



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 06400-19

AGENCY DKT. NO. 2019-29703

S.M. and E.M. ON BEHALF OF B.M.,

Petitioners,

v.

FREEHOLD REGIONAL HIGH SCHOOL

DISTRICT BOARD OF EDUCATION,

AND EASTERN CAMDEN COUNTY

REGIONAL SCHOOL DISTRICT

BOARD OF EDUCATION

Respondents.

George M. Holland, Esq., for petitioner (Law Offices of George M. Holland, attorneys)

John Comegno, Esq., and **Alexandra Stulpin**, Esq., for respondent Freehold Regional High School District Board of Education (Comegno Law Group, attorneys)

Anthony Padovani, Esq., for respondent Eastern Camden County Regional School District (Sahli & Padovani, attorneys)

Record Closed: August 27, 2021

Decided: October 18, 2021

BEFORE **DAVID M. FRITCH**, ALJ:

STATEMENT OF THE CASE

Pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415, S.M. and E.M. requested a due process hearing on behalf their adult child B.M.— who is classified as eligible for special education and related services with a diagnosis of autism. S.M. and E.M., as both parents and legal guardians of B.M., challenge B.M.’s Individualized Education Programs (IEPs) provided by the respondent, Freehold Regional High School District (FRHSD) in that they failed to adequately address B.M.’s attendance issues and, because of these issues, B.M. missed numerous days of school and missed out on corresponding days of special education programming provided to him by the respondent. The petitioners are seeking compensatory education for B.M. to compensate for the hours of missed special education programming due to B.M.’s unaddressed attendance issues. Respondent FRHSD replies that the petitioners’ claims for compensatory education prior to April 2017 are time barred by the applicable statute of limitations and that, for the remaining years, B.M. received a Free and Appropriate Public Education (FAPE) at the individualized out-of-district day program provided through his IEPs despite his absences. Respondent Eastern Camden County Regional School District (ECCRSD) responds that the petitioner’s claims deal solely with FRHSD and seek dismissal of any claims against ECCRSD.

PROCEDURAL HISTORY

This matter comes before the Office of Administrative Law (OAL) pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the New Jersey statutes regarding the educational rights of handicapped children, N.J.S.A. 18A:46.1, et seq., and the corresponding Federal and State regulations, 34 C.F.R. § 300.01 et seq., and N.J.A.C. 6A:14.-1.1, et seq. The petitioners filed a petition for due process on behalf of B.M. on April 10, 2019. (R-3.) The respondents filed a response on June 24, 2019. (R-4.) The Department of Education’s Office of Special Education transmitted the matter to the Office of Administrative Law (OAL), where it was filed on May 10, 2019. Hearings were held before the Honorable Dorothy Incarvito-Garrabrant on February 25, 2020, March 2, and March 4, 2020, at the OAL. Due to the COVID

pandemic, additional hearing dates were held before Judge Incarvito-Garrabrant on September 2, 21, 2020, and January 4, 2021, utilizing the Zoom video-teleconferencing platform. Following the hearing dates, the parties filed post-hearing briefs, which were received on August 2, 2021.

On July 6, 2021, Judge Incarvito-Garrabrant was elevated to the Superior Court and the case was assigned to the undersigned. Following the reassignment of the matter, both parties were contacted by this office to give them the opportunity to re-present any testimony they wished to be heard before the undersigned, however, both parties responded that they did not wish to avail themselves of the opportunity to re-present testimony in this matter and the record was closed upon receipt of that confirmation on August 27, 2021.

TESTIMONY

Eileen Evarista, School Psychologist, FRHSD

Eileen Evarista is a school psychologist employed by FRHSD, where she has worked for the past twenty-seven years. Prior to working for FRHSD, Evarista worked for the Orange Board of Education for nine years. She is a certified school psychologist, who serves as a case manager for special education students. In that function, Evarista does evaluations, psychological assessments, develops Individualized Education Plans (IEPs), implements IEPs, as well as does individual and group counseling. Evarista was accepted as an expert in the area of school psychology. (Feb. 25, 2020, Tr. at 43:20-44:4.)

Evarista began serving as B.M.'s case manager during the 2012/13 school year. B.M. was classified as autistic with "significant cognitive impairments, developmental delays pretty much in all areas of functioning, social/emotional, speech and language communication." (Id. at 45:9-13.) B.M. can be, at times, "very oppositional" and is "stubborn at times" and they have attempted to work on that behavior "over the years." (Id. at 45:19-21) B.M. was transitioning out of a residential placement at Wood Services

(Woods) in 2017 and was residing with his parents while they were seeking a new possible group home to place him. (Id. at 47:2-19.) During this period, at the beginning of the 2017/18 school year, B.M. was attending the Shore Center for Students with Autism (the Shore Center) while living at home with his family. (Id. at 47:15-23.)

Evarista developed B.M.'s IEP for the 2017/18 school year. (Id. at 46:10-11; R-11.) This IEP was for B.M.'s attendance at the Shore Center for his twelfth-grade year. (R-11; Feb. 25, 2020, Tr. at 46:15-22.) The Shore Center was a school offered to B.M.'s parents when B.M. was transitioning out of his prior residential placement at Woods. (Id. at 47:1-9.) This IEP offered B.M. a "functional life skills academic program with some community-based instruction and daily living skills with occupational therapy and speech and language therapy" as well as "a personal aide." (Id. at 48:7-11.) Evarista testified that this plan, and its goals, was appropriate for B.M. "[b]ased on his cognitive abilities and his functional abilities" with the goal of making B.M. "independent in the community and being able to function independently as possible based on his limitations and his abilities." (Id. at 59:11-20.) The IEP also included a separate behavioral intervention plan developed by the behaviorist at the Shore Center to address specific behaviors they had observed in M.P. in the classroom such as "whining, swiping, dropping, grabbing, elopement, long latency, and self-injurious behaviors" in the classroom setting. (Id. at 61:1-12; R-11 at FRHS BM-091-094.) B.M.'s parents signed off on the behavioral plan and goals and did not ask for any behavioral support for B.M. in the home at that time. (Feb. 25, 2020, Tr. at 62:1-63:9.)

B.M.'s annual goal progress report from the Shore Center (R-11) showed that, for the 2017/18 school year, he was "continuing to make some progress." (Feb. 25, 2020, Tr. at 65:9-11.) While he had not met all his goals yet, he was "moving in the direction towards meeting most of the goals." (Id. at 65:9-11.) The report indicated that B.M. was making "some progress" or had achieved each of the enumerated goals with the exception of "alternative method of speaking" and "reading maps." (Id. at 68:1-71:1.) B.M.'s teachers commented that he "has shown tremendous progress throughout the school year" and "pushed past his limits and exceeded goals in several areas." (R-16 at FRHS-BM-241.) Evarista concluded that B.M.:

[M]ade a very good transition from [Woods], which was a residential program, to the Shore Center in the school setting. He adapted very well to the change of school, placement, people, environment, and he continued to progress. He started to use more communication skills. He was able to follow directives more. He was very interactive within the school environment. They had seen a decrease in some of the behaviors that had been noted in the previous years. So he had made very good progress, and considering he transitioned to a brand new school, under those circumstances he had done very well.

[Feb. 25, 2020, Tr. at 71:9-20.]

Evarista also addressed B.M.'s attendance record at the Shore Center. (R-10.) B.M.'s attendance records show that for the months of September and October 2017, B.M. was present each day of school. (Id. at FRHS-BM-056-057.) For the months of November and December 2017, B.M. missed four of the eighteen school days in November and four of the twelve school days in December. (Id. at FRHS-BM-058-059.) For January 2018, B.M. missed one out of nineteen school days (Id. at FRHS-BM-060) and missed one out of eighteen school days in February 2018. (Id. at FRHS-BM-061.) For March 2018, B.M. missed four out of eighteen school days (Id. at FRHS-BM-062) and four out of eighteen school days in April 2018. (Id. at FRHS-BM-063.) In May 2018, B.M. missed eleven out of twenty-two school days (Id. at FRHS-BM-064) and four out of fifteen school days in June 2018. (Id. at FRHS-BM-065.)

Evarista noted that B.M.'s parents were having difficulties in the home, which also resulted in a number of times where B.M. would be late to school. (Feb. 25, 2020, Tr. at 76:9-16.) B.M.'s parents were attempting to get him to school, and they would drive him when he was not able to get on the bus in a timely fashion. While he was attending school on those days, he was coming in late, and the school would accept him. (See R-10 at FRHS-BM-065 (noting 40 "total tardies" for the 2017/18 school year). During the 2017/18 school year, the Shore Center never reached out to Evarista as B.M.'s case manager to ask to convene an IEP team meeting to address B.M.'s attendance issues. (Feb. 25, 2020, Tr. at 77:1-5.) Evarista's communications with the Shore Center, as well as the New Jersey Department of Children and Families (DCF) Care Management Organization

(CMO) worker¹ who was working with B.M. and B.M.'s family, indicated that there were difficulties in the home and CMO was working with the family to try and address those behaviors in the home. (Id. at 77:10-21.) Evarista never saw any attendance information which gave her concerns during the 2017/18 school year and B.M.'s parents never reached out to Evarista, as B.M.'s case manager, to convene an IEP meeting to address B.M.'s attendance issues during the 2017/18 school year. (Id. at 77:6-25.) B.M.'s parents did reach out to Evarista during the 2017/18 school year to ask for an after-school program for B.M., which Evarista did "attempt to look for." (Id. at 78:1-12.) Evarista understood that B.M.'s mother may have been going back to work, and they were looking for an extended school day and a program to extend his day to a later period of time, but they did not seek support for any reported problems in the morning getting B.M. to school. (Id. at 78:1-19.) While there were suggestions made at IEP meetings by the behaviorist on things the parents could do in the home, there was never a request by B.M.'s parents for a behavioral plan to be implemented in their home. (Id. at 79:3-13.) Evarista tried to address the requests of B.M.'s parents for an after-school program "informally, outside of the IEP" but it was not something that was ever part of B.M.'s IEP. (Sept. 21, 2020, Tr. at 41:7-16.)

The Shore Center did not have an after-school program, so Evarista tried reaching out to other programs, but "most schools that had after-school programs" only accept "students that attended their day program." (Id. at 42:2-13.) One of the few programs that accepted outside students was the New Horizons program. (Id. at 42:9-13.) New Horizons had previously worked with B.M. during the 2013/14 school year, prior to his residential placement, and they wanted to observe B.M. in his current school setting prior to deciding if he was appropriate for their after-school program. (Id. at 43:3-10.) After observing B.M. at the Shore Center, they concluded that he had made "tremendous progress" from what they had seen, but they were "short staffed" and put B.M. on their wait list. (Id. at 44:11-20.)

¹ Evarista described CMO as a "care manager who works with the families to provide services for the family and address needs that the family has." (Feb. 25, 2020, Tr. at 79:14-21.) These services were being funded by the State, outside of the services provided by the school district and outside the services outlined in B.M.'s IEP. (Id. at 80:2-10.)

Prior to the 2017/18 school year, CMO was working with B.M.'s family to "try to get [B.M.] in a group home residential placement" but they were not able to find a placement that B.M.'s family would agree to. (Id. at 80:11–22.) CMO often works in conjunction with the school "because we're a team together." (Id. at 88:8.) The school focuses resources on the "school issues of the school" and CMO works "on the family with issues in the home" although the two can, sometimes, overlap. (Id. at 88:7-12.) CMO was participating in meetings on B.M. when he was placed at Woods. (Id. at 89:2-5.) Evarista also had communications with CMO regarding possible services for B.M. and his family. (See, e.g., R-7.) CMO was directing B.M.'s parents to different agencies and services provided through the state that they could access to bring "home care into the home either in the morning or after school hours, respite care, daily living assistance care" but Evarista did not believe they were able to get "the family to follow through with it." (Feb. 25, 2020, Tr. at 81:1-9.) Evarista testified that "[t]he CMO worker was very frustrated that she was providing information and resources to the family, but the family wasn't accessing them." (Id. at 86:7-13.)

B.M.'s next annual review was conducted at the end of B.M.'s twelfth grade year at the Shore Center. (R-12.) B.M.'s mother participated in this review, dated June 6, 2018. (Id. at FRHS-BM-117.) B.M.'s mother's input to the IEP review was documented as: [B.M.] has made good progress in his current program. Mrs. [S.] has indicated that [B.M.] is doing very well in school and she would like to see him hold onto what he has gained and not regress." (Ibid.) While the school representative raised the issue of B.M.'s school attendance at the meeting, and they discussed "the issues they were having in the home and the problems they were having getting [B.M.] ready for school in the morning," no in-home services were suggested to address the issue because "we felt as if he was being very successful when he came to school." (Feb. 25, 2020, Tr. at 96:1-24.) Evarista added that the teachers had indicated that CMO attempted to put services into the home, but there "was some resistance to that." (Id. at 96:24-97:1.) Evarista believed that B.M. was "making enough progress on the days he was in school" and was "doing very well, and the teachers were very happy with that progress." (Id. at 97:2-4.)

Evarista explained that it was not her responsibility, as B.M.'s case manager, to address the attendance and tardy issues B.M. was experiencing because it was not impacting his ability to function in the school, and B.M. was making progress in his education. (Id. at 97:5-11.) "On the days he was there he was showing us a lot of growth." (Id. at 97:10-11.) CMO had attended previous meetings of services being offered, and they had discussed trying to find "an aide or someone that could come into the home" to help address B.M.'s attendance, but "it was sort of an off the cuff discussion" and not "directly part of his educational program." (Id. at 97:15-24.) Evarista explained that B.M.'s IEP did not contain provisions for in-home support to get B.M. to school in the morning because:

I think it was trying to be addressed through the CMO worker, and I think the school felt that when he was in school he was making the progress and he was being effective. At that point, we were trying to address the progress and the school.

[Id. at 98:2-6.]

B.M.'s annual review noted that he was making progress in multiple areas, "despite the fact that these tardies were increasing." (Id. at 98:19-20. See also R-12 at FRHS-BM-117-121.) The behaviors targeted in this IEP focused on behaviors in school, and there was no request during the IEP team meeting to address any behaviors in the home through B.M.'s behavioral program. (Feb. 25, 2020, Tr. at 100:2-14.) B.M.'s mother signed off on the proposed behavioral program. (R-12 at FRHS-BM-127.)

