup>7</sup> Beaman is a Hadley special education teacher for the District since 1998. She has 24 years of teaching experience, all in special education. She holds a BA in Elementary Education and Special Education and a MA in the art of teaching from National Lewis University. She has completed two Wilson trainings and other District level reading comprehension trainings. In 2017 she attended the two-day dyslexia conference. Beaman primarily teaches 6<sup>th</sup> grade students as a resource teacher. She observed Student for one lesson and completed a record review before the April 2019 transition IEP meeting. (Testimony of Beaman, IHO 2-1 to 2, and IHO 3-1 to 2.)

<sup>8</sup> Mansy is the reading coach/reading specialist at Hadley. She has been employed by the District for four years. Mansy has been in teaching for more than 20 years prior to joining the District. Mansy holds a BA in English with a minor in education, a Master of Education in Instructional Leadership and a MS in School Leadership. Masny holds an Illinois teaching license with Reading specialist endorsement and school administration. Mansy completed the three-day Wilson Reading training in summer 2018. Mansy has not met Student but she reviewed Student's 4<sup>th</sup> and 5<sup>th</sup> grade IEPs, HPDS Summer 2018 ILP, the Stec Literacy

generalize the strategies. Mansy indicated that she would be able to work with Student during the independent reading block of the literacy class and during the science and social studies times to reinforce Wilson reading skills for a period of 40 mpd. The Beaman and Mansy explained how they could work with Student throughout the school day to make sure that Student would progress. They explained that instructional (pull-out) level literacy was also available to Student at Hadley. Hadley classes would include Reading Foundations for 40 mpd, co-taught mathematics 40 mpd, and co-taught literacy 80 mpd, with support in science, social studies and exploratory from certified staff or an instructional aide. (Testimony of Beaman, Masny, and JE 330.)

50. Parents raised concerns about whether the Wilson instructor were Wilson certified or just trained. They indicated that foundational pieces are missing when Wilson is implemented by a trained rather than certified instructor. Parents asked if the Hadley staff felt that they were equipped to increase Student's rate of progress by six years over a period of three years (i.e. closing the gap between Student and her peers). (Testimony of Mother, Father, and JE 330.)

51. Masny discussed the ability of the Hadley staff to use a flexible schedule to support Student with layers of support including direct instruction in a 2:1 group, co-taught classes, and additional supports. O'Brien<sup>9</sup> disagreed with parents' assertion that teachers need to be Wilson certified to teach the Wilson Reading System. O'Brien stated that she was confident that District teachers have the level of skill needed and that the District is providing additional training over the summer. Beaman indicated that Wilson is very scripted and that she was confident that she could implement it and that the Hadley team can offer Student a fairly high level of support at a resource level and a very inclusive environment. (Testimony of O'Brien, Masny, and Beaman.)

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report and Dr. Dawson's Neuropsychological Evaluation and the proposed IEP for 2019/2020 before participating in the transition IEP meetings. (Testimony of Mansy, IHO 2-1 to 2, and IHO 3-1 to 2.)

<sup>9</sup> O'Brien has been the Special Education Director for the District for the past four years. She has prior experience as the director of special education in two other districts and taught for 14 years. She holds Illinois teaching and administrative certification. She has completed the Wilson trainings in 2001, 2005, and 2015 but is not Wilson certified. O'Brien delivered Wilson instruction as a teacher. (Testimony of O'Brien, IHO 2-1 to 2 and IHO 3-1 to 2.)

52. The IEP team had questions about the rigor of the content and instruction at HPDS. The team questioned whether all HPDS teachers are Wilson certified. Mother responded that she believes that the HPDS teacher are certified or are working towards certification. Parents believe that Student needs the focused, intense, instruction for the few school years and would give her back her childhood. (JE 331.)

53. Student's social emotional needs were discussed. O'Brien raised a concern about the difficulty that students with anxiety focused on school refusal are less likely to be successful socially and emotionally with return once they have moved out of the school setting. Hadley social worker indicated that "belonging" is a middle school struggle and that Student may be struggling with separation from her peers. Parents acknowledged this concern and hope to keep Student engaged with Hadley peers through other activities outside of the school day. Parents believe that Student will be more successful in building her reading and writing skills in the HPDS setting than at Hadley. (JE 332.)

54. Goals in reading accuracy, rate and comprehension (target instructional level Q), decoding based on Wilson, high frequency words, written expression (focused on organization using outline, elaboration, and CERC strategy), and social emotional were developed for Student. Reading goals included accuracy and comprehension goals based on F & P levels, decoding goals were goals. (JE 348 to 352.) Accommodations were developed for classroom and assessments. (JE 348 to 352.)

55. Next placement was discussed. The team agreed that Student was progressing at a slower rate than expected. Parents advised that HPDS would provide 110 mpd of Wilson instruction and that it is adjusted based on individual student's needs. Hadley would be providing 40 mpd of direct Wilson per day and an additional 40 to 80 minutes of literacy instruction daily using various other methods and materials, with reading support in science and social studies likely provided by a teacher assistant. The District would consider providing support in social studies by a certified teacher. Masny would push into the literacy block and possibly social studies to provide reading comprehension and word attack skills. The Hadley plan significantly increased reading support for Student with inclusionary

practices. Parents expressed concerns that the plan would not work for Student and that she would then feel like a failure. O'Brien agreed to send some of IEP team to HPDS to observe and ask questions about instruction. The team would reconvene to finish the placement recommendation for 6<sup>th</sup> grade. (Testimony of Pearce, Spratt, Beaman, O'Brien, and JE 334 to 336.)

#### May 2, 2018 IEP

56. The IEP team reconvened after the site visit to HPDS by the team members on May 2, 2019. The team summarized their impressions from the visit to HPDS. The team noted that HPDS provided 60 mpd of Wilson decoding and 50 minutes of literacy period day. The staff has the ability to integrate the Wilson reminders and cues in all content areas. Hadley would have 60 mpd Wilson instruction with a 80 minute literacy block and has the ability to integrate the reminders and cues throughout the day in content area classes and would have a special education co-teacher for literacy. District noted that HPDS has a strong emphasis on assistive technology, using Google Read/Write, Learning Ally, BookShare, Snapverter. Hadley has all these options. Capti is used at HPDS and was not known to Beaman. (Testimony of Spratt, Beaman, and JE 313 to 369.)

57. Mother noted that at HPDS use of assistive technology is not different, it is the norm, unlike at Hadley. Beaman explained that Google Read/Write is for every student at Hadley in co-taught classrooms for writing and editing process. Beaman indicated that she is able to incorporate assistive technology specific to Student's daily needs including Learning Ally, BookShare, and Snapverter. Beaman stated that Hadley had the same technology as HPDS and Hadley staff was familiar with its use. All Hadley students have Chromebooks which are customized to each student's needs. Hadley has a diverse student population. (Testimony of Beaman, and JE 319 to 320.)

58. Mother stated that HPDS returns students to public schools reading at grade level, but there are no guarantees. O'Brien stated that this may be too good to be true because dyslexia is something students will be dealing with for life. (JE 320.)

59. The District agrees with Parents that direct, explicit instruction in Wilson is what Student needs. The disagreement is whether it can be implemented at Hadley. (JE 320.)

60. The team discussed placement for Student for 6<sup>th</sup> grade including the factors raised by the parents and other team members. Parents were concerned about the District's inability to provide Student with a Wilson certified teacher and the District asserted that its special education and reading teacher have the knowledge and skill to learn to implement the Wilson techniques and are able to provide other research based programs. The team and parents discussed the least restrictive environment requirement. The Hadley team asserted that they would be providing Student with support for approximately 70% of the school day in the general education setting. The District noted that they needed to create a plan that is reasonably calculated to meet Student's needs in light of all of her circumstances and to make progress on her IEP goals and objectives in the general education with her same age typically developing peers. The District team believes that Hadley can offer the support that Student needs at Hadley with her typically developing peers and that she can flourish in regular education classroom with this support due to her grasp of vocabulary, background knowledge and life experience. (Testimony of Gillmar, Spratt, Beaman, Mansy, and JE 320 to 321.)