B.M.'s attendance for the 2018/19 school year showed a "similar pattern in the beginning" to his attendance during the 2017/18 school year. (Feb. 25, 2020, Tr. at 101:17-23.) Evarista summarized that "[t]here was some difficulty with tardies coming in and the family was driving him, but once I guess around December, January, it significantly changed." (Id. at 101:23-102:1.) Around that time, Evarista was notified by B.M.'s CMO that he had been approved for an out-of-home placement, which they anticipated to start in January. (Id. at 102:14-21.) The anticipation was that, within a few weeks, B.M. was going to be moving to a group home and would be seeking a new school placement. (Id. at 102:21-24.) At that time, they expected to have another IEP meeting to address a new placement for B.M. (Id. at 102:24-103:1.) Despite their expectation

that B.M. was going to be moving into a group home, CMO informed Evarista that B.M.'s anticipated move was being delayed due to lack of openings in the group home. (Id. at 103:2-19.) Evarista believed that "they were waiting for some other client in the group home to move and be transitioned out so there would be an available spot for [B.M.]." (Id. at 103:12-19.) CMO was hoping that a bed would open soon, so they continued looking each month, and they anticipated B.M. would move very soon. (Id. at 104:18-24.) Evarista received written notice from CMO that B.M. would be moving into a group home in April 2019. (Id. at 105:2-4. See R-9.)

Evarista had been expecting that B.M. would be moving into a group home since January 2019 and was in regular contact with B.M.'s CMO worker anticipating B.M.'s imminent move. (Feb. 25, 2020, Tr. at 106:8-12.) Since Evarista knew the location of the proposed group home, she began looking for appropriate educational placements for B.M. in the new location to begin the process of transitioning B.M. from one school to the other. (Id. at 106:8-19.) Evarista had observed a program at Burlington County Special Services (BCSS) in December 2018, and invited B.M.'s parents to come and tour their program to start the process of transitioning B.M. (Id. at 106:15-107:6.) B.M.'s parents did not accept Evarista's invitation, saying that they wanted B.M. to attend the Bancroft School. (Id. at 107:7-14.) B.M. is currently attending school at BCSS. (Id. at 107:21-23. See also R-6.)

Home programs are usually considered for students when they are "physically not able to attend" school. (Feb. 25, 2020, Tr. at 110:10-13.) Evarista was not aware of any period where B.M. was not physically able to attend school or leave his home. (Id. at 110:20-111:3.) B.M.'s progress reports from the Shore Center for the 2018/19 school year (R-17) indicate that "some minimal progress has been made with a few areas where he did advise some progress has been made." (Feb. 25, 2020, Tr. at 112:10-12.) B.M.'s attendance records from the 2018/19 school year indicated that B.M. had 86 absences and 38 tardies for the year. (R-10. Feb. 25, 2020, Tr. at 112:13-22.) Despite B.M.'s attendance record, Evarista believed B.M.'s IEP was appropriate, noting:

He was making progress when he was in school, and I don't think that would have changed anything in the IEP as far as

his goals and objectives, program, or placement. I think the issue was that the family was struggling trying to get him to come to school, and that was attempted to be addressed through the CMO, but all of the indications by the teachers and the service providers, that when he was in school he was making progress.

[Id. at 113:1-9.]

On April 18, 2019, another IEP meeting was convened because Evarista had been notified that there was a definitive date that B.M. was going to be placed in a group home in Voorhees, New Jersey, and they needed to establish a school placement and transportation services for B.M. (Id. at 114:6-11.) FRHSD's director of student services received a written notice from B.M.'s CMO that B.M. would be placed in a group home in Voorhees, New Jersey with an anticipated placement date of April 25, 2019. (R-9.) B.M.'s IEP was revised due to this anticipated move to a group home—identifying BCSS as the recommended location where B.M.'s education was going to be provided after his move. (R-13.) Evarista believed that the program at BCSS could meet B.M.'s needs, was identical to the program B.M. was currently in at the Shore Center, and was also the least restrictive setting for B.M. (Feb. 25, 2020, Tr. at 118:11-17.) B.M. could not continue at the Shore Center following his move because “you would not really want a student with this severity of development on a bus for over an hour, transporting back and forth” and they needed a program geographically closer to B.M.'s group home. (Id. at 122:3-11.) B.M.'s mother did not participate in the April 18, 2019, IEP meeting. (Id. at 119:14-120:1.) B.M.'s father participated in the meeting by phone but objected to having the meeting. (Id. at 119:16-24.) B.S.' parents sought a “stay put” at the Shore Center pending “the outcome of litigation.” (R-13 at FRHS-BM-147.)

FRHSD had already arranged for transportation for B.M. to remain enrolled at the Shore Center following his anticipated move to a group home, but the first week B.M. was supposed to be placed at the new group home was Spring Break. (Feb. 25, 2020, Tr. at 120:16-22.) The transportation was scheduled to begin the Monday following spring break. (Id. at 120:22-23.) After spring break, however, FRHSD learned that B.M. had not actually been placed at the proposed group home. (Id. at 120:23-25.) FRHSD then had to “scramble” to cancel the transportation from the group home and restore transportation

for B.M. from his family's home to continue his attendance to the Shore Center for the remainder of the school year. (Id. at 121:1-6.) A revised IEP dated June 5, 2019, (R-14) was compiled because B.M. was not moved to the proposed group home in Voorhees, New Jersey, and he was expected to be continuing his education at the Shore Center. (Feb. 25, 2020, Tr. at 124:1-8.) Because moving B.M. to a group home remained a possibility, the June 5, 2019, IEP left open the possibility that the child study team would seek to obtain an appropriate public school placement within the proximity of B.M.'s new group home should he be returned to a group home. (R-14 at FRHS-BM-185.)

Although they were invited to this IEP meeting, neither of B.M.'s parents attended the meeting. (Id. at 126:10-127:16.) Evarista believed B.M.'s parents were, at that time, "happy with the placement and the program and the progress that he had been making throughout the year. They didn't indicate that they were unhappy with the school or the teacher or the placement." (Id. at 126:6-9.)

This IEP noted the trouble created by B.M.'s poor attendance record. B.M.'s English teacher noted that, while B.M. has made "incredible progress" since attending the Shore Center, "much progress has been stalled" due to B.M.'s "frequent, consistent absences". (R-14 at FRHS-BM-185.) The IEP team discussed that there was not continuity and reinforcement of B.M.'s skills due to his frequent absences because B.M. was not having the opportunity to "use those skills." (Feb. 25, 2020, Tr. at 128:24-129:4.) Despite this, no changes to B.M.'s current program or behavioral or therapeutic supports were recommended because B.M. was "making progress when he was attending." (Id. at 129:17-19.) Evarista believed that B.M.'s problems "really came down to what was happening in the residential placement, residential home trying to get him to come to school." (Id. at 129:19-21.)

B.M. began living in a group home sometime in the summer of 2019 before the start of the 2019/20 school year. (Id. at 132:4-12.) B.M. was moved to a group home in Voorhees, New Jersey and, while he may have been moved between Bancroft-operated group homes in that area since, he has remained in that area since the summer of 2019. (Id. at 132:8-21.) A new IEP was compiled (R-15) on October 7, 2019, as a thirty-day

placement review for B.M.'s new placement at BCSS. B.M. began attending school at BCSS at the beginning of the 2019/20 school year. (Feb. 25, 2020, Tr. at 133:7-11.) B.M.'s father participated in the October 7, 2019, IEP meeting (R-15 at FRHS-BM-219) by phone. (Feb. 25, 2020, Tr. at 134:6-23.) This plan anticipated B.M. transitioning into an adult day program to "improve his independent living, self-help skills and vocational skills" after B.M. "aged out" and graduated in June 2020. (Id. at 142:9-17.) When this IEP meeting was held in October 2019, B.M. had attended BCSS every day with no absences so far. (Id. at 143:12-21.) Evarista believed that B.M. had a "very smooth transition and he was functioning very well, getting up, coming to school and being at school on time" since moving to the group home. (Id. at 144:1-3.)

B.M.'s report card from BCSS (R-18) noted that B.M. had eight absences and zero tardies for the first two marking periods of the year (through January/February 2020). (Feb. 25, 2020, Tr. at 145:7-146:3.) B.M.'s October 19, 2019, and February 5, 2020, progress reports from BCSS (R-18 at FRHS-BM-253-54) indicate B.M.'s progress in multiple areas consistent with his abilities. (Feb. 25, 2020, Tr. at 146:4-148:25.) Evarista testified that this showed B.M. was "building on the skills that [B.M.] had at the Shore Center" and showed progress beyond what was achieved in the prior school year. (Id. at 149:1-19.)

B.M.'s parents commissioned an independent behavioral evaluation that was conducted in February 2017. (P-7.) That evaluation noted that B.M. had been residing at Woods Services since June 2014, and this evaluation was in anticipation of B.M. moving back home with his parents. (Id.) This evaluator noted that B.M. had made "substantial behavioral progress since his admission to Woods" and recommended that "staffing should be provided for the daily transition from the residence to the school to ensure success." (Id. at FRE-BM-1541.) At the time B.M. left Woods and began to attend the Shore Center, Evarista noted that "at that point, we weren't even sure if he was going to go home or in a group home... [t]here was discussion that they were looking, the family was looking at group homes. So it wasn't even defined yet what the resident situation would be." (Feb. 25, 2020, Tr. at 159:20-24.)

CMO had recommended a group home placement for B.M., but his parents wanted B.M. close to home for both his day placement and possible future residential placement. (Id. at 162:17-163:4.) At that time, however, there was no definite answer as to what B.M.'s residential placement going forward would be, so FRHSD was looking at a variety of possible placements for B.M. that would be appropriate to his needs. (Id. at 163:10-164:18.) At that time, Evarista's "biggest concern" was focusing on B.M.'s educational needs and finding a place that would be close to wherever he was residing because "things were still up in the air a bit" and there was still consideration about B.M. going back into another residential placement. (Id. at 166:1-11.) On August 17, 2017, FRHSD sent B.M.'s parents a notice amending B.M.'s IEP to reflect his move from Woods and recommending his attendance at the Shore Center. (P-10.) Evarista did not believe that B.M.'s parents objected to this change, and B.M. was enrolled at the Shore Center about two weeks after this notice was sent. (Feb. 25, 2020, Tr. at 173:1-9.)

B.M.'s first thirty-day placement review after he started at the Shore Center was done on October 18, 2017. (R-11.) This provided for six and a half hours of daily education at the Shore Center, working on B.M.'s education and skill development. (Feb. 25, 2020, Tr. at 174:4-179:9.) The IEP also called for an extended school year at the Shore Center, which ran from June 26, 2018, to August 8, 2018, continuing B.M.'s education four days a week through that extended period. (Id. at 182:3-25.) The school year was extended because B.M. needed the continuation of the skills he was learning to maintain his progress. (Id. at 184:1-6.)

B.M. was also provided with "special transportation" services, giving him a route to and from school designed just for him, although he may be paired with another student on that route, but he was being transported with a one-on-one aide. (Id. at 185:8-186:13.) The aide was provided because B.M. had "issues in the past of concern of elopement² or, you know, becoming explosive or hitting." (Id. at 186:19-23.) B.M.'s parents had expressed concerns about B.M. acting impulsively and running out into the street without

² Elopement is "an act or instance of leaving a safe area or safe premises, done by a person with a mental disorder or cognitive impairment." Dictionary.com, Elopement, available at www.dictionary.com/elopement (last visited October 3, 2021).

thinking, and they lived on a “very busy street with a lot of traffic.” (Id. at 187:5-12.) The aide was there to assist B.M. during transportation to “supervise and make sure [B.M.] didn’t put himself in that position” where he would endanger himself. (Id. at 187:13-20.) B.M.’s records indicate that he had attendance issues at a previous school he attended before going to live at Woods, but Evarista “wasn’t part of that” as it occurred prior to her involvement with B.M. (Id. at 188:9-189:21.)

When Evarista was first involved with B.M., around 2013 (Id. at 194:8-25), he had been discharged from a prior school due to discipline problems and was receiving education and services in the home. (Id. at 190:1-17.) B.M. did not have a placement at that time, and services were provided in the home at that time because B.M.’s behavior and functioning level at that time was not “functioning well enough to even avail himself” of the services they were providing, and he had no current school placement. (Id. at 191:8-17.) A behaviorist was working with B.M. at home to try to get him “functional so that he could return to a school placement.” (Id. at 193:4-9.) B.M.’s parents were having difficulty with B.M. during this time that “would have made it really prohibitive for him to go into the community” including difficulty getting him to keep his clothes on and toileting. (Id. at 200:2-13.) B.M. was eventually hospitalized and, upon his release from the hospital, it was recommended that B.M. move to a residential program. (Id. at 200:14-25.) At that point, Evarista believes, B.M.’s CMO got involved in his case and placed B.M. at Woods. (Id. at 201:2-6.)

Once B.M. was at Woods, FRHSD provided him with educational services on the grounds at Woods. (Id. at 201:13-17.) That started some time in 2014. (Id. at 202:2-16.) B.M. left Woods in August 2017 and began school at the Shore Center shortly thereafter. (Id. at 207:2-14.) Evarista went to B.M.’s home sometime in the fall of 2013 to talk to his parents about signing up with a CMO, but B.M.’s mother became upset and asked her husband to ask her to leave. (Id. at 215:15-21.) That was the last time Evarista was in B.M.’s home. (Id.) While at the Shore Center, B.M. also received services for an extended school year (ESY)—giving him additional months of educational classes from June through August. During the 2019 ESY period, B.M. failed to attend any of the 27 days offered during that time because his “parents didn’t bring him to school.” (Id. at

225:8-21. See also R-10 at FRHS-BM-056.) B.M. also failed to attend on 6 of the 29 days offered during the 2018 ESY period. (Id. at FRHS-BM-066; Feb. 25, 2020, Tr. at 226:20-227:3.)

B.M.'s father contacted the director at FRHSD in September 2017 asking for assistance in finding an after-school program for B.M. (P-12.) This email explained that they were seeking an after-school program to accommodate B.M. until 5:30 p.m. each day since B.M.'s mother works in New York "and is never back before 6:30 p.m. and sometimes is required to be at her job until 7:30 or 8:00 p.m." and B.M.'s father also works and is not always able to be home when B.M. gets home from school at 3:15 p.m. each day. (Id.) In response to this request, FRHSD contacted New Horizons to request a placement for B.M. in their after-school program. (Feb. 25, 2020, Tr. at 231:1-12.) New Horizons came to observe B.M. at the Shore Center to determine his level of functioning in November 2017, but New Horizons did not have available space at that time and placed B.M. on their waiting list. (Id. at 231:14-24.)

Evarista was in contact with B.M.'s CMO worker during this time. (See, e.g., R-7.) Evarista explained that the CMO worker participated in B.M.'s IEP meetings and was offering additional services to B.M.'s parents in the home to address some of the needs such as B.M.'s attendance and tardiness at school. (Feb. 25, 2020, Tr. at 233:8-19.) In February 2018, Evarista learned the CMO worker had recommended a number of programs to B.M.'s family, including the Medicaid Personal Care Assistant program which could offer B.M.'s family "nursing/daily living skill type service" to assist with B.M. "before and after school." (R-7.) They also recommended the Managed Long Term Support Services program which would offer "in-home physical supports to [B.M.'s] family in terms of daily living skills" and respite services³ through PerformCare⁴ for additional in-home assistance. (Id.)