61. Spratt acknowledged that HPDS could provide Student with Wilson support throughout the day and that she sees her succeeding there. Spratt acknowledged that the team rejected HPDS because Student would not be participating with general education peers at HPDS. Spratt observed that HPSD had what Student needed to read, "strong Wilson instruction" and Wilson certified instructors which are important due to Student's needs. (Testimony of Spratt and JE 321.)

62. The District agreed to put in a request for an assistive technology assessment for Student using the SETT process, despite the team's position that Student has and uses appropriate assistive technology. (Testimony of Pearce and JE 321.)

63. The District IEP team discussed Student's regression when she is not practicing the skills and agreed that she needs ESY services for summer 2020. (JE 321, JE 325.) The IEP

team offered 200 mpw in Reading from June 18, 2019 to July 11, 2019 at Blackhawk School (JE 354.) Parents did not accept this offer of ESY services. (Testimony of Mother.)

64. The team confirmed their recommendation that Student's needs can be met at Hadley and that Student can make growth in reading with the supports and services contained in the IEP, specifically, PE and lunch in general education with no supplementary aids, science in general education with support, social studies in general education with integration of reading coach, exploratory in general education with unnamed supports; and special education in general education classroom for language arts (250 mpw) and math (150 mpw); and special education in special education environment for reading (40 mpd) with 60 mpm of social work services in the special education setting. The team stressed that Student's strong skills in the area of comprehension make literacy in a special education class inappropriate and that a co-taught literacy class would better meet her needs. (Testimony of Pearce, Beaman, and JE 323 to 324.) The Hadley program was designed to enable Student to continue to make progress, but not to close the gap. (Testimony of Beaman.) The Hadley program is consistent with the District's philosophy of inclusion that all students are viewed a general education students, the District provides a continuum of services, is building a culture of inclusion, there is a shared alignment of resources, a respect for individual needs, presumed competence strengths of all students, and staff collaborative problem solving. The Hadley program offered to Student would provide her with multiple layers of supports and explicit instruction primarily in the general education setting. (Testimony of O'Brien.)

65. In response, Parents stated that they reject the District's proposed placement and intend to place Student at HPDS and will seek full reimbursement for this placement including transportation from the District. (Testimony of Mother and JE 321.)

#### May 6, 2019 Parent Addendum

66. After the meeting, Parents reviewed the IEP meeting notes and requested that their written addendum tendered to the District on or about May 6, 2019 be attached to the IEP. Parents' felt that the District's notes misrepresented the HPDS program, specifically that it failed to note that Wilson trained, and certified teachers provide focused literacy instruction

in content areas. They disagreed that Wilson reminders and queues [*sic*] could be integrated in all content areas at Hadley because none of the content area specialists have been Wilson trained or certified. Parents assert that it is highly unlikely that each teacher that works with Student will be able to communicate with colleagues to coordinate what she has worked on that day and what queues [*sic*] and reminders would be necessary. Parents responded to the comments concerning diversity and the inference that HPDS lacked diversity. Parents note that Student's current special education teacher and her current social worker did not make comments concerning placement during the May 2, 2019 IEP meeting. (Testimony of Mother and JE 367 to 369.)

#### November 22, 2019 IEP meeting

67. An IEP meeting was convened on November 22, 2019 to consider the outside evaluation provided to the District by the parents. The District team consisted of the parents with their attorney, the Hadley staff and the Ben Franklin special and general education teacher and social worker and the District's attorney. (JE 374.)

68. At the meeting Canfield reviewed the Neuropsychological Evaluation completed by Dr. Dawson<sup>10</sup> and the HPDS Individual Learning Plan. Canfield summarized and interpreted the report for the team and noted Students strengths including applied math problems, endurance in school, strong communication skills, kindness, considerate, and her strong family support. (Testimony of Canfield and JE 374.)

69. Student's challenges included phonological processing, letter and word identification, spelling, fluency and reading comprehension, math computation and facts, and a new diagnosis of Adjustment Disorder with anxiety. Written expression was not updated in this evaluation. (Testimony of Canfield and Dr. Dawson and JE 419 to 438.) Student's deficits

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<sup>10</sup> Dr. Dawson is a private pediatric neuropsychologist who is engaged in private practice in Westmont, Illinois. She is a licensed clinical psychologist in Illinois. Dr. Dawson holds a Ph.D. in clinical psychology. Dr. Dawson has extensive clinical experience in medical and educational settings since 1989. Dr. Dawson has experience in research and is a member of several professional organizations, including International Neuropsychological Society, the American Psychological Association, Learning Ally, and the International Dyslexia Association. About 75% of Dr. Dawson's practice is the evaluation of children with language-based learning problems. (Testimony of Dr. Dawson and P 99 to 103.)

in decoding and general reading are significant and she is in the below average range in written expression and spelling. (Testimony of Canfield.)

70. Parents reported that school is now a positive experience for Student at HPDS. She wants to go to school and recently ran for student council and persuaded the class to get a class pet. Student is able to complete her homework and is starting to make gains. Student is keeping herself organized. Student has made new friends at HPDS. (JE 374.)

71. Student's 5<sup>th</sup> grade teachers stated that they did not see signs of anxiety in Student at school. They shared how student used various technology applications on her Chromebook at Ben Franklin to access grade level text and participate in class discussions and projects successfully. Handley staff confirmed that they would be able to implement all of the supports that Student had at Ben Franklin. (Testimony of Spratt, Hekma, Pearce and JE 374 to 85.)

72. After reviewing the Dr. Dawson report the team agreed to the addition of a reading fluency goal, using the HPDS Read Live and AIMSweb data to establish a baseline for this goal. In response to the report Grieger<sup>11</sup>, the Hadley social worker, recommended that the social work minutes be increased to 30 mpw due to the difference between a general anxiety disorder and an Adjustment Disorder with anxiety. She suggested using a lunch group for these social work services. In addition, the team made recommendations to add accommodations such as an extra set of textbooks, not penalized for spelling, checking in for long term projects, study guides and copy of notes available, checklists for writing assignments. (Testimony of Pearce, Hekma, Spratt and Grieger, and JE 375 to 377.)

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<sup>11</sup> Grieger a District social worker who has worked at Hadley for the last 15 years. She also worked in another public-school district for five years prior to coming to District. Grieger has a BA in Communication Disorders and Psychology and a Master of Social work. Grieger has worked as a social worker in community health for 25 years and in respite care for 16-17 years. She has taught at National Lewis University for the past 15 years and for Aurora University off and on for the past seven years. Grieger has never met Student. She reviewed Student's most recent IEP and evaluation and the outside evaluation, the HPDS social worker information, the report of the outside therapist, and consulted with Gillmar before participating in the IEP meetings for Student. (Testimony of Greiger, IHO 2-1 to 2, and IHO 3-1 to 2.)

73. The IEP team had extensive discussions of how Hadley would provide Student with support for 70% of her school day. The Hadley staff indicated that Student would be exposed to higher level text and concepts and peers in the general education setting. Beaman stated that she would be available to Student in all but three classes, exploratory, P.E. and lunch. (Testimony of Pearce, Hekma, Spratt, Grieger, and JE 377.)

74. Parents stressed their concerns for Student's mental health as well as her learning to read. They indicated that they have seen a different child at her new school. (JE 378.)

75. Finally, the team determined that additional information concerning math, behavior, executive functioning and needs relative to anxiety were needed. The team recommended that observations of Student at HPDS would be beneficial. (JE 378.)

76. The team reaffirmed the placement recommendation made in April 2019 with the changes and additions noted above and requested parent consent for reevaluation. (JE 370 to 418.)

77. At the meeting, Student's parents told the District that they reject the District's proposed placement and that they intend to place Student at HPDS and will be seeking full reimbursement and transportation from the District. (Testimony of Mother and JE 321.)

#### **Neuropsychological Evaluation completed June 2019**

78. On June 18 and 19, 2019 Dr. Dawson completed a neuropsychological evaluation of Student at the request of her parents. Dr. Dawson reviewed Student's school records from first through fifth grade, obtained teacher feedback, made observations, interviews of parents and Student, reviewed and conducted an extensive battery of assessments including the cognitive, language, executive function, visual-motor integration, emotional, and academic achievement assessments. (Testimony of Dr. Dawson and JE 425.) In preparation for the hearing, Dr. Dawson also reviewed the Speech Pathology -Infant/Pediatric Speech-Language Evaluation completed on July 30, 2020 by Lora Collison, SLP of Northwestern Medicine. Dr. Dawson endorsed the diagnosis of Mixed Receptive and Expressive Language Disorder. (Testimony of Dr. Dawson and P 2 – 9.)

79. Dr. Dawson notes that Student has had long-standing literacy problems, dating back to preschool. Student has received significant intervention since first grade through the public school and private tutors. Despite these efforts, Student's literacy skills are "profoundly impaired." Student is reading at a 1<sup>st</sup>/2<sup>nd</sup> grade level, 4-5 grade levels below her current grade. She has largely not demonstrated significant movement toward closing the gap between her literacy skills and those of grade level peers. Dr. Dawson notes that the gap between Student and her peers is getting bigger. Student's failure to meet her IEP goals year over year and current standardized testing for literacy skills demonstrate that the public school is not able to sufficiently meet her needs, despite teachers and IEP team wanting to help and doing their best. (Testimony of Dr. Dawson and JE 419 to 430.)

80. Student has at least average intellectual ability. Student has a very severe dyslexia, ADHD, Inattentive type and now has an Adjustment Disorder with anxiety. "[Student's] needs fall outside of the realm of what the school district can provide for her at this time." Dr. Dawson states that "the reason [Student] has failed to learn to read at grade level to date is not because she cannot learn to read at grade level. It is because the type and intensity of instruction provided has not been appropriate to [Student's] needs."

81. In fifth grade, Student lacks essential foundational reading skills. The instructional interventions provided to Student by the District are not effective for her. Historically Student's instructional program has largely consisted of a leveled literacy reading program. Leveled literacy, such as Fountas and Pinnell, were developed to help teachers match the reading level of their students with appropriately leveled books. Fountas and Pinnell is not an intervention. Student has also been given sight word or high frequency word instruction. Sight word instruction is not an emphasis for students with dyslexia. The worst types of intervention/instruction for a student with dyslexia are Leveled Literacy Intervention, guided reading and balanced literacy. (Testimony of Dr. Dawson.)

82. Students with dyslexia require structured literacy instruction. Structured literacy instruction has nine components, phonology, sound-symbol association, syllable instruction, morphology, syntax, semantics, systematic and cumulative and explicit instruction. The

Wilson Reading System is a “structured literacy” intervention that is evidence-based instruction for students with dyslexia. While the District provided Wilson to Student, it did not provide the intensity that she needed. When the District started Wilson with Student, she was provided with 30 minutes instead of the 60-90 minutes she needed. Currently Student’s receipt of Wilson for 40 MPD is well below what she needs to gain literacy skills. In addition, Student’s instruction needs to be based in an understanding of how the dyslexic brain works and diagnostic instruction, wherein daily lessons are based on error analysis from data that has been constantly maintained during the instructional process to assure child specific instruction. The three-day Wilson training is insufficient for teachers to develop the needed knowledge base and level of proficiency in the type of diagnostic instruction that Wilson certified teachers have acquired. Currently, Student needs an educational program that is designed for students with learning differences to receive appropriate intervention and support integrated into every class throughout the day. Student’s needs are too complex and severe to be addressed in a pull-out model of instruction. Through the provision of pull-out services, Student has become further and further discrepant in her reading abilities and has grown frustrated and despondent by her lack of progress in reading. (Testimony of Dr. Dawson and JE 431.)

83. Further, the accommodations used in general education classes don’t address Student’s underlying deficits. Accommodations do not provide instruction in areas of deficit such as written expression, instead they caused her to rely upon her listening abilities and put too much reliance on her working memory. Heavy reliance on listening and working memory is not effective for learning as information is lost quickly and the process itself is exhausting because it requires a lot of mental energy. As a result, Student has not been able to retain all the needed information and skills that she has learned. (Testimony of Dr. Dawson.)

84. Dr. Dawson made numerous recommendations for Student. First, that Student is placed in a school for students of average to above average intellectual abilities with language-based learning impairments, such as Hyde Park Day School. In addition, Dr. Dawson recommended nightly reading or listening to literature, a minimum of 90 minutes of daily intensive, individualized reading intervention using a structured literacy intervention

program, reading fluency skill instruction, EYS services, progress monitoring of decoding, encoding and weekly oral reading fluency, keyboarding skill instruction, extended time on quizzes and tests, audio and digital format for all required reading for school, instruction on use of writing software for written expression, use of dictation programs, scribe for all extended responses in class and on quizzes and tests, read aloud quizzes and tests, alternate location for quizzes and tests, copy of teacher's notes, study guides, a study hall period with homework support, foreign language requirement waived, preferential seating, break up multiple tests in a day when more than three are scheduled in the same day, awareness of the exhaustion and developing a schedule that does not over burden her beyond her capabilities with reading, writing and homework demands, use of consumable test booklets rather than scantron test forms, editing checklists for writing, co-taught classes if available, multi-sensory instruction as much as possible, unit outlines and a range of supportive software. (JE Testimony of Dr. Dawson and JE 432 to 435.)

85. “[Student’s] needs are severe and complex and require intensive, full day intervention at a school designed for students with [Student’s] learning needs. She needs a school for students of average to above average intellectual abilities with language-based learning impairments, such as Hyde Park Day School. HPDS is an excellent fit for [Student’s] profile of strengths and needs and provide the intensive all-day intervention by expert instructors who teach in a manner that [Student] learns.” Dr. Dawson opined that Student will likely need a minimum of three to four years of appropriate instruction of remediation to address her deficits after six years of less than effective instruction. (Testimony of Dr. Dawson, and JE 430.)

86. For Student, attending school with her typically developing peers, such as Hadley, is a more restrictive placement than attending a school for students of average to above average intellectual abilities with language-based learning impairments, such as Hyde Park Day School. The school, such as Hadley, is “restricting” Student’s ability to learn in a manner that her brain learns best. Student’s true peers are not those in the general education setting, they are those who learn and think like she does. Access to essential instruction that allows

a student to access and learn grade level material is more important than access to typically developing peers, electives, and extra-curriculars. (Testimony of Dr. Dawson.)

87. Dr. Dawson states that “significant anxiety will continue or get worse if she is forced to be educated with students who are not her true peers and who do not learn the way she learns and in an environment with teachers trying to teach her in a manner that is not how her brain learns. All the therapy and medication in the world cannot address the self-esteem, anxiety and depression issues brought about by the inappropriate educational placement for [Student].” (Testimony of Dr. Dawson and JE 432.)

#### Sixth Grade – SY 2019-2020 – Unilateral placement in HPDS

88. HPDS Lemont is a private day school designed to teach students with dyslexia. HPDS campus has 24 students and 14 staff members. HPDS primarily uses Wilson Reading System for reading instruction throughout the day and across the curriculum. HPDS teachers are Wilson certified or in the process of obtaining Wilson certification (three certified, one in practicum and one new hire in process of training. HPDS has a Wilson certification trainer on staff who works with staff and supervises the certification practicum process. Wilson certification training is a 30-day training course, a 65 hour practicum that must be completed with a student 1:1 outside of the school day. Wilson Reading System is based on research. Each Wilson lesson has ten component parts. Each component requires about 40 minutes of direct instruction. A lesson generally consists of four sections of decoding, four sections of encoding, and two sections of comprehension and writing. HPDS has a goal to complete 2 lessons per week. HPDS saw growth in students before they required their teaching staff to be Wilson certified. HPDS changed its policy to require Wilson certification and they are seeing more growth in students with the use of Wilson certified instructors. On average it takes from three to five years for a student to complete the Wilson program and to acquire needed foundational reading skills. All HPDS teachers teach all subjects and students are reminded and coached to use the Wilson skills in reading outside of the language arts block. Assistive technology is integrated in HPDS programs. Each student has a Chromebook and it is loaded with programs and parents have access to those programs at home. Social work is integrated within the program. There is a social skills curriculum that is the basis of group

work for one hour weekly. In addition, students may have individual services as needed. HPDS begins each day with an Executive Function period, followed by Wilson reading 40 - 60 mpd, reading comprehension fluency and Writing, recess , Math for 70 mpd, lunch 30 mpd, and on a rotating scheduling Science, Social Studies, OT group, and PE in the afternoons with each weekday always having the same courses week to week. (Testimony of Smith<sup>12</sup>.)