³ Respite care are services to give "a short-term or periodic break to family (or other caregivers) from the demands of daily care of functionally impaired persons" to "relieve caregivers of stress from providing daily care." State of New Jersey Department of Human Services, Statewide Respite Care Program, available at <https://www.state.nj.us/humanservices/doas/services/srcp/> (last visited October 5, 2021).

⁴ PerformCare is the contracted system administrator for the New Jersey Department of Children and Families, Children's System of Care (CSOC). See PerformCare, PerformCare-New Jersey Children's System of Care, available at <http://www.performcarenj.org> (last visited October 12, 2021).

The CMO worker became involved with B.M. when he was first placed at Woods. At some point, CMO closed their case with B.M., but they became re-engaged with B.M. and his family after B.M. moved back home, as B.M.'s family was seeking another residential placement for B.M. (Id. at 234:18-235:18.) B.M. was placed at the Shore Center in 2017, but FRHSD was anticipating that B.M. was going to be moved into a group home through CMO by 2018. (Mar. 2, 2020, Tr. at 6:8-7:7.) By 2018, B.M. "had a [school] placement already in place and he was being successful at it" so they were "waiting at that point for the group home placement" so they could set up a "new school placement closer to where the group home would be." (Id. at 7:17-22.)

In December 2018, B.M. had missed almost the entire month of school, but Evarista did not "know why [B.M.'s parents] made the choice not to drive him in anymore late" to the Shore Center, but she "assume[d] that, you know, they knew this was a pending change in placement" since B.M. was expected to move to a group home shortly. (Id. at 9:5-19.) During this time, Evarista "kept reaching out to the CMO expecting [B.M.'s move] was going to happen soon because he kept telling me, yes, we're working on it, should come, it's coming, so I anticipated it would be relatively soon." (Id. at 10:10-13.) Evarista did not set up a new IEP meeting at the end of 2018/beginning of 2019 because she was looking for a new placement for B.M. anticipating his imminent move to a group home. (Id. at 10:14-17.) In January 2019, Evarista learned from B.M.'s CMO worker that "there was some kind of a problem or available space" that was delaying B.M.'s move to a group home. (Id. at 13:21-14:3.) At that time, CMO was still "waiting for available room" to place B.M. in a group home. (Id. at 14:15.) Evarista received a letter from B.M.'s CMO worker in April 2019 (R-9) informing her that B.M. was going to be placed at the Bancroft Hardwick Group Home with an anticipated start date of April 25, 2019. (Mar. 2, 2021, Tr. at 18:21-19:21.)

At the IEP meeting prior to spring break 2019, Evarista already had lined up a placement for B.M. with BCSS and had arranged for transportation for B.M. following his placement at the group home in Voorhees, New Jersey. (Id. at 20:7-12.) When she came back to work after spring break at the end of April 2019, she learned that B.M.'s move to the group home had not occurred. (Id. at 20:23-25.) This meant that Evarista had to

“scramble to cancel his transportation and restart [B.M.’s] transportation for the Shore Center.” (Id. at 21:12-14.) Evarista believed that B.M. was eventually moved to the group home in July 2019, and started attending BCSS “right after Labor Day 2019.” (Id. at 23:1-17.) Because B.M. started in the group home at the “middle or end of July” and BCSS was running their ESY program for a few more weeks, they did not want to introduce B.M. as a new student until after the ESY program was complete. (Id. at 23:19-24:13.)

Evarista first offered the placement at BCSS to B.M.’s family in January 2019. (Id. at 26:3-6.) While B.M.’s family wanted him placed at the Bancroft School, BCSS was the public school in the area that “could meet his needs and had a very appropriate program for his needs” in the least restrictive environment that was equivalent to the Shore Center’s program. (Id. at 26:9-21.) B.M.’s proposed IEP from April 18, 2019, was written anticipating B.M.’s attendance at BCSS. (R-13.) B.M.’s parents agreed to go on an intake appointment at BCSS in June 2019. (Id. at 35:22-36:7.) Evarista accompanied B.M.’s parents to this meeting and they toured the facility and met with the school’s staff. (Id. at 36:8-10.) They were meeting with BCSS in anticipation of B.M.’s move to the group home so they could “have everything lined up so that as soon as the placement occurred, we would be able to move forward with the school.” (Id. at 36:16-20.) B.M.’s annual review on June 5, 2019, continued to recommend B.M.’s attendance at the Shore Center (R-14) because B.M. had not yet been moved to the group home in Voorhees, New Jersey. (Mar. 2, 2020, Tr. at 39:3-18.) Because B.M. had not moved in April 2019, as was previously anticipated, Evarista had to “project that he’s going to stay unless I’m told otherwise” at that time. (Id. at 39:14-18.) B.M. remained at the Shore Center at this time because “he was being very successful at the placement” so they had “no reason not to continue [B.M.’s] placement” there. (Id. at 40:16-22.)

B.M.’s revised IEP on October 7, 2019, (R-15) placed B.M. at BCSS. B.M.’s parents did not seek to remove B.M. from BCSS or object to this IEP. (Mar. 2, 2020, Tr. at 42:1-11.) B.M.’s attendance at BCSS at this point had been very good. (Id. at 42:12-15.)

B.M.'s attendance issues at the Shore Center were raised in his June 6, 2018, IEP meeting, and the Shore Center staff discussed various options and strategies B.M.'s parents could utilize in the home to help get B.M. to school, no in-home services were offered by FRHSD at that time. FRHSD had a full-time Board Certified Behavioral Analyst (BCBA) on staff, but the Shore Center also had a BCBA who was working with B.M. in school. (Id. at 46:4-5.) They offered to help B.M.'s parents with parenting classes and parenting services offered during the school day. (Id. at 46:8-11.) FRHSD generally provides a student's educational program and services that the student's parents can access through the school program. (Id. at 47:4-6.) Evarista noted that "there's usually a separation between the school placement and the home." (Id. at 47:10-11.) There was already a BCBA working with B.M.'s parents through the Shore Center and they could have accessed them to "develop strategies" to assist B.M. with his school attendance. (Id. at 47:21-23.) B.M.'s family also had a CMO worker who was "trying to work with the family" to provide additional in-home services. (Id. at 47:23-25.) "Everyone was aware that the family was struggling with him coming to school on time and getting him ready and getting him access on the bus." (Id. at 48:5-8.) B.M. was absent from or tardy to school nearly every day for the month of February 2019. (R-10 at FRHS-BM-071 (showing B.M. present for five out of eighteen possible days and tardy for five days in February 2019).) B.M. was also absent or tardy most of the school days in March 2019. (Id. at FRHS-BM-072 (showing B.M. present for eight of twenty-one possible school days with seven tardies for March 2019).) B.M.'s attendance was similar for April 2019. (Id. at FRHS-BM-073 (showing B.M. present for two of fourteen possible school days with two tardies for April 2019) See also Id. at FRHS-BM-075 (showing B.M. present for two of twenty-two possible school days with two tardies for May 2019).)

B.M.'s June 2018 IEP meeting was held to align with B.M.'s anticipated move to a group home placement and to develop a new IEP to accommodate that placement. (Mar. 2, 2021, Tr. at 56:24-57:12.) There was no attendance from a representative of the Shore Center because it was anticipated that B.M. was going to begin attending BCSS following his placement in the group home, however, B.M. had not been placed in the group home at that time yet. (Id. at 57:14-13.) There was no discussion at that IEP meeting about B.M.'s BCSS attendance issues at the Shore Center because "the purpose of the meeting

[was] primarily to establish his placement with BCSS which we were anticipating happening the following week.” (Id. at 58:22-25.)

B.M.’s June 2019 IEP meeting was held at the Shore Center with the Shore Center’s staff in attendance. (Id. at 59:10-19.) B.M.’s attendance was discussed at this meeting, but they were still anticipating B.M.’s placement in a group home. (Id. at 59:20-25.) During this period, B.M.’s CMO was recommending a group home placement, but B.M.’s family was not “really sure if they were either – they were going to – it didn’t sound to me like they did agree to definitely that, it was something that was offered and open, but wasn’t definitely agreed to.” (Id. at 61:13-17.) FRHSD was trying to figure out “where would his placement actually be located in the State” because they “didn’t know if he was going to be home technically at that time when they were talking about transitioning or if he would be in a group home.” (Id. at 61:17-22.) While FRHSD did not take a position “one way or another” regarding B.M.’s placement in a group home because that is a decision that is generally made “between PerformCare and the CMO and the family,” there were concerns reflected in CMO’s recommendation for a group home placement that B.M. would exhibit “behaviors in the home that the parents would have difficulty handling.” (Id. at 62:2-63:5.) B.M. was exhibiting “noncompliant behaviors” after he came home from Woods that CMO was trying to address through a group home placement. (Id. at 63:7-13.) Evarista believed, however, that B.M.’s parents “really wanted him home” and weren’t “comfortable” with a group home placement at that time. (Id. at 64:10-19.)

After B.M. did not move to a group home as anticipated in April 2019, he was re-enrolled at the Shore Center and FRHSD “re-changed” his transportation to accommodate his continued attendance at the Shore Center. (Id. at 67:1-12.) While B.M.’s attendance was poor for the months of April, May, and June 2019, B.M.’s family and his CMO were still discussing placement in a group home at that time. (Id. at 68:12-24.) Because placement in a group home was still “the plan,” FRHSD started actively looking again for a placement for B.M. in June 2019, and B.M.’s parents agreed to look at BCSS after FRHSD set up an intake appointment for them. (Id. at 69:1-6.)

For students that Evarista manages who are placed at schools within the FRHSD district, their attendance is generally monitored by the school administration who would notify Evarista if they note excessive absences and request a meeting to discuss the issue with the parent(s). (Id. at 84:16-21.) They might also make recommendations to address the underlying issues leading to the poor attendance or encourage the family to reach out for other resources, such as PerformCare, to bring services into the home. (Id. at 84:21-85:5.) In the most extreme cases, FRHSD has taken families to Court to have them fined for attendance because “the issue of attending school is a parental responsibility” (Id. at 85:7-10), but that would be an extreme example because “they usually try to establish a rapport with the family and then offer services in the community through PerformCare to address whatever the issue is.” (Id. at 85:12-15.)

In B.M.’s case, however, the family was already engaged with CMO to get B.M. placed in a residential placement which would have stabilized his attendance because, when he was placed residentially, his attendance at school was “very good.” (Id. at 86:14-21.) Everyone involved, at that point, was working towards that goal, but that goal “got stretched out for a long period of time.” (Id. at 86:18-21.) B.M.’s school attendance while he was residing at Woods was very good, as was his attendance for this year at BCSS. (Id. at 87:4-11.) Evarista believed that when B.M. is in the group home, they are able to “set up a routine or a pattern and so [B.M.] is able to get up and get to the bus on time” which may explain his improved attendance. (Id. at 94:4-10.)

During the time B.M. was at the Shore Center, FRHSD was already working with the agencies to provide services in the home and trying to work with B.M.’s family to address his attendance issues. (Id. at 87:25-88:2.) Because they were already engaged in trying to work this issue with B.M.’s family and CMO, FRHSD did not take additional legal actions during this period to try to enforce B.M.’s attendance at the Shore Center. (Id. at 88:3-8.) The Shore Center never recommended a functional behavioral assessment (FBA) because of B.M.’s absences. (Id. at 95:20-96:2.) B.M.’s 2017/18 IEP (R-11) called for him to be provided with special transportation busing with an individual attendant. This provided B.M. with an aide on the bus specifically for him. (Id. at 97:1-2.) This aide was also provided for the 2018/19 school year. (Id. at 97:6-8.) The aide,

however, takes responsibility for the child once they reach the bus—they do not go into the home to get the child. (Id. at 97:15-22.) The aide waits on the bus and the parent generally escorts the child to the bus door and, at that point, the aide would greet them and bring them on the bus. (Id. at 98:4-8.)

Home school programs are considered more restrictive than in-school programs. (Id. at 99:1-3.) A home school program may be appropriate where a student is terminated from a placement and the district lacks a replacement placement. (Id. at 99:7-10.) The district may also set up home instruction where a child has a medical condition that makes them physically unable to attend school. (Id. at 99:10-16.) When B.M. was attending the Shore Center, he did not need a home-schooling program because “when he was present and coming to school, he was meeting with success” and he was making progress towards his goals and objectives. (Id. at 116:2-7.) While there were days that he did not attend the Shore Center, they were working with PerformCare to stabilize B.M.’s home situation through a residential placement. (Id. at 116:12-21.) Placing B.M. in an in-home program would have been “a step backwards” because it would have pulled him out of a program that “he had a history of success in.” (Id. at 117:1-3.)

B.M.’s last IEP in February 2017, before he began attending the Shore Center, called for “staffing” to provide for his “daily transition from the residence to the school.” (R-17 (IEP, February 13, 2017).) When he started at Shore Center seven months later, in September 2017, staff at Shore Center did not express any concerns or need for additional staffing to help B.M. with his daily transition from home to school. (Mar. 2, 2021, Tr. at 118:2-12.) During his first few months at the Shore Center, B.M.’s attendance was “very good,” he made “a nice transition” and his family was still involved with PerformCare who was working with the family to provide support in the home. (Id. at 118:13-25.)

PerformCare was having “all kinds of discussions” and providing B.M.’s family with suggestions on how they could access more services in the home, but Evarista learned through her discussions with PerformCare that “there was some frustration” trying to get B.M.’s family to agree to things. (Id. at 119:1-23.) FRHSD had provided home instruction

to B.M. during the 2012/2013 school year, but that situation was “dramatically” different from B.M.’s situation in 2017. (Id. at 127:8-20.) In 2012/13, B.M. no longer had a current school placement, was in a “decompensated psychological state,” and was not functioning to the point where he “wasn’t really capable of even leaving the home” so FRHSD brought services into the home at that time. (Id. at 127:23-128:3.) In 2017, when B.M. was being discharged from Woods, he “had stabilized a lot of the behaviors, he was functioning, getting dressed every day, going to programs” and was “a totally different student, functionally.” (Id. at 128:6-9.)

B.M. moved into the Bancroft group home in July 2019, and he started attending BCSS in August 2019. (Id. at 130:1-14.) If he had been placed at the group home earlier, coinciding with the beginning of BCSS’ ESY program, they would have been comfortable accepting B.M. earlier, but since he moved to the group home with only a week left to BCSS’ ESY program, they started him in September. (Id. at 130:15-131:4.) Evarista believed that B.M. has received an appropriate placement at BCSS since he moved to the group home in July 2019. (Id. at 131:5-9.)

In May 2019, B.M. was enrolled at the Shore Center, and when B.M.’s parents were having problems “struggling with him in the home in the morning” they would drive him in tardy, but they were “still getting him in.” (Id. at 144:5-8.) At some point, B.M.’s parents stopped bringing him in late to school but, at that point, FRHSD was “waiting for the group home placement” to address the attendance issue. (Id. at 143:17-19.) Evarista summarized:

[B.M.] started his transition to the Shore Center [which was] very good and the teachers had very positive reports. When he was there, he was being very effective and he was meeting his goals and he was achieving things, it’s just that as the deterioration of the home environment, the behavior in the home making it difficult for him to attend school became a problem, and that’s where the Monmouth Cares was working with the family to try to address that.

[Id. at 148:16-24.]

While B.M.'s family did not specifically request assistance from FRHSD in the home to get B.M. to school, they were working with B.M.'s CMO at that point to address problems in the home. (Id. at 155:8-20.)

[That B.M. was having attendance issues] wasn't a secret, I think everyone realized they were struggling at home – over time it became a struggle. He started out it seems like beginning of the 2017 school year when he was first placed there, he was – things were very stable and he was coming to school on a regular basis, and if you look over time, the attendance started to deteriorate and the parents were driving him to school more regularly because he was missing the bus and they weren't able to get him prepared and on the bus in the morning.

[Id. at 155:23-156:8.]

Lisa Jordan, Principal, the Shore Center

Lisa Jordan has been the Principal at the Shore Center for the past two years. (March 4, 2020, Tr. at 11:4-5.) She was Vice Principal at the Shore Center for four years prior to her current position, and prior to being Vice Principal, she was a teacher at the Shore Center for autistic students for eight years. (Id. at 11:4-9; Id. at 23:6-23.) Jordan was familiar with B.M. as he was a student at the Shore Center for two years while she worked there. (Id. at 38:17-18.)

B.M.'s IEP from when he was first admitted to the Shore Center (R-11) had him taking functional math and English classes. (Id.) Those classes as offered by Shore Center were different than typical math and English classes. For example, the functional English class may focus on developing basic skills like learning to write his or her name and learning to read community signs so the student can be safe in the community while functional math may focus on skills such as telling time or "money math." (Mar. 4, 2020, Tr. at 45:14-46:24.) Students who are capable of moving forward on a more general education program can do so on a case-by-case basis. (Id. at 46;25-47:4.) B.M.'s IEP also called for him to have a one-on-one aide provided throughout the entire school day. (Id. at 48:5-20.)

The Shore Center has a board-certified behavioral analyst (BCBA) on staff. (Id. at 51:7-20.) The BCBA helps train teachers to work on student issues to help them behaviorally “to make more gains and meet their needs”. (Id. at 51:1-52:15.) The BCBA would also work directly with students. (Id. at 52:16-20.) B.M., like all students at the Shore Center, was offered ESY services, which Jordan described as “basically summer school” where the school year is extended “typically for six weeks Monday through Thursday in the summer, and the school day is a little bit shorter than a school year day.” (Id. at 68:10-19.) The ESY program continues “to work on all of the academic skills, behavioral skills, social emotional skills that we’ve worked on during the school year.” (Id. at 69:3-6.) Therapies are also continued during the ESY period, although they go from 30 to 20-minute sessions during ESY. (Id. at 69:13-15.) The goal of ESY is to prevent students from losing the skills that “they’ve worked so hard to learn during the school year.” (Id. at 70:9-11.)

When a student first enrolls at the Shore Center, they arrive with an IEP. The Shore Center will follow the student’s IEP that they arrived with and “start immediately doing assessments” to determine if the goals and objectives in the student’s IEP are appropriate or need changing. (Id. at 71:14-25.) After B.M. started at the Shore Center, there was an IEP meeting on October 18, 2017. (R-11.) B.M.’s teacher and the Shore Center’s BCBA created a behavior reduction implementation strategy that was incorporated into B.M.’s IEP. (Id. at FRHS-BM-091.) A behavioral plan was also incorporated into B.M.’s next IEP in April 2019. (R-13.)

These behavioral plans are created by taking data on student’s behaviors and identifying the problem behaviors to determine the “most challenging areas” for the student. (March 4, 2020, Tr. at 77:11-19.) Data on students is gathered by their teachers, classroom paraprofessionals, and classroom aides throughout the student’s day at the Shore Center. (Id. at 77:21-23; Id. at 78:4-17.) The data is then reviewed by the BCBA who makes recommendations on “how to help that student overcome whatever the problem behavior is.” (Id. at 77:14-19.)

Students typically arrive at school around 8:45 a.m. and classes start at 9 a.m. (Id. at 84:15-20.) That fifteen minutes allows the students to transition to their class day. (Id. at 84:25-85:4.) The Shore Center maintains attendance and lateness records for all their students. (Id. at 88:16-89:11.) The school closes each day at 2:45. (Id. at 95:10-11.) If a student misses class or therapy because they are late to school, they don't have after school hours to make up for missed services. (Id. at 94:21-95:12.) In reviewing B.M.'s progress reports (R-16 and R-17), Jordan noted that B.M. "made a lot of progress in meeting [his] goals." (Mar. 4, 2020, Tr. at 100:24-101:1.) B.M.'s parents never requested that the Shore Center provide home instruction or implement therapy in the home. (Id. at 104:5-18.) Even if the parents had asked for those services in the home, that isn't something that the Shore Center could provide because their therapists and teachers are at work at the school and can't leave school to provide services at a student's home or work nights and weekends in addition to their jobs at the Shore Center. (Id. at 108:1-24.)

Frances A. Perrin, Ph.D., BCBA-D

Frances Perrin was qualified, by joint stipulation of the parties, as an expert on functional behavioral assessments (FBAs) of disabled students, including students with autism. (Id. at 117:17-25.) Dr. Perrin did a behavioral observation on B.M. in February 2017. (P-7.) Dr. Perrin first evaluated B.M. in 2014 or 2015 prior to his going to a residential placement. (March 4, 2020, Tr. at 124:18-125:7.) He evaluated B.M. in 2017 to identify "whether or not B.M. could be successful in school placement" since B.M.'s family wanted to bring him home. (Id. at 126:19-25.) At that time, B.M. was residing at Woods, who was providing B.M. with both residential and educational services. (Id. at 127:4-12.)

Dr. Perrin observed B.M. at Woods and observed him "transition from the residence to the school" as well as observing him in school and transitioning back to the residence. (Id. at 131:15-21.) Dr. Perrin knew, from previously working with B.M. and reviewing prior reports on B.M., that he had a "long history of non-compliance with that transition period and had not been successfully able to get back and forth to school." (Id. at 133:12-16.) B.M.'s prior problems in transitioning to school were "on the far end of a

spectrum of problem behavior” for students with autism, including engaging in “aggression towards the family, towards the staff that were involved and disruptive behaviors, breaking the toilet, the furniture, doors in the home.” (Id. at 136:8-19.) When Dr. Perrin assessed B.M. prior to his moving to Woods, B.M. was unable to transition to school “at all” because he was not able to get out of the house. (Id. at 173:1-8.) Dr. Perrin was observing B.M. in 2017 to determine the progress he had made since moving to Woods. (Id. at 136:20-137:1.)

In his 2017 observation of B.M., Dr. Perrin noted that, based on his previous knowledge of B.M., B.M. had “made tremendous progress in terms of his behavior.” (Id. at 137:5-7.) Dr. Perrin attributed this change to the “supports in place” for B.M. at Woods, including “staff that went with him from the residence into the van to the school, transitioned him to other staff in the classroom and then back again.” (Id. at 138:1-4.) Dr. Perrin found that B.M. responded to the “consistency” of having a behavior plan in place “where staff are prompting the same way every time” and responding to problem behavior “the same way every time” at Woods. (Id. at 146:3-8.)

Dr. Perrin recommended that B.M. have “a function-based behavior intervention plan in place that was going to be addressing his specific needs, transitions and just being in the classroom.” (Id. at 152:11-19.) Dr. Perrin recommended B.M. have “staff that come to the residence in the morning to prompt and transition him onto the vehicle, whether it be a bus or a van or, you know, whatever it may be and remain with him through the ride to school” because that was how he was successful at Woods. (Id. at 155:1-9.) Dr. Perrin believed B.M. could be brought back home, but “the right supports needed to be in place.” (Id. at 156:1.)

Dr. Perrin did not see B.M. since February 2, 2017. (Id. at 159:2-10.) She never observed B.M. once he began attending the Shore Center, and never observed B.M. in his transition from his home to the bus to go to the Shore Center. (Id. at 159:5-21.) She did not know what training was or was not provided to the one-to-one aide that B.M. was provided with at the Shore Center, or any of the other paraprofessionals who worked at the Shore Center. (Id. at 160:2-12.) Before Dr. Perrin’s observation of B.M. in February

2017, B.M. had stopped going to school for five months prior to that observation at the request of B.M.'s parents and resumed going to school in February 2017 at the time of Dr. Perrin's observation. (Id. at 162:10-16) B.M. had stopped attending school at Woods for seven months due to "an incident at Woods, and there was an accusation of abuse" and B.M.'s mother was not comfortable with him continuing to attend school. (Id. at 162:17-163:11) A subsequent investigation into the allegations found them to be "unfounded" but B.M. did not return to school after the investigation was completed. (Id. at 163:14-23.)

S.M.

S.M., B.M.'s father, has shared guardianship over B.M. with his wife, E.M., since B.M. turned eighteen. (P-8.) B.M. is currently twenty-one years old, and lives in a residential placement in Mount Laurel, New Jersey. (Sept. 2, 2020, Tr. at 21:7-17.) B.M. was most recently placed in a group home in July 2019. (Id. at 25:7-9.) That placement was funded by the State of New Jersey. (Id. at 25:12-15.) Before B.M. turned twenty-one, DCF provided this funding. Now that B.M. is an adult, the Division of Developmental Disabilities (DDD) provides this funding for B.M. (Id. at 25:15-18.) B.M. started attending school at BCSS in September 2019. (Id. at 31:8-12.) Due to Covid, B.M. has recently been required to do remote learning from his group home. (Id. at 30:1-9.)

The Shore Center is approximately fifteen minutes from S.M.'s home. (Id. at 32:2-7.) B.M.'s current group home is approximately "an hour and ten minutes [from his home] depending on traffic." (Id. at 32:10-12.) B.M. was attending the Shore Center since September 2017. (Id. at 32:13-16.) Prior to that, B.M. was in a residential placement in Pennsylvania "known as the Woods" funded through the State of New Jersey. (Id. at 32:17-22.) B.M. started at Woods in June 2014. (Id. at 179:12-17.)

After Woods, B.M. came home to live with his parents. (Id. at 34:5-14.) Their intent in bringing B.M. home was to "find a placement in close proximity to our home." (Id. at 34:13-14.) B.M. came home "in the July time frame" and "fortunately we were able to get him into the Shore Center" where he started in September 2017. (Id. at 34:24-

35:4.) Evarista has been B.M.'s case manager since 2013. (Id. at 37:1-2.) S.M. and his family "always wanted [B.M.] to be at home" but they "just weren't equipped to deal with [B.M.]" which resulted in B.M. being hospitalized for stabilization before moving to Woods in June 2014. (Id. at 37:9-25.) When they were looking to have B.M. return home, they were evaluating two options:

One—one was for [B.M.] to come and go to school in the — closer to our home in New Jersey and commute from the Woods in Pennsylvania.

The other option was—which ultimately happened—was to have B. come home, live at home and then attend school in New Jersey in close proximity to his home.

[Id. at 38:18-25.]

They ultimately decided that "because [B.M.'s] behavior seemed to be able – we could manage it and we wanted to give it another chance that we ultimately decided to bring him home and have him attend the Shore Center." (Id. at 40:5-9.)

FRHSD paid for a behavioral evaluation of B.M. in February 2017, that was conducted by Dr. Perrin. (Id. at 44:19-45:9.) FRHSD recommended the Shore Center as a possible placement for B.M., and S.M. and his wife agreed to have B.M. evaluated for admission to the Shore Center. (Id. at 48:2-25.) B.M. started attending the Shore Center in September 2017. (Id. at 49:10-15.) When B.M. started at the Shore Center, B.M. "seemed to be in good balance" and the family was "very excited that he could come home." (Id. at 49:16-23.) Once he was home, they wanted "to maintain the same positive continuity that was established over the summer into him going to school." (Id. at 50:10-12.)

When B.M. started at the Shore Center, S.M. knew that there would be a period where "he would be successful and cooperating and going to school every day" but at that time his wife had accepted a position working in New York as a teacher. (Id. at 56:3-8.) His wife had stopped working when B.M. was first diagnosed at age two but felt she could return to work now that B.M. was going to be in school and "with, you know, home supports and with [an] after-school program in place" she could return to work which she eventually did. (Id. at 56:9-19.) To get to her job, however, B.M.'s mother had to catch a

bus at 5:30 a.m. and did not return until 7:30 or 8:00 at night. (Id. at 20-24.) S.M. had begun communicating with FRHSD to find an after-school program for B.M. because “[S.M.] could not be here every day to see [B.M.] off to school and nor could my wife because she was basically leaving at 5:30 in the morning.” (Id. at 57:1-9.)

S.M.’s wife, with her new job, just “wasn’t home during the day” and S.M. had a full-time job which left him unable to “be there both morning and afternoon to—to have him—putting him on the bus” since S.M. also left the house “around 7:30 time frame in the morning” and came home around 3:15 in the afternoon. (Id. at 59:1-7.) Now that B.M.’s mother was working in New York, they needed “home programming and support in the morning because I just couldn’t be there every morning.” (Id. at 59:9-15.)

B.M. required help to get dressed in the morning and there were also several medications that he had to take each morning as well. It required both S.M. and his wife to make sure that B.M. got his morning medications, eat breakfast, get him dressed, and get him out to the bus. (Id. at 59:16-25.) They were able to accommodate B.M. when he first moved home, but “there was a period of time when I couldn’t be there and I didn’t want to put that all on my son and my other daughter because [he] just didn’t feel as if – you know, they – they couldn’t be there every morning either” because his other children were students and he and his wife both had full-time jobs. (Id. at 60:1-8.)

For B.M.’s first month at the Shore Center, everything seemed to be going well even though his wife wasn’t there in the morning or afternoon. (Id. at 62:13-19.) Getting B.M. on the bus in the morning was “a challenge” but they were able to manage it. (Id. at 20-25.) By November, however, he noted that B.M. was being less cooperative and the steps needed to get him ready for school in the morning were “becoming more and more drawn out” and it was getting “harder and harder” to get him to school. (Id. at 64:1-7.) When these problems started, and they couldn’t get B.M. on the bus on time, they would drive B.M. to school. (Id. at 64:8-14.) At some point during this period, there was a layoff at the school where B.M.’s mother worked and she was home and able to participate in getting B.M. off to school, but “eventually it got to the point where he was no longer cooperating” and they would have to drive him to school, and he would arrive around ten

or 10:30 in the morning. (Id. at 65:8-18.) If B.M. was missing part of school because he was late, S.M. believed that B.M. would benefit from an after-school program to make up for the lost hours of education and programming, “but unfortunately the Shore Center did not offer a program.” (Id. at 67:18-25.) FRHSD was having problems locating an appropriate after-school program for B.M. (Id. at 68:3-10.)