89. Student was enrolled at HPDS by her parents in fall of 2019. Student attended school daily from August 26, 2019 until the mandatory closure of school due to COVID-19 and the change to distance learning beginning March 13, 2020 through the end of the academic year. At HPDS Student has a positive attitude and is motivated to learn. She works hard and manages her materials and assignments well. She is aware of her strengths and weaknesses and the impact of dyslexia on her life. She now embraces assistive technology but needs reminders to proofread and edit her work before submitting it. Student use of Google Read & Write has increased significantly since beginning at HPDS. She is fatigued easily. Student has good communication skills, participates in class discussions and acts as a leader. Student enjoys project work. Teacher's administer pre and post-tests in fall and spring to measure student progress. This year, due to the COVID-19 pandemic these assessments were conducted remotely and there were difficulties with this process and the remote learning process. Student's progress was inconsistent from June 2018 and the 2019/2020 school year, she was filling gaps in her skills and unlearning old habits and ineffective methods. (Testimony of Smith, P 45, and JE 475 to 500.)

90. As of August 2020, Student has progressed to Step 3.4. She still requires some teacher prompting to use her tools such as tapping and scooping to decode word. Student demonstrated improvement in her oral reading fluency going from 45 CWPM to 84 in winter

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<sup>12</sup> Smith is the principal at HPDS Lemont Campus. He has been at the HPDS Lemont Campus as principate for the past two years and was principal at the HPDS Chicago Campus for nine years prior to that. Smith has served in education for 36 years in both the public and private setting as a teacher, principal, adjunct professor and in other director roles. Smith has a MS in Educational Administration from Vanderbilt University and a BA in Elementary Education from Beloit College. Smith is closely involved with the HPDS Lemont student body and is familiar with Student through his interaction with her in Summer 2018 and during the 2019/2020 school year. (Testimony of Smith and P 10 to 13.)

and 82 in spring. Overall, Students has made significant improvement in her reading. She has demonstrated progress in Wilson, Read Naturally and Step Up to Writing. (Testimony of Smith, JE 475 to 500, JE 504, JE 505, and JE 506 to 514.)

91. HPDS uses the *Step Up to Writing* program to strengthen sentence structure and *Grammarly* for editing. Student's confidence in writing has improved. She is writing cohesive paragraphs, staying on topic and using evidence from text to support claims. She is working on grammar and parts of speech. She struggles with run-on sentences. Use of graphic organizers and speech-to-text assistive technology enables her to communicate in writing more clearly. She is working on short answers to questions. Her written work now includes complex sentences and chapter summaries. She is learning to express her thoughts and ideas in writing. (Testimony of Smith, JE 475 to 500 and JE 515 to 520.) Student is able to write notes for her parents, which they can read and understand, and she has the self-confidence to babysit. (Testimony of Mother.)

92. Student is receiving OT services at HPDS to address fine motor skills needed for writing and keyboarding to develop improved hand strength and endurance, visual motor control and spatial awareness, and visual perceptual skills and memory. Student is also receiving social work services for 60 minutes per week to recognize, practice and apply the success attributes. Student is gaining skill in self-advocacy, understanding her dyslexia and to develop coping strategies for her anxiety. (JE 475 to 500.) Student was initially hesitant, self-evaluating her confidence at 3 on a ten-point scale. Recently, Student rates her confidence as 6 of 10. She recently ran for and was elected to student council. (Testimony of Smith.)

93. HPDS Fall 2019 MAP scores reflect the continuing gap between her academic performance and grade/age standards as she remains in the 23<sup>rd</sup> and 39<sup>th</sup> percentiles in math and reading respectively. (JE 501.)

94. Student has returned to her old self at home since adjusting HPD. She has renewed confidence in herself, she is not fighting at home, she doesn't need to be dragged out of bed

on school days. Student reads and writes willingly in text, letters and notes. She writes letters to her World Vision sponsored child independently. (Testimony of Mother and Father.)

### Parental Involvement

95. Both parents participated in all IEP meetings, signed for all requested evaluations until the November 22, 2019 IEP meeting. (Testimony of Mother.) Parents were helpful, cooperative, and supportive of the school. They did not create obstacles for the school staff. (Testimony of Spratt, Hekma, Gillmar, and Pearce.)

96. Parents paid for HPDS for tuition and Chrome book cost for Student from April 10, 2018 to August 3, 2020 in the amount of \$59,666.00. (P 39.) Parents paid private tutoring expenses including transportation cost to tutoring and for Wilson materials for Student with Sonkin and Stec for the period from January 4, 2017 to August 24, 2019 a total \$7,540.36. (P 40 to 43.) Parents paid to Stenzel Clinical Services (private therapy), Dawson Neuropsychological Group (neuropsychological evaluation), and Northwestern (speech language evaluation) for the period from May 15, 2015 to August 15, 2020 in the amount of \$5,669.27. (P 44.) Transportation costs for Student to and from HPSD from June 18, 2018 to August 31, 2020 total is \$2,215.36. (P 45 to 47.) The District stipulated to the accuracy of these summary documents at the hearing.

### Assistive Technology Evaluation

97. O'Brien admitted that the District did not complete an assistive technology evaluation with Student. The first request to conduct an assistive technology evaluation occurred at the May 2, 2019 IEP meeting. (Testimony of O'Brien and JE 321.)

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

## FREE APPROPRIATE PUBLIC EDUCATION

The IDEA requires the provision of a “free appropriate public education” (“FAPE”) to all children with disabilities. *Forest Grove School District v. T.A.*, 129 S. Ct. 2484, 2492 (2009) (citing 20 U.S.C. §1412(a)(1)(A)). A FAPE is an education that is “specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child ‘to benefit’ from instruction.” *Bd. of Educ. of Murphysboro Community Unit Sch. Distr. No. 186 v. Illinois State Bd. of Educ.*, 41 F.3d 1162, 1166 (7<sup>th</sup> Cir. 1994) (quoting *Bd. of Educ. v. Rowley*, 458 U.S. 176, 206(1982)). A child’s “educational program must be appropriately ambitious in light of his circumstances...[E]very child should have a chance to meet challenging goals.” *Andrew F. v Douglas Cnty. Sch. Dist. R-1*, 69 IDELR 164 (2017).

**Issue One: Whether the District denied Student a FAPE for the two years prior to filing, by failing to appropriately evaluate Student in the area of Assistive Technology for reading and written expression support in other academic areas?**

Parents assert that from December 16, 2017 to present the District failed to conduct an assistive technology evaluation and as a result failed to fully consider the range of products and services that could be offered to her.

District asserts that the District was providing Student with assistive technology and Student was using technology successfully

Districts have an ongoing duty to identify the needs of students with disabilities. 34 C.F.R. §300.304(c)(4). A district that has overlooked “clear signs of disability” and was negligent in failing to order testing or “that there was no rationale justification for deciding not to evaluate.” *Demarcus L v Bd. of Educ. of the City of Chicago, Dist. 299*, No. 13-C-5331, 63 IDELR 13, 114 LRP 11387 (N.D. Ill. Mar.11, 2014.)

Here, the District admitted that they did not conduct an assistive technology evaluation of Student. (FF #97.) However, there is substantial evidence that the District provided and the Student was provided and used most of the assistive technology programs

that she is currently utilizing in her program at HPDS, including Learning Ally, Google Read & Write, Bookshare, and Snapverter. (FF # 18, 57.) Therefore, I find that the District did not overlook clear signs of disability in Student and was not negligent in failing to order an assistive technology evaluation. I find that Student's access to and use of the assistive technology is a rational and reasonable justification for the District's failure to order an assistive technology evaluation prior to the May 2, 2019 request for consent for evaluation. Accordingly, the District's failure to conduct an assistive technology evaluation from December 16, 2017 to May 2, 2019 did not result in a denial of a FAPE to Student.

**Issue Two: Whether the District failed to consider the 2019 outside neuropsychological evaluation related to Student's specific learning disability provided by the parents which resulted in a denial of a FAPE?**

Parents argue that the District was legally obligated to give Dr. Dawson's report due consideration. They argue that the District didn't spend sufficient time on the report, or invite Dr. Dawson to the IEP meeting, no one sought her out in any way and there were only 8 lines of notes in the IEP concerning the report. The staff didn't consider anything beyond the strengths and needs and they did not consider many of the recommendations because they were already in the IEP.

District argue that they are required to consider the outside evaluations. They not required to hold a substantive discussion of outside evaluations. The District team did consider Dr. Dawson's report. The team convened a meeting to review the report, added the new diagnosis to the IEP, considered her results and requested consent for additional testing as a result of the report.

Under the IDEA and its implementing regulations, if parents obtain an IEE and that IEE is shared with the district, the district must consider the results of the evaluation when making decisions involving the provision of FAPE to the child. 34 C.F.R. §300.502(c). Districts are not required to engage in "substantive discussion of" parent provided evaluation. *James D. v Bd. of Educ. Aptakisis-Tripp CCSD 102*, 642 F. Supp. 2d 804, 52 IDELR 281 (N.D. Ill. 2009.)

Here, the preponderance of the evidence shows that the District convened an IEP meeting on November 22, 2019 after the receipt of Dr. Dawson's report. Meeting notes and

testimony indicate that the school psychologist presented a summary of the report at the meeting with both the Ben Franklin and Hadley IEP teams present. The school psychologist summarized the IEP as a review for the team, noting Student's strengths and challenges. Student's new diagnosis was added to the IEP, social work goals and services were changed in response to the new diagnosis and added a reading goal and supplemented accommodations to include several that were recommended by Dr. Dawson. (FF #67, 68, 69, and 72.) Therefore, I find that the District considered the 2019 outside neuropsychological evaluation provided by the parents. Accordingly, the District's actions with respect to Dr. Dawson's report did not result in a denial of a FAPE to Student.

**Issue Three: Whether, beginning with the October 2, 2017 and continuing to present, the District denied Student a FAPE by failing to write a sufficient IEP for Student that included:**

**i. meaningful goals in the reading decoding, sight word identification, fluency, and comprehension and language arts (written expression),**

**ii. needed and effective methodological interventions in reading decoding, sight word identification, fluency, and comprehension and language arts (written expression), and/or**

**iii. appropriate academic instruction in reading decoding, sight word identification, fluency, and comprehension, and language arts (written expression) and reading support in courses where reading is a fundamental part of the coursework, such as Science and Social Studies?**

Parents argue that Student's IEP goals were substantially similar and repeated over time, lack present levels of performance, and did not address reading skills in a manner that fit Student's needs and learning method. Further there were no goals to address known deficits such as phonological awareness, speech/language, spelling, and written composition. Parents argue that the teaching methods and materials noted in the IEP were not effective for reading instruction of students with dyslexia and the plans did not provide for remediation of Student's deficits and were not designed to close the gap between Student and her typically

developing peers. Finally, Parents assert that the IEPs did not provide Student with appropriate support for reading in Science and Social Studies.

District argues that Student's goals were reasonably calculated to enable her to make progress appropriate in light of her circumstances. Student's goals were written in reading decoding, sight word identification, fluency, and comprehension and at the end of 4<sup>th</sup> grade a writing goal was added. These goals continued into fifth grade. Similarly, goals were written for sixth grade in the areas of reading decoding, sight word identification, fluency and comprehension and written expression.

IDEA eligible students receive special education and related services under an Individualized Educational Plan or IEP. This plan is a written document created by the District IEP team and Parents. It outlines the student's educational needs and the educational program to address those needs. 20 U.S.C. 1414(d)(1)(A)(i); 34 C.F.R. § 300.320(a). It must contain all the necessary elements/components, including a statement of the present levels of academic achievement and functional performance, measurable annual goals designed to meet the needs resulting from child's disability to enable child to be involved in the general education curriculum and meet each of the other child educational needs that result from child's disability. 34 C.F.R. 300.22 and 34 C.F.R. 300.320(a). "An IEP must respond to all significant facets of the student's disability, both academic and behavioral" to meet the substantive criterion of *Rowley*. *Alex R. v Forrestville Valley Cmty. Unit Sch. Dist. No. 221*, 375 F.3d 603, 611 (7<sup>th</sup> Cir. 2004). When determining whether an IEP design is reasonable, the determination must be made on what the District knew or could reasonably have known at the time the IEP was drafted. *M.B. v. Hamilton Southeastern Schools*, 668 F.3d 851, 863 (7<sup>th</sup> Cir. 2011).

#### Response to All Facets of Disability

In this case, phonology, spelling writing were identified as areas of deficit for Student in 2015 by both a private evaluation and the District's evaluator. (FF 3, 5.) In addition, District staff indicated that Student struggled in spelling in third grade and Mother requested a goal during an IEP in third grade. (FF 10 and 13.) She asked again in fourth grade. (FF 19.) No spelling goal was provided. (FF 21.) At the end of Student's fourth grade year District's testing demonstrated the need for a spelling goal. (FF 24.) Mother also requested

a writing goal when Student was in fourth grade. (FF 19.) Writing was identified as a deficit in May 2018 the end of Student’s fourth grade year through testing. (FF 24.) Student was given a writing goal requiring her to use word prediction software and editing checklists in her writing. The goal lacked baseline data and a means to measure progress. (FF 28.)

#### Present Levels of Performance and Measurable Goals

All of Students IEPs contained Present Levels of Performance sections that summarized her general classroom performance and her most recent district-wide test scores such as MAP and AIMSweb. In addition, the present levels of performance for each reading skill goal which provided baseline information and a means to measure progress. The Writing and social work goal contained only anecdotal information and lack information that would serve as a baseline for the measurement of progress towards achieving the goal. (FF #20, 23 to 25, and 68.)

#### Reasonably Calculated to Confer Educational Benefit

“An IEP is reasonably calculated to confer educational benefit when it is ‘likely to produce progress, not regression or trivial educational advancement.’ *Alex R. ex rel. Beth R. v Forrestville Valley Cmty. Unit Sch. Dist. No. 221*, 375 F3d. 603, 615 (7<sup>th</sup> Cir. 2004.) Recently, the Supreme Court clarified that a school fulfills its substantive responsibility to provide a FAPE by offering the student “an IEP reasonably calculated to enable a child to make progress in light of the child’s circumstances.” *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist.*, No. 15-827, 137 S. Ct. 988 (U.S. Mar. 22, 2017.)

At the end of third grade, some Student’s goals appeared to likely produce progress based on her progress the year before, such as her decoding goal and her accuracy and comprehension (as measured by F & P) goal. However, Student did not master her sight word goal and had failed to retain much of what she had previously mastered. Yet, the sight word goal remained essentially the same, with increased levels of proficiency required for mastery. (FF 18.) Her progress in fourth grade was about the same. Student did not meet her sight word or her accuracy and comprehension (as measured by F & P) goal again. (FF 26.) The goals for 5<sup>th</sup> grade were about the same, the sight word goal list was the same district K – 2 list, the reading accuracy and comprehension remained about the same looking for a three level gain in spite of Students inability to do so in 4<sup>th</sup> grade, and the decoding goal

continued with decoding skills of increasing difficulty with a new batch for each trimester. (FF 27.)

Student did make some progress; however, it was minimal and inconsistent. By the end of fifth grade after four years of Wilson instruction as pull out service for 40 minutes per day, Student was reading instructionally at a second-grade level. Student was known to have average intellectual ability. (FF 3, FF 24). There were no indications that she was not trying to learn, in fact, she was characterized as a hard worker by her teachers and parents. (FF 12.) At the time her peers were reading to learn, she was struggling to learn to read. The District's response was to increase mastery criterion on goals, lower expectations for progress and make minor increases in intensity of instruction such as changing from push- in to pull- out or changing the student teacher ratio for skill instruction. There was plenty of evidence that the achievement gap between Student and her peers was widening. (FF 24, and 47.) There was no evidence presented at hearing that the District did anything to investigate the causes or solutions for this phenomenon. The District just did more of the same. (FF 20, 23-25, and 68.)