Around Christmas in 2017, B.M. had to be hospitalized for a period of time because his conduct got “to the point where he would start to throw things or you know, he would—self-injurious behavior.” (Id. at 71:11-13.) After his approximately week-long hospital stay, they were “hopeful” that B.M. was “stabilized” and able to go back to school. (Id. at 72:1-8.) Things did not improve, however, and S.M.’s wife tried to reach out to the Shore Center to see if their staff could “come in” in the mornings and help B.M. get ready for school, but they weren’t able to get anyone “outside our family” to assist. (Id. at 73:1-19.)

S.M. was aware that B.M. was “regressing, having trouble.” (Id. at 74:20-25.) When he tried to communicate this problem to Evarista, she “was alluding to the—the CMO folks.” (Id. at 74:23-25.) The CMO organization, which was part of Monmouth Cares, was working with them as well:

They would give us websites and URLs to go follow and—and phone numbers which we tried to and we also tried to get through our—through our insurance tried to get private agencies to come in and help because we were desperate.

[Id. at 75:1-6.]

They were trying their best to get B.M. to school each day, but “we didn’t have the support that we knew we needed to have in place.” (Id. at 77:10-12.) They did the best they could “given the circumstances we had and—and you know, working with my wife, my other two children and myself” and “[s]ome days we were successful.” (Id. at 77:10-19.) FRHSD mentioned an organization, Horizons, for a possible after-school program, but they did not have a placement for B.M. (Id. at 78:5-8.) At this time, B.M. was an adult, and S.M. “just did not want to engage” in prompting him in the morning because that “would just set him off where he—you know, he would become frustrated, and he would

throw things or do things that I just did not want to get into a physical altercation.” (Id. at 79:12-23.)

At one point, the family had someone else come into the home that was “apparently trained in—you know with autistic children” through the CMO. (Id. at 84:19-21.) They explained to her that if someone was working with B.M., he would sometimes grab their glasses. (Id. at 84:19-24.) B.M. grabbed and broke her glasses, and the agency who sent her said they would have to retrain her, but she never came back. (Id. at 85:1-5.)

Before B.M. was sent to Woods, he was attending school at the Eden Institute. (Id. at 89:14-19.) While B.M. was younger then, he had similar problems attending school “because of the morning routine” where it was getting “progressively more and more difficult to the point where he was missing school days and then also tardy where my wife would attempt to bring him down when we were able to successfully get him into our, you know, car to take him down if—because he missed the school bus.” (Id. at 90:1-7.) The Eden Institute eventually disenrolled B.M. because they would not hold his placement at the school if he was not going to go. (Id. at 98:4-12.)

After he was disenrolled from the Eden Institute, FRHSD set up “a situation where they were bringing one individual into our home for a home programming” with the ultimate goal of transitioning B.M. back to a school program. (Id. at 98:15-99:3.) They would come each morning and work with B.M. to go through his morning routine and then take him for a few hours to the Horizons Center and return him home. (Id. at 99:4-14.) When B.M. was attending the Shore Center, however, they were asking for assistance and “none was provided.” (Id. at 100:8-9.)

When B.M. missed school, they “weren’t happy about it because our whole intent was to make sure that he was going to school every day and to make sure he was benefitting from the education that he should have been able to benefit from.” (Id. at 109:7-16.) They “had a plan in place” but as time went on, they weren’t “getting the support from any other, you know, avenues that we pursued whether that be through the CMO or trying to access private insurance.” (Id. at 109:17-25.) They just “were hopeful

that just having some support and having him be able to go to school each day would help keep him on a—a successful track. Unfortunately, it didn't work out that way.” (Id. at 111:4-7.)

S.M. participated in the October 2017 IEP meeting for B.M. after his transition to the Shore Center (R-11.) At that meeting, it was documented that B.M.'s parents sought to increase B.M.'s physical activities but did not mention any requests for additional home services or mention of trouble with B.M.'s transportation. (Id.; Sept. 2, 2020, Tr. at 121:4-25.) S.M.'s wife participated in the June 2018 IEP meeting for B.M. (P-2.) That IEP also records that B.M.'s parents did not request assistance in the home or with transportation for B.M. (Sept. 2, 2020, Tr. at 123:15-125:9.) On September 11, 2017, S.M. contacted Evarista to follow-up on his inquiry about an after-school program for B.M. (P-12), but that communication did not make any mention of needing in-home assistance to prepare B.M. for school in the morning. (Sept. 2, 2020, Tr. at 125:11-134:6.)

When B.M. was living at home and attending the Eden School in 2013, Eden disenrolled B.M. due to his poor attendance. (Id. at 154:22-155:13.) At that time, Eden informed B.M.'s parents that:

As you were aware B.[M.]'s attendance has been very poor with him missing a total number of 75 school days as of April 1, 2013. A variety of supports have been put in place for the family through Eden's staff members and the home program component. However even with the supports in place B.[M.] has not been attending the school program.

[R-20.]

S.M. asserted, however that they “weren't receiving anything in terms of programming at home” at this time. (Sept. 21, 2020, Tr. at 29:9-11.) When B.M. was attending Eden, they would “come to the house, you know, periodically like, I don't know, once a month or twice a month, but there was no official home programming going on while [B.M.] was at Eden.” (Id. at 29:15-21.)

B.M. moved into a Bancroft group home in Voorhees, New Jersey, in July 2019. (Sept. 2, 2020, Tr. at 158:2-6.) When he reached age twenty-one, in December 2019, he was moved to his current group home in Mount Laurel, New Jersey. (Id. at 158:7-14.) B.M. started attending BCSS in September 2019 (Id. at 161:1-6) and finished that program in June 2020. (Id. at 160:22-25.)

S.M. testified that it was never their intent after bringing B.M. home to have him go back to a residential placement. (Jan. 4, 2021, Tr. at 9:20-25.) They always wanted B.M. to come and live at home with his family (Id. at 10:8-12) When B.M. moved back home, he was coming “from a twenty-four by seven residential placement to a home” and he needed “to have supports in place” to be successful. (Id. at 15:11-18.) After Dr. Perrin’s assessment, FRHSD got “on board” with their plan to bring B.M. home and have him attend school at the Shore Center. (Id. at 16:2-22.) While they needed in-home assistance, he was never looking for FRHSD “to become the parents for B.M.” or have them “take over B.M.’s parenting.” (Id. at 21:1-4.) He wanted FRHSD to provide a program “where B.M. did not have to rely upon one individual within the family structure” in the mornings because they could not be there. (Id. at 21:11-20.) He sought FRHSD to provide “a person that had the ability to come every day and that person would be a – a – prompt for B.M. to start his morning routine.” (Id. at 21:21-24.) When B.M. was having trouble in the mornings, it was difficult to get him to “get on a bus—or move towards anything. Getting dressed, his whole routine, you know the—it was very difficult, a very difficult period of time.” (Id. at 23:5-11.)

In the past, they had someone from New Horizons who would come in and help prompt B.M. each day to “respond and move toward getting dressed, getting up, having breakfast, brushing his teeth. And that eventually evolved into them working toward moving him onto the bus.” (Id. at 23:12-21.)

S.M. and his family had a relationship with CMO, and they would direct them to support resources by giving them a website or a phone number, but they tried to follow up on those “to no avail.” (Id. at 25:14-21.) The particular services they needed were services to “prompt [B.M.], to help him, to assist him in the morning towards getting out

to the bus.” (Id. at 25:22-25.) At one point, CMO sent an “older gentleman” out to the house who had experience in helping older persons get dressed and fed “or something like that” but S.M. did not feel he was the “right fit” for their needs. (Id. at 26:2-13.)

On days that B.M. was absent from school, it did not mean that they did not want him to attend every day. (Id. at 41:1-5.) The reason he asked about an after-school program was so “if [B.M.] was tardy one day and went in an hour or two late, then on the back end from three to five, that he would have some more hours to benefit from.” (Id. at 41:6-10.) In his first month at the Shore Center, he was able to “get up successfully, he was able to brush his teeth” and complete his morning routine of taking medications, eating breakfast and doing what was needed to be “ready and waiting for the bus.” (Id. at 56:12-25.) With “the right support,” S.M. feels that “B.M. could have attended school and it might have changed the trajectory of his whole life.” (Id. at 57:3-5.) Unfortunately, that is not “how it turned out” and B.M. was “no longer able to get up in the morning successfully, get dressed, transition” and he engaged in “destructive behaviors” such as destroying property in the house and “getting aggressive” with family members. (Id. at 57:16-58:2.) At that point, B.M. had to be “you know, residentialized again.” (Id. at 58:7-10.) If they had had “a little bit of assistance” from FRHSD, “it would have changed it.” (Id. at 61:25-62:2.)

S.M. was seeking “a prompt person” to come in each morning to provide “services to assist with getting B.M. into his program and his routine, his early morning routine” such as:

[G]etting him to go, you know first to—to go to the bathroom I guess would be the first thing we would do. And from there we would brush his teeth and he would use the bathroom if he needed to use the bathroom. And it would begin his day.

[Id. at 70:17-22.]

FINDINGS OF FACT

Based upon the testimony and documentary evidence, and having had the opportunity to review the testimonial transcripts and listen to the recorded testimony of the testifying witnesses, I **FIND** the following **FACTS**:

- B.M. is a twenty-one-year-old (Sept. 2, 2020, Tr. At 21:7-17) who has been classified as autistic with cognitive impairments and developmental delays. (Feb. 25, 2020, Tr. at 45:7-13.)
- S.M. and E.M., B.M.'s parents, hold legal guardianship over B.M. pursuant to a February 2017 judgment adjudicating B.M. incapacitated and appointing his parents as his legal guardians over him and his estate. (P-8.)
- Until July 2017, B.M. resided in a residential placement known as "the Woods" in Pennsylvania. (Sept. 2, 2020, Tr. at 32:17-22.) This placement was arranged and funded by the New Jersey Division of Child Services. (Id. at 25:15-18.)
- While B.M. was residing at the Woods, FRHSD provided him with educational services on the grounds at Woods. (Feb. 25, 2020, Tr. at 201:13-17.)
- In August 2017, B.M.'s parents had B.M. moved back to their home which was in the geographic boundaries of FRHSD. (Sept. 2, 2020, Tr. at 34:5-14.)
- In anticipation of B.M.'s move back to live with his family, FRHSD arranged for Dr. Perrin to do a behavioral observation of B.M. in February 2017 before B.M. left Woods. (P-7.) This evaluation was conducted to determine "whether or not B.M. could be successful in school placement." (March 4, 2020, Tr. at 127:4-12.)
- Dr. Perrin observed B.M. at Woods during his transition from the residence to school, as well as his transition from the school back to the residence. (Id. at 131:15-21.)
- Based on his observations of B.M. in February 2017, as well as his prior knowledge of B.M. from having previously worked with him in 2014 or 2015 prior to B.M. moving to Woods, Dr. Perrin concluded that the supports available to B.M. at Woods and the consistency of Woods' behavioral plan for B.M. helped him make "tremendous progress" in his behavior. (Id. at 137:5-146:8.)

- To continue the success that B.M. was having at Woods, Dr. Perrin recommended that B.M. be provided with “staff that come to the residence in the morning to prompt and transition him onto the vehicle, whether it be a bus or van or, you know, whatever it may be and remain with him through the ride to school” because that was what was successful for B.M. at Woods. (Id. at 155:1-9.)
- After B.M. moved back home with his family, FRHSD arranged for B.M. to attend the Shore Center, a school close to B.M.’s family’s home. (Id. at 30:2-7.). B.M. began attending the Shore Center in September 2017. (Feb. 28, 2020, Tr. at 45:7-13.)
- Prior to the start of the 2017/18 school year, B.M.’s CMO had recommended that B.M. return to a group home placement and was working with B.M.’s family to identify a suitable residential group home placement for B.M. (Feb. 25, 2020, Tr. at 80:11-12.)
- For the 2017/2018 school year, B.M.’s IEP from FRHSD called for B.M. to attend the Shore Center for the twelfth grade. (R-4.)
 - B.M.’s 2017/18 IEP focused on providing him “a functional life skills academic program with some community-based instruction and daily living skills with occupational therapy and speech and language therapy” as well as a personal aide throughout the day. (Feb. 25, 2020, Tr. at 48:7-11.)
- B.M.’s 2017/2018 IEP also provided him with transportation services. (See R-11.)
 - B.M.’s IEP called for him to be provided with “special transportation” services, giving him a route to and from school designed just for him. (Feb. 25, 2020, Tr. at 185:8-186-13.) B.M.’s IEP designated this as “door to door” transportation services. (R-11 at FRHS-BM-077-078.)
 - Although he may be paired with another student on that route, B.M. he was being transported with a one-on-one aide. (Feb. 25, 2020, Tr. at 185:8-186:13.) This provided B.M. with a transportation aide on the bus dedicated specifically to him. (March 2, 2020, Tr. at 97:1-2.)
 - This aide was also provided for the 2018/19 school year. (Id. at 97:6-8.)

- The transportation aide takes responsibility for the child once they reach the bus—they don't go into the home to get the child. (Id. at 97:15-22.) The aide waits on the bus and the parent generally escorts the child to the bus door and, at that point, the aide would greet them and bring them on the bus. (Id. at 98:4-8.)
- B.M.'s 2017/18 IEP included a separate behavioral intervention plan developed by the behaviorist at the Shore Center. (R-11 at FRHS-BM-091 - 094.).
 - B.M.'s behavioral plan focused on behaviors observed in a classroom setting. (Feb. 25, 2020, Tr. at 61:1-12; R-11 at FRHS BM-091-094.)
 - B.M.'s parents signed off on the behavioral plan and goals and did not request any additional behavioral support for B.M. in the home at that time. (Feb. 25, 2020, Tr. at 62;1-63:9.)
- B.M. requires assistance each morning to prepare him to go to school—including assistance getting dressed, eating breakfast, taking required medications, and getting to the school bus. (Sept. 2, 2020, Tr. at 59:16-25.)
- B.M.'s mother had stopped working when B.M. was first diagnosed at age two. (Sept. 2, 2020, Tr. at 56:9-19.) She stopped working to “focus her energies on—on—on working to find B.M. the right support and the right education.” (Jan. 4, 2021, Tr. at 55:11-16.)
- After B.M. moved back home in July 2017, B.M.'s mother returned to work by accepting a teaching job in New York for the 2017/18 school year. (Sept. 2, 2020, Tr. at 20-24.) This job required her to leave the house each day to take a bus to work at 5:30 a.m. and she did not return from work each day until 7:30 or 8:00 at night. (Id.)
- B.M.'s father also worked outside of the home full-time, requiring him to leave for work each morning at 7:30 a.m. and not return to the house until after 3 p.m. (Sept. 2, 2020, Tr. at 59:1-7.)
- Students at the Shore Center typically arrive at school around 8:45 a.m. each day, and classes begin at 9 a.m. (March 4, 2020, Tr. at 84:15-20.)

- The Shore Center is an approximately fifteen-minute ride from B.M.'s home. (Sept. 20, 2020, Tr. at 32:2-7.)
- During the school year, the Shore Center operates 390 minutes per school day providing education and special services to students. (March 4, 2020, Tr. at 48:9-25.)
- By November 2017, B.M. was becoming “less cooperative” in getting ready and going to school in the morning. (Sept. 2, 2020, Tr. at 64:1-7.)
- B.M.'s conduct at home escalated with him engaging in conduct such as “throw[ing] things” and other “self-injurious behavior” resulting in his hospitalization in December 2017 to try and stabilize his behavior. (Sept. 2, 2020, Tr. at 71:11-13.)
- At two times during the 2017/18 – 2018/19 school years, CMO arranged for an aide to come to B.M.'s house to assist his family in taking care of B.M. (See Sept. 2, 2020, Tr. at 84:19-21; Jan. 4, 2021, Tr. at 26:2-13.) Neither of these efforts by CMO to provide home-based assistance to B.M. were successful. (Sept. 2, 2020, Tr. at 85:1-5; Jan. 4, 2021, Tr. at 26:2-13.)
- Due to problems getting B.M. ready for the school bus in the morning, B.M. would often miss the bus and his parents would drive him to school. (Sept. 2, 2020, Tr. at 64:8-14.) When he was driven to school, B.M. would arrive at the Shore Center around 10:00 or 10:30 a.m. (Id. at 65:8-18.)
- For the months of September and October 2017, B.M. was present at the Shore Center for school each day. (R-10 at FRHS-BM-056-057.)
- In November 2017, B.M. missed four out of eighteen school days at the Shore Center. (Id. at FRHS-BM-058.)
- In December 2017, B.M. missed four out of eighteen school days at the Shore Center. (Id. at FRHS-BM-059.)
- In January 2018, B.M. missed one out of nineteen school days at the Shore Center. (Id. at FRHS-BM-060.)
- In February 2018, B.M. missed one out of eighteen school days at the Shore Center. (Id. at FRHS-BM-061.)

- In March 2018, B.M. missed four out of eighteen school days at the Shore Center. (Id. at FRHS-BM-062.)
- In April 2018, B.M. missed four out of eighteen school days at the Shore Center. (Id. at FRHS-BM-063.)
- In May 2018, B.M. missed eleven out of twenty-two school days at the Shore Center. (Id. at FRHS-BM-064.)
- In June 2018, B.M. missed four out of fifteen school days at the Shore Center. (Id. at FRHS-BM-065.)
- B.M. was late to school at the Shore Center a total of forty days during the 2017/18 school year. (Id. at FRHS-BM-065.)
- B.M.'s annual progress reports from the Shore Center documented that, for the 2017/18 school year, B.M.:
 - B.M. made "some" or "minimal" progress on each of the four defined occupational therapy goals. (R-16 at FRHS-BM-235.) B.M.'s occupational therapy teacher noted that "[B.M.] has continued to make nice progress in OT this marking period... [o]verall, [B.M.] has had a great year in OT." (Ibid.)
 - B.M. made "some" or "minimal" progress or achieved each of the twelve defined communication, behavior, and functional skills goals. (Id. at FRHS-BM-236.)
 - B.M. made "some" or "minimal" progress or achieved each of the eight defined science goals. (Id. at FRHS-BM-237.)
 - B.M. made "some" or "minimal" progress or achieved each of the nine defined social studies goals. (Id. at FRHS-BM-237-238.)
 - B.M. made "some" or "minimal" progress or achieved each of the twenty-six defined basic living skills/home skills/community skills goals. (Id. at FRHS-BM-238-239.)
 - B.M. made "some" or "minimal" progress or achieved each of the seven defined mathematics goals. (Id. at FRHS-BM-239.)

- B.M. made “some” or “minimal” progress or achieved each of the three defined overall communication skills goals. (Id. at FRHS-BM-242.) B.M.’s speech teacher noted that “[B.M.] has done a very nice job in speech this year and I am proud of him for the progress he has made!” (Id. at FRHS-BM-244.)
- Other comments from B.M.’s teachers at the Shore Center included:
 - November 8, 2017 - “[B.M.] has made tremendous progress so far. [B.M.] has made exponential progress in his speaking and ability to request for things inside and outside of the classroom... [and] has shown great improvement in transitioning throughout the school day.” (Id. at FRHS-BM-240.)
 - January 30, 2018 – “[B.M.] has surprised all of us with his skills and progress towards his goals... we are proud of the progress he has made!” (Ibid.)
 - April 16, 2018 – “[B.M.] continues to progress towards his goals and is showing more mastery in certain areas.” (Ibid.)
 - June 18, 2018 – “[B.M.] has shown tremendous progress throughout the school year. He pushed past his limits and exceeded goals in many areas.” (Id. at FRHS-BM-241.)
- B.M.’s June 6, 2018, IEP from FRHSD for the 2018/19 school year had B.M. continuing his attendance at the Shore Center. (R-12.)
 - The IEP also called for B.M. to be provided with “curb to curb” transportation with an individual attendant. (R-12 at FRHS-BM-112.)
 - E.M., B.M.’s mother, signed off on this IEP on June 6, 2018. (Id. at FRHS-BM-113.)
 - E.M.’s input to the review of this IEP was documented as: “[B.M.] has made good progress in his current program. Mrs. [S.] has indicated

that [B.M.] is doing very well in school and she would like to see him hold onto what he has gained and not regress.” (Id. at FRHS-BM-117.)

- This IEP also had an attached behavior intervention plan developed by the Shore Center. (Id. at FRHS-BM-125.) E.M. also signed off on this behavior intervention plan on June 6, 2018. (Id. at FRHS-BM-127.)
- In September 2018, B.M. missed three out of seventeen school days at the Shore Center. (R-10 at FRHS-BM-066.) B.M. had no recorded tardies for September 2018. (Ibid.)
- In October 2018, B.M. missed nine out of twenty-two school days at the Shore Center. (Id. at FRHS-BM-067.) B.M. was tardy on eight school days during October 2018. (Ibid.)
- In November 2018, B.M. missed eight out of eighteen school days at the Shore Center. (Id. at FRHS-BM-068.) B.M. was tardy on nine school days during November 2018. (Ibid.)
- In December 2018, Evarista invited B.M.’s parents to tour the program at BCSS as a potential placement for B.M. anticipating his move to a group home in Voorhees, New Jersey to begin the process of transitioning B.M. a new school. (Feb. 25, 2020, Tr. at 106:15-107:6.) B.M.’s parents did not accept Evarista’s invitation, saying that they wanted B.M. to attend the Bancroft School after his move to the group home in Voorhees, New Jersey. (Id. at 107:7-14.)
- In December 2018, B.M. missed fourteen out of fifteen school days at the Shore Center. (Id. at FRHS-BM-069.) B.M. was tardy on one school day during December 2018. (Ibid.)
- In January 2019, B.M. missed fourteen out of twenty-one school days at the Shore Center. (R-10 at FRHS-BM-070.) B.M. was tardy on five school days during January 2019. (Ibid.)
- In February 2019, B.M. was absent thirteen out of eighteen school days at the Shore Center. (R-10 at FRHS-BM-071). B.M. was tardy the remaining five school days in February 2019. (Ibid.)

- In March 2019, B.M. was absent thirteen out of twenty-one school days at the Shore Center. (Id. at FRHS-BM-072.) B.M. was tardy for seven school days in March 2019. (Ibid.)
- In April 2019, B.M. was absent twelve out of fourteen school days at the Shore Center. (Id. at FRHS-BM-073.) B.M. was tardy for two school days in April 2019. (Ibid.)
- B.M.'s proposed IEP from April 18, 2019, was written anticipating B.M.'s attendance at BCSS. (R-13.)
- In May 2019, B.M. was absent twenty out of twenty-two school days at the Shore Center. (R-10 at FRHS-BM-075.) B.M. was tardy for two school days in May 2019. (Ibid.)
- B.M.'s attendance records from the 2018/19 school year indicated that B.M. had 86 absences and 38 tardies for the year. (R-10. Feb. 25, 2020, Tr. at 112:13-22.)
- B.M.'s annual progress reports from the Shore Center documented that, for the 2018/19 school year, B.M.:
 - B.M. made "minimal" progress on each of the four defined occupational therapy goals. (R-17 at FRHS-BM-245.) B.M.'s occupational therapy teacher noted that B.M. "demonstrates good participation and the capacity to learn and develop new skills," however, "progress has been limited due to frequent absences." (Ibid.)
 - B.M. made "some" or "minimal" progress on each of the four defined speech and language goals. (Id. at FRHS-BM-250.) B.M.'s speech and language teacher noted that B.M. was "a pleasure to work with and continued progress is expected." (Id. at FRHS-BM-251.)
 - B.M. made "some" or "minimal" progress on each of the five defined expressive language/requesting goals and on each of the four listener responses/following directions goals. (Id. at FRHS-BM-246-247.)
 - B.M. made "minimal" progress on each of the three defined answering questions and conversations goals. (Id. at FRHS-BM-247.)
 - B.M. made "some" or "minimal" progress on each of the eight defined functional daily living skills/job skills goals. (Ibid.)

- B.M. made “some” or “minimal” progress on each of the three defined reading/responding to text as a listener goals. (Id. at FRHS-BM-248.)
- B.M. made “some” or “minimal progress on each of the four defined math/schedule goals. (Ibid.)
- B.M. made “some” or “minimal” progress on each of the four defined tolerating/problem behavior goals. (Id. at FRHS-B.M-248.)
- Comments from B.M.’s teachers at the Shore Center included:
 - November 12, 2018 - “[B.M.] has made tremendous progress so far this year! It is clear that [B.M.] has grown exponentially in many areas in comparison to last year ... [B.M.] is learning with flying colors.” (Id. at FRHS-BM-249.)
 - January 28, 2019 – “When [B.M.] is in school consistently, [B.M.] shows tremendous growth. Due to frequent absences, much progress has been stalled.” (Ibid.)
- B.M.’s parents agreed to go on an intake appointment at BCSS in June 2019 anticipating B.M.’s move to a group home in Voorhees, New Jersey. (March 2, 2020, Tr. at 35:22-36:7.) Evarista accompanied B.M.’s parents to this meeting and they toured the facility and met with the school’s staff. (Id. at 36:8-10.)
- While enrolled at the Shore Center, B.M. was also enrolled for Shore Center’s ESY program which provided him with educational classes and therapy from June through August. (Feb. 25, 2020, Tr. at 225:8-21; R-10 at FRHS-BM-056.)
 - During the 2018 ESY period, B.M. was absent on six of the twenty-one days of ESY programming offered to him. (R-10 at FRHS-BM-066; Feb. 25, 2020, Tr. at 226:20-227:3.)
 - During the 2019 ESY period, B.M. was absent for all of the twenty-seven days of ESY programming offered to him. (R-10 at FRHS-BM-056; Feb. 25, 2020, Tr. at 225:8-21.)
- While this matter was pending, the parties reached an interim agreement on June 27, 2019, to have B.M. placed at BCSS, with respondent FRHSD paying for B.M.’s

educational program and transportation costs upon the New Jersey Department of Children and Families (DCF) Children's System of Care (CSOC) placing B.M. at a group home in Voorhees, New Jersey and continuing through the remainder of the 2019/20 school year. (R-6.)

- B.M. moved to a group home in Voorhees, New Jersey in July 2019. (Sept. 2, 2020, Tr. at 158:2-6.)
- Following his move to the group home in Voorhees, New Jersey, B.M. began attending BCSS at the start of the 2019/20 school year. (Feb. 25, 2020, Tr. at 133:7-11.)
- B.M. had a total of eight absences and zero tardies for the first two marking periods of the 2019/20 school year at BCSS. (Id. at 145:7-146:3.)
- B.M. "aged out" and graduated from BCSS in June 2020. (Id. at 142:9-17.)

CONCLUSIONS OF LAW

The petitioner's original Due Process petition was filed in April 2019, in anticipation of B.M. being placed in a group home in Voorhees, New Jersey, by CSOC. (R-3 at ¶ 19.) In their Due Process petition, the petitioners sought to have B.M. placed at the Bancroft Neurohealth School in Mount Laurel, New Jersey for his continued education. (Id. at ¶¶ 20—22.) The petitioners' petition sought respondent ECCRS, as the district where B.M.'s anticipated group home was located, to determine his placement at Bancroft Neurohealth School to be an appropriate placement for B.M. (Id. at ¶¶ 39-40) and for respondent FRHSD to fund the cost of that placement as B.M.'s district of residence. (Id. at ¶ 31.) The petitioner's Due Process petition anticipated that B.M. would be placed in this group home in Voorhees Township, New Jersey on April 25, 2019. (Id. at ¶ 25. See also R-9 (April 4, 2019, letter from Monmouth Cares to respondent FRHSD informing them that B.M. has been approved for out-of-home placement by CSOC at Bancroft Hardwick Group Home with an anticipated date of admission of April 25, 2019).) The petitioners filed a separate Due Process petition against CSOC on May 22, 2019. (R-5.) This petition sought to compel CSOC to place B.M. in an appropriate residential placement. (Id. at ¶ B.)

The parties in this matter have subsequently reached an interim agreement to have B.M. enrolled at BCSS, with respondent FRHSD paying for educational program and transportation costs upon CSOC's placing B.M. at the group home in Voorhees Township and continuing through the remainder of the 2019/20 school year. (R-6.) Should B.M. not be placed at the designated group home, this agreement provides that he will remain placed at his current educational placement, Shore Center for Students with Autism during the pendency of this action. (Id.) This agreement was dated June 27, 2019, and B.M. was still awaiting placement through CSOC at the group home in Voorhees Township, New Jersey. (Id.) This agreement between the parties rendered the petitioner's original claim for B.M.'s placement at Bancroft Neurohealth moot as B.M.'s placement for the 2019/20 school year had been agreed to by the parties pending B.M.'s placement at the Voorhees Township group home by CSOC as well as his alternative placement should B.M. not be placed at the group home. B.M. was moved into a group home in July 2019 by CSOC (Sept. 2, 2020, Tr. at 25:7-9), and he began attending school at BCSS pursuant to the terms of this agreement in September 2019. (Id. at 31:8-12.)