#### Accommodations and Modifications in Content area courses

Student's IEPs in the 2017/2018 and 2018/2019 Student with accommodations that were designed to allow her to access the content of grade level courses such as literacy, social studies, science and mathematics without having to rely upon her limited reading and writing skills. Student was provided with text-to-speech and speech-to-text support through assistive technology and was able to participate in general education classroom discussions, projects and assignments with support. Her teachers reported that with these accommodations and adult support, she was able to demonstrate satisfactory understanding of key concepts in content areas without being able to read the material herself. (FF 29 and 37.) Parents argue that the District was not providing her with reading instruction that she needed in these content areas. This is true, the IEP was designed to expose her to oral language that included the concepts and constructs of the fourth and fifth grade curriculum and to give her an opportunity to participate in class discussions and projects with her peers. The evidence presented demonstrates that the District was successful in achieving its goal. Again, in these courses her peers were reading to learn. Student was unable to do so. She was struggling to

learn to read and relied upon her listening skills and memory to learn. For the reasons stated above I find that the IEPs provided by the District during 2017-2018 and 2018-2019 school year were not reasonably calculated to enable Student to make progress in reading in light of her circumstances.

#### 6<sup>th</sup> Grade Offer of IEP and placement

The Ben Franklin and Hadley IEP team met with parents twice to develop an IEP for Student's sixth grade year and to determine a placement for the implantation of that IEP. (FF 47 and 56.) Parents requested that Student be placed outside of the District. (FF 47.) In April, 2019, the team, including parents, agreed that Student was progressing more slowly than expected. (FF 55.) Masny noted that Student's reading 2/3 years below her peers and her strong listening comprehension made placement of Student more difficult. (FF 47.) There was agreement that Student needed intense reading instruction and support in all areas. (FF 49.) The District proposed IEP goals that were essentially the same as those provided in prior years with Student receiving Wilson for 40 mpd and using co-teaching to provide reading support in the 80 minute literacy class, in math, and using a literacy coach to supplement Wilson instruction 1:1 during independent reading of the literacy block and support in social studies and exploratory from unspecified certified staff or an instructional aide. (FF 49.) District indicated that this would provide Student with the same level of academic support as a private therapeutic day school but would have the benefit of access to peers. (FF 55.)

Parents discussed the emotional stressors for Student that resulted from her educational experience and her failure to learn to read. (FF 48 and 53.) They were concerned that the plan would cause Student to feel like a failure. The team agreed to visit HPDS and reconvene to discuss placement. (FF 55.)

The team met again in May after the HPDS visit. The team reviewed their impressions of HPDS and reviewed and compared the program offered to Student by Hadley and HPDS. (FF 56, and The team concluded that Hadley would be able to provide Student with the same level of special education support that HPDS could offer. The team felt that Hadley was the more appropriate placement due to the ability of Student to participate in the general education program with her peers in a co-teaching and with reading coach and aide support and that they believed that Student would flourish at Hadley. (FF 60.) Parents did not feel

that Hadley teachers who were not Wilson certified would be able to provide the same level of Wilson instruction and support throughout the school day as the HPDS staff. (FF 60.) The team determined that the Hadley program would be able to implement Student's IEP in the least restrictive environment. (FF 64.) Parents rejected the District's program and notified the District of their intention to place Student at HPDS and seek full reimbursement from the District. (FF 65.)

In June 2019, Parents provided the District with a neuropsychological evaluation that they secured from Dr. Dawson. (FF 68.) After reviewing the report, the team agreed to add a reading fluency goal. (FF 72.) Social work was also adjusted in response to the diagnosis of Adjustment Disorder to 30 mpw. (FF 72.) The team also added some of the accommodations recommended by Dr. Dawson that were not previously contained in the IEP. (FF 73.) Dr. Dawson report recommended that Student receive a structure literacy instruction, such as Wilson, to remediate her reading deficits and that the program be provided by a certified instructor who has the knowledge base and proficiency in diagnostic instruction. (FF 82.) Stec verified that Wilson certification assures that teachers are able to deliver Wilson instruction with the intensity and fidelity needed for students with dyslexia. (FF 46.) Dr. Dawson stated that Student currently needs an educational program that is designed for students with learning differences to receive appropriate intervention and support integrated into every class throughout the day. (FF 82.) The District team discussed how the Hadley team could support Student for 70% of her school day and the benefit of being exposed to higher level text, concepts and peers in the general education setting. (FF 73.) Parents stressed their concerns for Student's mental health concerns and noted the improvement in Student since attending HPDS. (FF 74.) The team reaffirmed the placement recommendation made in April with the additional goals and minutes agreed to at the meeting. (FF.76.)

The District's IEPs for Student continued to offer her reading goals and instruction that is not designed to specifically address her needs related to dyslexia. Dr. Dawson and Stec both recommended the use of Wilson with Student by a Wilson certified instructor to provide specific instruction based on daily error analysis. (FF 83, 84.) The District agreed that Student needs explicit instruction in Wilson. (FF 59.) The District's IEP does not convey that understanding. It continues to rely on a leveled literacy approach, sight word instruction and general education literacy programming using text that is 2/3 years above

Student's instructional level. The District instructors believe that a revolving door of teachers and aides who are not providing Wilson instruction to Student or anyone else and will be able to provide the same level of Wilson reading support throughout a school day as a self-contained Wilson certified teacher. This demonstrates the District's refusal to recognize or acknowledge that Wilson certification is a sign of increase training, experience and expertise. (FF 88.) Dr. Dawson explained how students with dyslexia required structure literacy programs for reading instruction and that the types of reading instruction the District was providing Student have not and will not work for her. The amount Wilson instruction offered by the District in the past and for the future is inadequate as well. District has offered 40 minutes per day for a period of years when Student needed 60 to 90 minutes. Student's needs are too complex and severe for pull out services, she needs a minimum of 90 minutes per day of structured literacy instruction daily. The District is offering Student push in services for literacy instruction. (FF 82.)

For the reasons set forth above, I find that from December 16, 2017 to the present, the District has denied Student a FAPE by failing to write sufficient IEPs for Student to address her disability related needs in reading, written expression and social emotional and to provide appropriate reading and writing supports to Student in general education content areas such as Social Studies, Science and Math.

**Issue Four: Whether, beginning with the October 2, 2017 and continuing to present, the District denied Student a FAPE by failing to propose a placement with sufficient and appropriate academic instruction for Student to make appropriate academic progress, including private, therapeutic schools and/or structured literacy intervention programs that are explicit, direct, cumulative, sequential, intensive, multi-sensory, that teach mastery and are delivered with fidelity to address Student's reading deficits (reading decoding, sight word identification, fluency, and comprehension)?**

The District's placement for Student in for fourth grade year was to implement her special education reading services in a pull- out setting for 200 mpw with her participation in the general education setting with accommodations for the remainder of the day. (FF 21.) In fifth grade her IEP required her placement in general education with accommodations and special education reading (Wilson) for 200 mpw as pull out, 80 mpw for writing and 60 mpm for social work services. (FF 26.) Unfortunately for Student, this level of support was

insufficient to address her most significant disability related needs, her need to learn to read and write. From May 22, 2018 it was clear that the District's plan was not sufficient and appropriate academic instruction to address Student's unique needs and to enable her to make more than trivial progress despite her hard work and her parents' support. No evidence was offered to support the proposition that more of the same techniques that did not work in the past will somehow work in the future. I find that from May 22, 2018 to present the District failed to provide Student a FAPE when it failed to provide her with the multi-sensory reading instruction she needed with sufficient intensity and duration to enable Student to acquire and retain foundational skills in reading.

As discussed above, the District's plan for Student's sixth grade year fails to provide Student with appropriate instruction in reading and appropriate reading support in content area reading. It is not a program designed for students with Student's learning profile. The District's program attempts to fit Student into a learning program designed for a learning profile that has resulted in a gap of 2/3 years between her achievement in reading and the reading of her peers. The results of continuing this type of program are not likely to change. Placing a Student with her peers if she cannot learn in that environment is not the least restrictive environment. FAPE trumps LRE. The District's placement does not place Student with her true peers, students who learn the way that she learns in an environment that teaches in the way she learns and will likely result in increased anxiety. (FF 87.)