In addition to their prospective school placement demands, the petitioners' Due Process petition also sought "compensatory education and monetary damages" from both respondent FRHSD and ECCRS D for their "failure to provide [B.M.] the benefits of a free, appropriate public education, in violation of the IDEA" and Section 504. (R-3 at ¶¶ 52–53.) Following the subsequent changes in B.M.'s placement in the group home in Voorhees, New Jersey as well as the subsequent settlement agreement, the issues in the case have undergone an "evolution since [the due process] petition" and the parties have agreed that the remaining issue in this matter is adjudication of "whether or not compensatory education is owed by [the r]espondents to the student for school years 2017-18 and 2018-19." (Feb. 25, 2020, Tr. at 14:10-13.)

The Individuals with Disabilities Education Act (IDEA) provides federal funds to assist participating states in educating disabled children. Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 179 (1982). One of the purposes of the IDEA is "to ensure that all children with disabilities have available to them a [FAPE] that emphasizes special education and related services designed to meet their unique needs

and prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d)(1)(A). In order to qualify for this financial assistance, New Jersey must effectuate procedures that ensure that all children with disabilities residing in the state have available to them a FAPE consisting of special education and related services provided in conformity with an IEP. 20 U.S.C. §§ 1401(9), 1412(a)(1). The responsibility to provide a FAPE rests with the local public school district. 20 U.S.C. § 1401(9); N.J.A.C. 6A:14-1.1(d). The District bears the burden of proving that a FAPE has been offered. N.J.S.A. 18A:46-1.1

The petitioner’s claims are subject to the two-year statute of limitations set forth in 20 U.S.C. § 1415(f)(3)(C).

Pursuant to 20 U.S.C. § 1415(f)(3)(c):

A parent or agency shall request an impartial due process hearing within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the state has an explicit time limitation for requesting such a hearing under this subchapter, in such time as the State law allows.

This two-year statute of limitations extends to “other legal claims premised on the IDEA.” Blunt v. Lower Merion School Dist., 767 F.3d 247 (3d Cir. 2014). The petitioners’ filed their petition for due process on April 10, 2019. (R-3.) At the onset of the hearing in this matter, the parties agreed that the sole issue in this case was an adjudication of “whether or not compensatory education is owed by [the r]espondents to the student for school years 2017-18 and 2018-19.” (Feb. 25, 2020, Tr. at 14:10-13.) Despite this, the petitioners’ closing summation seeks to obtain compensatory education “go[ing] back to the decision of the Garden Academy to stop providing home programming to B.M.” seeking remedy for harms to B.M. “for a time period in excess of two calendar years” prior to the filing of the petitioners’ petition for due process. (Pet. Br. at 78.)

Presuming, based on the record established, that the petitioners’ reference to “the Garden Academy” refers to the “Eden School” where B.M. attended prior to moving to

Woods, the petitioners appear to be seeking compensatory education going back as far as B.M.'s time at the Eden School where he was terminated from in 2013 due to poor attendance. (Sep. 21, 2020, Tr. at 154:22-155:13.) As the issues in this matter stem from B.M.'s conduct in the home and his attendance or failure to attend school while living at home with his parents, the petitioners clearly "knew or should have known" about B.M.'s attendance issues with the Eden School back in 2013 but failed to file for a due process hearing seeking compensatory education for B.M. until April 2019. (R-3.) Accordingly, I **CONCLUDE** that any claim that the petitioners may have had for any period before April 9, 2017, is barred by the applicable statute of limitations.

Respondent ECCRS D had no responsibility to provide FAPE to the petitioner during the relevant times and should be dismissed as a party in this matter.

Counsel for respondent ECCRS D asserts that, as the hearing in this matter proceeded, "it became evident that the requested relief from the [p]etitioners dealt solely against the [FRHSD] and not [ECCRS D]" and asked for dismissal of the petitioner's claims against them. (Resp. ECCRS D Closing Brief.) The petitioner's original Due Process petition was premised on DCF's CSOC prospectively placing B.M. in a group home located in Voorhees, New Jersey. (R-3 at ¶ 19.) The petition levied claims against ECCRS D on the basis that ECCRS D, as the school district where B.M.'s prospective group home was located, "must determine the placement and program for B.M., in consultation with the [p]arents, and [FRHSD] as his district of residence, must fund the placement." (*Id.* at ¶ 31.) By failing to act on the petitioners' request to place B.M. at the Bancroft Neurohealth School, petitioner's assert that ECCRS D was denying B.M. "the opportunity to attend an appropriate placement and program." (*Id.* at ¶¶ 34-36, 40-41.) This assertion against ECCRS D, however, runs contrary to the governing regulations regarding placement of special education children by public agencies such as CSOC.

As a child being placed in a state-contracted facility by a public agency like CSOC, FRHSD would remain B.M.'s district of residence. N.J.S.A. 18A:7B-12(b). CSOC, as the agency responsible for B.M.'s placement in a group home, assumes responsibility upon B.M.'s placement to ensure he is provided with "a free and appropriate education as set

forth in the Individuals with Disabilities Act” and for providing him with “special education and related services” as stipulated in B.M.’s IEP. N.J.A.C. 6A:17-3.3. See also N.J.A.C. 6A:17-3.2(a)(1)(i) (requiring state agency, upon placement of a student in a facility by that agency, to provide a “program comparable to the special education student’s current individualized education program (IEP)” and implement or develop a new IEP); Bd. of Educ. of West Windsor-Plainsboro Reg. Sch. Dist. v. Bd. of Educ. of Twp. of Delran, 361 N.J. Super. 488, 496 (App. Div. 2003) (noting that DCF, as part of its role in placing developmentally disabled children, includes responsibility for providing a “thorough and efficient education” to those children). Following B.M.’s placement in a residential group home program contracted with or specified by DCF, N.J.A.C. 6A:17-1.2, the facility or home B.M. was being placed in would be responsible for immediate review of B.M.’s IEP and for placing him in a program “consistent with the goals and objectives of the current IEP.” N.J.A.C. 6A:14-8.1(h)(1).

Even after B.M.’s placement in a group home outside the geographic boundaries of FRHSD, and within the geographic boundaries of ECCRS—FRHSD, as B.M.’s district of residence, would remain “responsible for paying, as applicable, tuition and transportation costs for [B.M.] to the district in which he is placed.” N.J.S.A. 30:4C-26. See also State of New Jersey, Department of Education, Determination of Services, Fiscal Responsibility, and Data Reporting Requirements for Students Placed in Alternative Placements, July 10, 2018, available at <https://www.nj.gov/education/specialed/memos/071018fiscalchart.pdf> (noting placing agency and resident school district are appropriate respondents in due process hearings for students placed in group homes by DCF); N.J.A.C. 6A:17-3.3. See also Bd. of Educ. of West Windsor-Plainsboro Reg. Sch. Dist., 361 N.J. Super. at 496 (noting student’s “district of residence” after placement in group home is district “in which the student’s parent or guardian, with whom the child lived prior to the child’s ‘most recent admission to a State facility or most recent placement by a State agency[,]’ resides.”) (citing N.J.S.A. 18A:78-12b).

It is not factually disputed that B.M. was never placed in a school in the ECCRS district, and the petitioners did not seek for him to be placed at ECCRS but were seeking to have B.M. placed at a private educational institution. (R-3 at ¶ 34.) Neither CSOC, the

agency responsible for prospectively placing B.M. in the group home in Voorhees Township, New Jersey, nor the group home where B.M. was prospectively being placed were named as respondents in the petitioners' original due process petition despite their statutorily defined roles and responsibilities for B.M.'s education under the circumstances presented in the petitioner's due process petition. Furthermore, during the progression of this case, the matter remaining for adjudication was limited to a petition for compensatory education for the 2017/18 and 2018/19 school years. (Feb. 25, 2020, Tr. at 14:10-14.) B.M. did not move to a group home outside the geographic boundaries of FRHSD until July 2019, but rather was attending the Shore Center through IEPs provided by FRHSD for the 2017/18 and 2018/19 school years. Accordingly, I **CONCLUDE** that the petitioners' claims against ECCRSD should be and are hereby **DISMISSED**.

Respondent FRHSD provided B.M. with necessary transportation services through B.M.'s 2017/18 and 2018/19 IEPs to offer him meaningful access to education and related services.

The United States Supreme Court has construed the FAPE mandate on local school districts to require the provision of "personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction." Rowley, 458 U.S. at 203. To satisfy the requirements of the law, FRHSD must provide B.M. with personalized instruction and sufficient support services "as are necessary to permit him 'to benefit' from the instruction." G.B. v. Bridgewater-Raritan Reg'l Bd. of Educ., 2009 U.S. Dist. LEXIS 15671 (D.N.J. Feb. 27, 2009) (citing Rowley, 458 U.S. at 189).

The IDEA requires transportation to be provided as a related service "when it is necessary to enable a child with a disability to benefit from education" and is considered a "means to assist the child in receiving the FAPE as designed by the IEP." J.T. v. Dumont Public Schools, 438 N.J. Super. 241, 267 (App. Div. 2014). "[W]hen provided for in a student's [IEP], transportation is an essential related service in the furnishing of mandated educational services to the disabled." Bd. of Educ. of West Windsor-Plainsboro Reg. Sch. Dist., 361 N.J. Super. at 500.

The petitioners assert that, in addition to transportation services, FRHSD should have provided “the home-based programming recommended by Dr. Perrin” so that B.M. “could attend the Shore Center and receive the special education and related services, the overall special education programming to which he was entitled to receive.” (Pet. Br. at 69-70.) The petitioners claim that FRHSD “violated the IDEA by not implementing, through [B.M.’s] IEPs, the kind of home-based programming needed to assist with B.M.’s behavioral issues relating to transitioning to school.” (Id. at 72.) FRHSD contends that they implemented B.M.’s IEPs “to the extent feasible, given [the p]etitioner’s failure to cooperate and ready B.M. for school.” (Resp. FRHSD Br. at 29.) They note that “[e]ach and every day, a bus arrived at [the p]etitioners’ home to transport B.M. to the Shore Center” and the petitioners “were unable to support B.M. in his transition from the family home to the bus to attend school in the mornings” but this failure “is not a failure of [FRHSD].” (Id. at 28.)

B.M. required assistance each morning to get dressed, have breakfast, and take his required medications before going to school, and required assistance and direction to board the school bus. (Sept. 2, 2020, Tr. at 59:16-25.) Students arrive at the Shore Center to start the school day around 8:45 a.m. to permit them time to transition to their class day which starts at 9 a.m. (March 4, 2020, Tr. at 84:15-85:4.) The Shore Center is an approximately fifteen-minute ride from B.M.’s home (Sept. 20, 2020, Tr. at 32:2-7), which means that B.M. would have to be ready and on the bus to transport him to the Shore Center each morning no later than 8:30 a.m. each morning. Because S.M. leaves the house for work each morning around 7:30 a.m. (Id. at 59:1-7), his wife leaves the house for work around 5:30 a.m. each morning (Id. at 56:20-24), and S.M.’s siblings “couldn’t be there in the morning either” (Id. at 60:1-8), it is clear that B.M. lacked any in-home support from his family to ready him for transportation to school each morning. While the petitioners deny that they are seeking FRHSD to provide services to get B.M. up each morning and to dress him and give him his needed medications each morning (Pet. Br. at 71), given the absence of any familial support in the home to assist B.M. each morning, it is clear that the “home-based programming” (Ibid.) the petitioners believe FRHSD was obliged to provide was necessary in no small part because B.M.’s family

“just couldn’t be there every morning” for B.M. to help him get up and get ready to take the bus to school. (Sept. 20, 2020, Tr. at 59:9-15.)

When Dr. Perrin observed B.M. at Woods, she assessed B.M.’s ability to transition from the residence to school in that environment and found B.M.’s success was dependent on support being provided to B.M. to transition “from the residence into the van to the school” and consistency in the prompting and directions B.M. received along the way. (March 4, 2020, Tr. at 138:1-4; Id. at 146:3-8.) Dr. Perrin recommended B.M. have “staff that come to the residence in the morning to prompt and transition him” onto the school vehicle for transport to school and remain with him through the ride to transition him to school. (Id. at 155:1-9. See also P-7 at FRE-BM-15411 (recommending “staffing should be provided for the daily transition from the residence to the school to ensure success”).) Consistent with Dr. Perrin’s recommendations, FRHSD provided B.M. with an individual aide who came to the home each morning to assist B.M. in transitioning to the bus, ride with B.M. to school, and help him to transition to the school when they arrived. (R-11 at FRHS-BM-077-078.) What B.M. was lacking during the 2017/18 and 2018/19 school years was the support in the home because B.M.’s family members “just couldn’t be there” every morning to assist B.M. (Sept. 20, 2020, Tr. at 59:9-15. See also Jan. 4, 2021, Tr. at 70:17-22 (B.M.’s father, S.M., describing the role of a “prompt person” they believed FRHSD should have provided in their home to help B.M. with his “early morning routine” including going to the bathroom, brushing his teeth, and beginning his day).)

The petitioners contend that, after B.M.’s attendance worsened, they were “begging for assistance from [F.R.H.S.D.], asking for home-based programming for B.M. to address his attendance issues.” (Pet. Br. at 37.) While the record presented contains conflicting accounts as to B.M.’s family’s requests for in-home programming from FRHSD (Compare Feb. 25, 2020, Tr. at 77:6-25 (Evarista’s testimony that B.M.’s family never reached out to her to convene an IEP meeting to address B.M.’s attendance issues during the 2017/18 school year); Id. at 78:1-19 (Evarista’s testimony that B.M.’s parents reached out to her seeking an after school program for B.M. but did not seek support for problems getting B.M. to school) and Jan. 4, 2021, Tr. at 24:13-26:1 (testimony of S.M. that he

called Evarista and the Director of Special Services in the Fall of 2017 seeking help to “assist us in – in – in getting B.M. out to school”), the appropriate focus should be on the IEP actually provided to B.M. and not on a hypothetical one that could have been provided instead. Lascari v. Board of Educ., 116 N.J. 30, 46 (1989).