I find that the District's proposed placement for Student during the 2019 -2020 school year was not reasonably calculated to provide Student with a FAPE in the least restrictive environment.

**Issue Five: Whether, beginning with the October 2, 2017 and continuing to present, the District denied Student a FAPE by failing to account for Student's lack of progress in reading (reading decoding, sight word identification, fluency, and comprehension ) and revise her IEP appropriately?**

IDEA requires that the districts periodically review a child's IEP, but not less than annually to determine if whether the annual goals are being achieved and to address any lack of progress, review evaluations, and information provided to or by the parents and to revise

the IEP as appropriate to address items reviewed. (20 U.S.C. §1414(d)(4), and 34 C.F.R. §300.324(b).)

Here, as discussed above, Student's IEPs were reviewed annually. Student did make some progress; however, it was minimal and inconsistent. By the end of fifth grade, Student was reading instructionally at a second-grade level. Student was known to have average intellectual ability. (FF 3, FF 24). There were no indications that she was not trying to learn, in fact, she was characterized as a hard worker by her teachers and parents. (FF 12.) At the time her peers were reading to learn, she was struggling to learn to read. The District's response was to increase mastery criterion on goals, lower expectations for progress and make minor increases in intensity of instruction such as changing from push- in to pull- out or changing the student teacher ratio for skill instruction. There was plenty of evidence that the achievement gap between Student and her peers was widening. (FF 24, and 47.) There was no evidence presented at hearing that the District did anything to investigate the causes or solutions for this phenomenon. The District just did more of the same. (FF 20, 23-25, and 68.) I find that from December 16, 2017 to present the District failed to account for Student's lack of progress and revise her IEP appropriately, thereby denying her a FAPE.

**Issue Six: Whether, beginning with the October 2, 2017 and continuing to present, Student's emotional and social regression was a result of the District's failure to provide Student with appropriate academic instruction? If so, did this result in the denial of a FAPE to Student?**

Parent argues that Student was becoming increasingly isolated in school. Her need for assistance with classwork was causing her peers to resent her and she knew it. Her emotional state was spiraling down to the point of being diagnosed with an Adjustment Disorder which related back to her lack of achievement in school and her feelings about school.

District argues that Student was evaluated in fourth grade due to family concerns. In fifth grade parents notified the school about concerns five times in the mornings. Teachers and social worker all said that Student's emotional state did not interfere with her participation in or engagement in learning activities. Therefore, Student's emotional functioning did not have an impact on FAPE.

As stated above, IDEA requires that the districts periodically review a child's IEP, but not less than annually to determine if whether the annual goals are being achieved and to address any lack of progress, review evaluations, and information provided to or by the parents and to revise the IEP as appropriate to address items reviewed. (20 U.S.C. §1414(d)(4), and 34 C.F.R. §300.324(b).) Here, the District knew about Student's emotional struggles with her being a different type of learner and the strain that it was placing on her peer relationships in May 2018. The District conducted assessments and found that Student was on-task more than her peers. The social work report indicated that Student was aware and self-conscious about leaving class for support and insecure about her learning differences, reports of depressed mood, irritability, feeling worthless, anxious, and fearful. (FF 25.) Social work services and a goal was added to her IEP; however, the goal was not measurable and there was no report of progress in fourth grade. (FF 26, 33, and 34.) As discussed above, no changes were made to Student's IEP that remediated her reading deficits and as a result the stressors continued. By mid-June 2019, the stressors of Student's reading deficits and the related social stressors that accompanied being a different learner and leaving class for support resulted in a new diagnosis of Adjustment Disorder with anxiety. (FF 69.) Dr. Dawson concluded that her anxiety would continue of Student was forced to be educated with students who were not her true peers and if she was not provide with education appropriate for her learning needs. (FF 87.)

For these reasons, I find the lack of appropriate reading and writing instruction as discussed above and the pull out program in reading provided to the Student resulted in her emotional and social regression and resulted in a denial of a FAPE from May 22, 2018 to the date of parent's unilateral placement of Student at HPDS, August 26, 2019.

### **COMPENSATORY EDUCATION**

IDEA empowers a hearing officer or court to grant relief that is appropriate, as determined by the hearing officer or court. (34 C.F.R. §300.516(c)(3).) Compensatory services are well-established as a remedy under the IDEA. *Evanston Cmty. Consol. Sch. Dist. No. 65 v. Michael M.*, [356 F.3d 798](#), 803 (7th Cir. 2004). The language of the IDEA, which allows courts to "grant such relief as [it] determines is appropriate," confers broad discretion to district courts in constructing remedies. 20 U.S.C. § 1415(i)(2)(C)(iii); *School Comm. of*

*Town of Burlington v. Dep't of Educ.*, [471 U.S. 359](#), 369 (1985). The statute, however, limits such relief to that which is appropriate. *Burlington*, 471 U.S. at 369. Whether relief is considered appropriate is examined in light of the purpose of the IDEA, which is "principally to provide handicapped children with 'a free appropriate public education which emphasizes special education and related services designed to meet their unique needs.'" *See id.* Hearing officers have discretion to grant compensatory education as a remedy for past violations of the IDEA. *Bd. of Educ. of Oak Park & River Forest High School Dist. 200 v Todd. A.*, 79 F.3d 654, 656 (7<sup>th</sup> Cir. 1996.) Awards of compensatory education show aim to place student in the same position they would have occupied but for the school district's violations of IDEA. *Petrina W. v. City of Chicago Public School District No. 299*, 53 IDELR 259 (N.D. Ill. 2009).

As discussed above, the District denied Student a FAPE by failing to provide or propose appropriate IEPs from December 16, 2017 to present, and placement from May 22, 2018 to present and by failing to account for Student's lack of progress (beginning December 16, 2017) and emotional needs resulting from her educational experience (beginning May 22, 2018).

Student has had long standing literacy problems, dating back to preschool. The District has provided her with a significant amount of ineffective interventions since first grade. Yet, Student's literacy skills are "profoundly impaired." (FF 79.) Student has the ability to learn to read, she at least average intellectual ability, ADHD, an Adjustment Disorder and very severe dyslexia. The reason she has failed to learn to read at grade level is because the type and intensity of instruction provided to her has not been appropriate to her needs. (FF 80.) Dr. Dawson indicated that Student will need a minimum of three to four years of remediation in a therapeutic day school to address her severe deficits and to compensate for 6 years of less than effective instruction. (FF 385.) Further, Smith testified that on average, students at HPDS require three to five years to complete the Wilson program and acquire foundational reading skills. (FF 88.)

I find that Student is entitled to compensatory education in the form of reimbursement for the outside reading and social emotional services her parents provided to address her reading deficits and social/emotional needs related to her educational experience from December 16, 2017 and May 23, 2018 respectively. I find that Student will

need at least three years of placement at HPDS to compensate for the District's denials of FAPE discussed in Issues three to six above.

### UNILATERAL PLACEMENT

Parents "who unilaterally change their child's placement without state or local school official's consent are 'entitled to reimbursement *only* if a federal court concludes both that the public placement violated the IDEA *and* that the private school placement was proper under the Act." *Todd v Duneland Sch. Corp.*, 299 F.3d at 905 (quoting *Florence Cnty. School Dist. Four v Carter*, 510 U.S. 7, 15, 114 S. Ct. 361, 126 L.Ed.2d 284 (1993)).

Student's Parents are seeking reimbursement for their unilateral placement of Student at Innercept. First, a determination must be made as to whether the Parents provided the District with a notice of intent to privately place Student. (34 C.F.R. §300.148(d)(1)(ii).) Evidence presented indicates that on May 2, 2019 and again on November 22, 2019, the Parents provided the District with notice of its intent to privately place Student at HPDS.

Next, a determination as to whether or not the District's placement has provided Student with a FAPE. Evidence presented indicates that on May 2, 2019 and again on November 22, 2019, the Parents provided the District with notice of its intent to privately place Student at HPDS. (FF 65, 77.)

Third, a determination must be made as to whether the placement Parents selected was appropriate under the IDEA. (*Florence County Sch. Dist. Four v. Carter*, 20 IDELR 532 (U.S. 1993). and 34 C.F.R. §300.148(c).) Parents are required to establish that the private placement they selected was appropriate. *Forest Grove*, 557 U.S. at 232; *Carter*, 510 U.S. at 15. The law is clear, however, that the FAPE requirements set forth in 20 U.S.C. § 1401(9) do not apply to private schools. *See Florence Cnty. Sch. Dist. Four v. Carter ex rel. Carter*, [510 U.S. 7](#), 14 (1993). The placement is appropriate if it provides "educational instruction specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child to benefit from instruction." *Frank G.*, 459 F.3d at 365 (quoting *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 188-89 (1982)).

Here, parents selected HPDS as the unilateral placement for Student. HDPS is a private therapeutic day school that is designed to serve students with dyslexia. It has a low student teacher ratio. Reading instruction is primarily Wilson Reading System base, which is the type of structured literacy program needed by students with dyslexia. HPDS teacher are Wilson certified or are in the process of obtaining certification. HPDS provides students with a curriculum that includes direct instruction in executive functioning, social skills, use of assistive technology, speech language service, occupational therapy, physical education and core academic subjects. (FF 88 - 93.) HPDS is the type of program recommended by Dr. Dawson. (FF 84.) Evidence shows that Student is making progress at HDPS academically, socially and emotionally. (FF 89.) Parents confirm that Student has returned to her “old self” since attending HPDS full time. (FF94.) For these reasons I find that HPDS provides educational instruction specially designed to meet the unique needs of Student, supported by such services she needs to benefit from instruction. Accordingly, I find that the placement Parents selected was and is appropriate under the IDEA and they are entitled to reimbursement for their expenditures related to said placement.

### **ORDER**

Based upon the above Findings of Fact and Conclusions of Law, the Parents’ requested relief is granted as follows and it is hereby ordered that:

A. The District shall reimburse the Student’s parents for any expenses already incurred for placement at Hyde Park Day School, including summer 2018 ESY, the 2019/2020 school year, summer 2020 ESY and the 2020/2021 school year, including round trip transportation costs, private Wilson tutoring and related Wilson materials incurred from December 18, 2017 to August 24, 2019, and therapy/social work services from May 23, 2018 to August 24, 2019 address her social/emotional needs arising during that period the outside neuropsychological evaluation, and the outside neuropsychological evaluation completed in June 2019, as compensatory education. The District shall reimburse Parents within 30 days of Parents’ presentation of proof of expenses to District.

B. The District shall place Student at HPDS for the 2020/2021 for school year and summer 2020 ESY period with appropriate round trip transportation at its expense as compensatory education.

C. The District to write an IEP with meaningful, measurable goals that address Student's academic needs in reading through the provision of a structure literacy program that for a period of not less than 60 minutes per day, and a fluency and comprehension instruction, and written expression, including direct instruction in encoding and written composition, grammar, and mechanics within 15 school days of the receipt of this order.

D. The District shall place Student at HPDS for the 2021/2022 school year with appropriate round trip transportation at its expense as compensatory education.

In accordance with 105 ILCS 5/14-8.02a(h), within 45 school days of receipt of this Order, the school district must submit proof of compliance to:

Illinois State Board of Education  
Program Compliance Division  
100 North First Street  
Springfield, IL 62777-0001

#### **NOTICE OF RIGHT TO REQUEST CLARIFICATION**

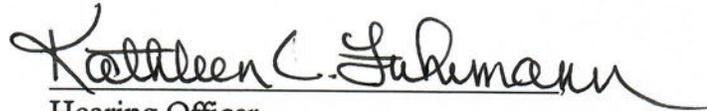
Pursuant to 105 ILSC 5/14-8.02a(h), either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification must specify the portions of the decision for which clarification is sought. A copy of the request must be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration

of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

**NOTICE OF RIGHT TO APPEAL**

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

Dated: September 24, 2020



Hearing Officer  
160 Nottingham Lane  
Bourbonnais, IL 60914  
815-278-8742  
KathleenFuhrmann@kfuhrmannlaw.com

**APPENDIX A**

[REDACTED] v. Glen Ellyn School District  
Case No: 2020 DP 0107

Student	[REDACTED] Child/Student
HPDS	Hyde Park Day School, Lemont, Attending School
Mother	[REDACTED], Mother/Petitioner
Father	[REDACTED], Father/Petitioner
District	Glen Ellyn School District no. 41
Ben Franklin	Ben Franklin, Elementary School
Hadley	Hadley Junior High School
Stec	Ann Stec, Private Reading Tutor
Smith	Jay Smith, Principal, Hyde Park Day School, Lemont
Dr. Dawson	Dr. Nichole Dawson, Private Neuropsychologist
O'Brien	Laurel O'Brien, Director of Student Services
Pearce	Tanya Pearce, Special Education Teacher, Ben Franklin Elementary
Beaman	Heather Beaman, Special Education Teacher, Hadley Middle School
Gillmar	Sara Gillmar, Social Worker, Ben Franklin Elementary
Grieger	Karen Grieger, Social Worker, Hadley Middle School
Spratt	Michelle Spratt, General Education Teacher, Ben Franklin Elementary
Hekma	Thomas Hekma, General Education Teacher, Ben Franklin Elementary
Masny	Michelle Masny, Literacy Specialist, Hadley Middle School
Canfield	Lauren Canfield, School Psychologist

**ILLINOIS STATE BOARD OF EDUCATION  
IMPARTIAL DUE PROCESS HEARING**

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██████████  
Student,

Case No: 2020 DP 0107

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer

Glen Ellyn SD no. 41,  
School District.

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**CERTIFICATE OF SERVICE VIA CERTIFIED MAIL**

I, the undersigned Kathleen C. Fuhrmann, certify that on September 24, 2020, a copy of Final Determination and Order was served upon the following persons via certified US Mail delivery by depositing the same in the United States Mail, in an envelope securely sealed, postage prepaid, return receipt requested and legibly addressed to the addresses set forth below:

Charles Fox and Julie Welsh  
Law Offices Of Charles P. Fox  
355 W Dundee Road, Suite 209  
Buffalo Grove, IL 60089  
[charlesfox@foxspecialedlaw.com](mailto:charlesfox@foxspecialedlaw.com)  
[juliewelsh@foxspecialedlaw.com](mailto:juliewelsh@foxspecialedlaw.com)

████████████████████  
████████████████████  
████████████████████

Glen Ellyn School District No. 41  
Melissa Kaczowski, Superintendent  
793 North Main Street

Laura Sinars, Esq.  
Robbins, Schwartz, Nicholas, Lifton & Taylor, LTD  
55 W. Monroe, Ste. 800  
Chicago, IL 60603-5144  
[lsinars@rsnlt.com](mailto:lsinars@rsnlt.com)

Glen Ellyn School District No. 41  
Laurel O'Brien, Director of Sp. Educ.  
793 North Main Street  
Glen Ellyn, IL 60137

Andrew Eulass  
Due Process Coordinator  
Illinois State Board of Education  
Division of Special Education Services  
100 N. 1<sup>st</sup> Street  
Springfield, IL 62777

Date: 9/24/2020

Signed: /s/ Kathleen C. Fuhrmann  
160 Nottingham Lane  
Bourbonnais, IL 60914  
815-278-8742  
kathleenfuhrmann@kfuhrmannlaw.com

**ILLINOIS STATE BOARD OF EDUCATION  
IMPARTIAL DUE PROCESS HEARING**

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██████████,  
Student,

Case No: 2020 DP 0107

v.

Kathleen C. Fuhrmann, Impartial Hearing Officer

Glen Ellyn SD no. 41,  
School District.

---

**CERTIFICATE OF SERVICE VIA EMAIL**

I, the undersigned Kathleen C. Fuhrmann, certify that on September 24, 2020, a copy Final Determination and Order was served upon the following persons via email transmission by attached said document(s) in pdf format to the email addresses set forth below:

Charles Fox and Julie Welsh  
Law Offices Of Charles P. Fox  
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Andrew Eulass  
Due Process Coordinator  
Illinois State Board of Education  
Division of Special Education Services  
100 N. 1<sup>st</sup> Street  
Springfield, IL 62777

Date: 9/24/2020

Signed: /s/ Kathleen C. Fuhrmann  
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