The petitioners assert that FRHSD violated FAPE by not providing B.M. “the kind of home-based programming needed to assist with B.M.’s behavioral issues relating to transitioning to school so B.M. could be provided special education programming he was entitled to receive at the Shore Center.” (Pet. Br. at 72.) While the petitioners assert that, in September 2017, B.M. had the ability to “function, to—to be able to get [up] in the morning, to get out to school” (Jan. 4, 2021, Tr. at 29:2-4) and just needed “the right support” from FRSD to regularly attend school (Id. at 57:3-9), Dr. Perrin conceded that B.M.’s prior problems with school attendance were “on the far end of a spectrum of problem behavior.” (March 4, 2020, Tr. at 136:8-19.) CMO, who was actively working with B.M. and his family in their home, recognized the severity of the issues B.M. was having in the home, and recommended that B.M. be moved back to a group home and was working with B.M.’s family to find a new residential placement before the start of the 2017/18 school year. (Feb. 25, 2020, Tr. at 80:11-12.) S.M., B.M.’s father, acknowledged that B.M.’s behavior at home deteriorated after he moved back from Woods, resulting in B.M. engaging in conduct such as “throw[ing] things” and other “self-injurious behavior” resulting in his hospitalization in December 2017 to try and stabilize his behavior. (Sept. 2, 2020, Tr. at 71:11-13.) B.M.’s family while they worked to bring B.M. back home, it was “never [their] desire to have [B.M.] residentialized” (Jan. 2, 2021, Tr. at 9:18-25; Pet. Br. at 32), had to acknowledge that, despite their best efforts, B.M. needed the supervision and structure offered by a group home setting and B.M.’s return to a group home was appropriate and necessary as evidenced by B.M.’s moving to a group home in July 2019. (Sept. 2, 2020, Tr. at 25:7-9.)

The petitioners note that FRHSD previously provided in-home support to B.M. when his behavioral issues caused him to be disenrolled from the Eden Institute in 2013 to help B.M. transition back to school. (Sept. 2, 2020, at 98:15-99:3.) While petitioner’s argue that this kind of support is “something [FRHSD] never did when [B.M.] struggled

with attending the Shore Center” (Pet. Br. at 41), and FRHSD previously provided B.M. with home based supports to enable him to “attend a day school program again” (Pet. Br. at 58), this argument overlooks the fact that, despite those in-home services FRHSD provided to B.M. back in 2013, those efforts were ultimately unsuccessful in ensuring B.M.’s successful transition back to a day school program as evidenced by B.M. being hospitalized and, upon release from the hospital, moving to a residential placement at Woods in June 2014 (P-7) where he resided until being moved back home by his parents in August 2017. (Sept. 2, 2020, Tr. at 34:5-14.)

The petitioners’ contentions regarding B.M.’s previous in-home services provided by FRHSD in 2013 also fail to account for the fact that what was appropriate for B.M. in 2013 is not necessarily appropriate for B.M. in 2017 or 2018. By the time B.M. was enrolled at the Shore Center, B.M. was no longer a child, but a fully-grown adult. As B.M.’s father, S.M., admitted, when B.M. was attending the Shore Center, he “just did not want to engage” in prompting B.M. in the morning because that “would just set him off where he—you know, he would become frustrated, and he would throw things or do things that I just did not want to get into a physical altercation.” (Sept. 2, 2020, Tr. at 79:12-23.) By the start of the 2017/18 school year, B.M.’s mother had returned to work, and S.M. conceded that B.M.’s family “just couldn’t be there” for B.M. in the morning to help him prepare for school as they may have been in the past. (Id. at 59:9-15.) B.M.’s father further detailed at least two times where the family had in-home supports provided by the CMO during the period when B.M. was attending the Shore Center in the form of a person sent into their home to help with B.M., however, in both cases, “it just didn’t pan out” and the in-home assistance provided was unsuccessful in helping B.M. in the home. (Id. at 83:20-85:14.)

Evarista testified that she did not see attendance issues that gave her concerns during the 2017/18 school year, and B.M.’s parents did not reach out to her to convene an IEP meeting to address B.M.’s attendance issues during the 2017/18 school year. (Feb. 25, 2020, Tr. at 77:10-25.) Despite this, B.M.’s attendance during his first year at the Shore Center clearly deteriorated as the year progressed to a level that should have caught the attention of the Shore Center and FRHSD in managing B.M.’s education.

While B.M. was present at school each day for September and October 2017 (R-10 at FRHS-BM-056-57), by May 2018, B.M. had missed eleven out of twenty-two school days at the Shore Center that month. (Id. at FRHS-BM-064.) The next month, however, B.M.'s attendance improved with B.M. missing only four of the fifteen school days at the Shore Center in June 2018. (Id. at FRHS-BM-065.)

This pattern of declining and sporadic attendance was repeated as B.M. attended the Shore Center for the 2018/19 school year. B.M. missed three of the seventeen school days at the Shore Center in September 2018 (Id. at FRHS-BM-066), but by December 2018, B.M. missed fourteen out of fifteen school days that month at the Shore Center and was late to school on the one day that he did attend. (Id. at FRHS-BM-069.) By that point, however, FRHSD was actively seeking alternative placements for B.M. pending his imminent move to a new group home in Voorhees, New Jersey, with Evarista inviting B.M.'s parents to accompany her on a tour of BCSS that month as a potential new placement for B.M. following his move. (Feb. 25, 2020, Tr. at 107:7-14.) B.M.'s parents were similarly actively engaged in seeking a new placement for B.M. anticipating his pending move to Voorhees, New Jersey, declining Evarista's invitation to tour BCSS as a potential placement because they were already advocating for B.M.'s placement at the Bancroft School following his move to the new group home. (Ibid.)

The petitioners contend that, despite B.M.'s clear absenteeism issues, FRHSD failed to "make an effort" to address these issues. Evarista, however, testified that FRHSD typically addresses issues like this by engaging state agencies, such as the CMO, to work with the family to provide services in the home to address the underlying cause of the absenteeism. (Feb. 25, 2020, Tr. at 84:21-85:15.) In B.M.'s case, CMO was already actively engaged with the family and tried, in vain, to provide in-home support services to assist B.M. and his family with these issues in the home. (See Sept. 2, 2020, Tr. at 84:19-85:5; Jan. 4, 2021, Tr. at 26:2-13.) Ultimately, CMO and B.M.'s family determined that B.M. required the structure of a residential placement, resulting in B.M. moving back to a residential placement in July 2019. (Sept. 2, 2020, Tr. at 158:2-6.)

Against this backdrop, coupled with the admission that family members “just couldn’t be there” in the morning to assist B.M. while he was attending the Shore Center (Id. at 59:9-15), the petitioners’ assertion that additional “home-based programming” offering “a little bit of assistance” provided by FRHSD would have been adequate to ensure B.M.’s regular attendance at the Shore Center is, on its face, purely speculative, and, on the merits against this factual record, highly questionable. (Id. at 61:25-62:2.) It also renders the absence of such “home-based programming” as sought by the petitioners insufficient to render B.M.’s IEPs inappropriate in delivering B.M. a FAPE during the relevant time period.

The respondent has met its burden to demonstrate that B.M. was not denied a FAPE during the 2017/18 and 2018/19 school years.

The responsibility to provide a FAPE rests with the local public school district, which bears the burden of proving that a FAPE has been offered. 20 U.S.C. § 1401(9); N.J.A.C. 6A:14-1.1(d); N.J.S.A. 18A:46-1.1; see also G.S. v. Cranbury Twp. Bd. of Educ., 2011 U.S. Dist. LEXIS 44933, *6 (D.N.J. 2011) (New Jersey uniquely places the burden of proof and production on the school district). Federal law is complied with when a local school board provides a handicapped child with a personalized education program and enough support services to confer some educational benefits on the child. Rowley, 458 U.S. at 179. In Rowley, the Court determined that although the Act mandates that states provide a certain level of education, it does not require states to provide services that necessarily maximize a disabled child’s potential. Instead, the IDEA requires a school district to provide a basic floor of opportunity. Carlisle Area Sch. v. Scott P., 62 F.3d 520, 533-34 (3d Cir. 1995). “[A]lthough the IEP must provide the student with a ‘basic floor of opportunity,’ it does not have to provide ‘the optimal level of services,’ or incorporate every program requested by the child’s parents.” Ridley School District v. M.R., 680 F.3d 260, 269 (3d Cir. 2012). Hence, while the state must provide an education that offers significant learning, it need not “maximize the potential of every handicapped child” Ibid. but, requires a school district to provide a basic floor of opportunity. Carlisle Area Sch. V. Scott P., 62 F.3d 520, 533-34 (3d Cir. 1995). A court reviewing an IEP must determine whether it is “reasonable, not whether the court regards it as ideal.” Andrew F. v. Douglas

Cty. Sch. Dist. RE-1, 137 S. Ct. 998, 999 (2017). “A program need not and cannot guarantee a student’s academic progress.” S.C. v. Oxford Area Sch. Dist., 2018 U.S. App. LEXIS 31086, *6 (3rd Cir. 2018) (citing Andrew F., 137 S. Ct. at 999). Hence, the IEP must be “judged prospectively so that any lack of progress under a particular IEP . . . does not render that IEP inappropriate.” Carlisle Area Sch. v. Scott P., 62 F.3d 520, 530 (3rd Cir. 1995).

In addressing the quantum of educational benefit required, the Third Circuit has made clear that more than a “trivial” or “de minimis” educational benefit is required, and the appropriate standard is whether the IEP provides for “significant learning” and confers “meaningful benefit” to the child. T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577 (3d Cir. 2000); Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238, 247 (3d Cir. 1999); Polk v. Cent. Susquehanna Intermediate Unit 16, 853 F.2d 171, 180, 182–84 (3d Cir. 1988), cert. den. sub. nom., Cent. Columbia Sch. Dist. v. Polk, 488 U.S. 1030 (1989). In other words, the school district must show that the IEP will provide the student with “a meaningful educational benefit.” S.H. v. State-Operated Sch. Dist. of Newark, 336 F.3d 260, 271 (3d Cir. 2003). This determination must be made in light of the individual potential and educational needs of the student. T.R., 205 F.3d at 578; Ridgewood, 172 F.3d at 247–48.

The educational opportunities provided by a public school system will differ from student to student, based upon the “myriad of factors that might affect a particular student’s ability to assimilate information presented in the classroom.” Rowley, 458 U.S. at 198. The Rowley Court recognized that measuring educational benefit is a fact-sensitive, highly individualized inquiry, and that “[i]t is clear that the benefits obtainable by children at one end of the spectrum will differ dramatically from those obtainable by children at the other end, with infinite variation in-between.” Id. at 202.

In New Jersey, a parent or school district may request a due-process hearing “when there is a disagreement regarding identification, evaluation, re-evaluation, classification, educational placement, the provision of [FAPE], or disciplinary action.” N.J.A.C. 6A:14-2.7(a). In such a hearing, “the school district shall have the burden of

proof and the burden of production.” N.J.S.A. 18A:46-1.1. The hearing is conducted by an administrative law judge (ALJ), whose decision “shall be made on substantive grounds based on a determination of whether the child received a [FAPE].” N.J.A.C. 6A:14-2.7(k). The FAPE requirement is not “a bad faith or egregious circumstances standard,” Ridgewood, 172 F.3d at 249, and, therefore, is not “abridged because the [school] district’s behavior did not rise to the level of slothfulness or bad faith.” Ibid. (quoting M.C. ex rel. J.C. v. Cent. Reg’l Sch. Dist., 81 F.3d 389, 397 (3rd Cir. 1996)).

The only testimony on this record regarding the adequacy of B.M.’s IEPs and educational progress for the 2017/18 and 2018/19 school years was Evarista and Jordan. Evarista testified that B.M.’s plans and goals as documented in his 2017/18 IEP (R-11) were appropriate based “on B.M.’s cognitive abilities and his functional abilities” (Feb. 25, 2020, Tr. at 59:11-20) and, despite B.M.’s attendance issues during the year, B.M. was “continuing to make some progress” and “moving in the direction towards meeting most of the goals” outlined in his IEP. (Id. at 65:9-11). B.M.’s teachers for the 2017/18 school year commented in his progress reports that B.M. “has shown tremendous progress throughout the school year” and he “pushed past his limits and exceeded goals in many areas.” (R-16 at FRHS-BM-241.)

Evarista similarly testified regarding B.M.’s IEP for the 2018/19 school year, stating that:

[B.M.] was making progress when he was in school, and I don’t think that would have changed anything in the IEP as far as his goals and objectives, program or placement. I think the issue was that the family was struggling trying to get him to come to school, and that was attempted to be addressed through the CMO, but all of the indications by the teachers and the service providers, that when he was in school he was making progress.

[Feb. 25, 2020, Tr. at 113:1-9.]

Jordan similarly testified that, in reviewing B.M.’s progress reports at the Shore Center for the 2017/18 and 2018/19 school years (R-16 and R-17), B.M. “made a lot of progress in meeting [his] goals” in those years. (Mar. 4, 2020, Tr. at 100:24-101:1.) The

petitioners do not contest these assessments of B.M.'s educational progress or the appropriateness of B.M.'s education provided at the Shore Center. B.M.'s father, S.M., acknowledged that, when B.M. was in school, he "was working towards improving his behaviors. He was working towards functioning in the community." (Jan. 4, 2021, Tr. at 37:13-14.) As the petitioners summarized, their claim "is not a case about the quality of the special education programming provided to B.M., such as an allegation that the special education programming was not appropriate, or the correct kind of programming required. Instead, this is a case of a total loss in special education programming" due to B.M.'s poor attendance. (Pet. Br. at 64-65.)

It is clear that B.M.'s poor attendance had a detrimental impact on his education. As Evarista noted in her testimony, while B.M. made "incredible progress" in his time at the Shore Center, "much progress has been stalled" due to his absences. (Feb. 25, 2020, Tr. at 128:4-19. See also R-14 at FRHS-BM-185.) In other words, while the petitioners did not meaningfully challenge Evarista's and Jordan's assertions that B.M. was getting meaningful educational benefit from the services provided by FRHSD at the Shore Center, they contend that B.M. would have received more benefit from his education had FRHSD provided additional in-home services as part of B.M.'s IEP to ensure B.M.'s consistent attendance at the Shore Center.

The appropriate focus, however, remains on the IEP that was actually offered to B.M. during this period, "and not on one that the school board could have provided if it had been so inclined." Lascari, 116 N.J. at 46; R.E. and M.E. v. N.Y. City Dep't of Educ., 785 F.Supp.2d 28, 42 (S.D.N.Y. 2011). As acknowledged by the actions of his family and the CMO in moving B.M. back to a group home environment in July 2019, B.M. needed the structure and consistency provided by such a regimented group home environment. During the 2017/18 and 2018/19 school years, however, B.M. was residing at home with his family who, by their own admission, "just couldn't be there every morning" to give B.M. the structure he needed in order to attend school on a consistent basis. (Sept. 20, 2020, Tr. at 59:9-15.) For the reasons noted above, to suggest that some level of additional "home-based programming" by FRHSD in B.M.'s IEP would have been adequate to address the problems B.M. was having at home and provide the "structure" (Jan. 4, 2021,

Tr. at 41:11-15) to B.M. while living with his family similar to what B.M. had while he was residing in a comprehensive residential program at the Woods which Dr. Perrin noted was so important to his success (March 4, 2020, Tr. at 137:5-138:4; Id. at 146:3-8) is both highly speculative and factually questionable. Such broad speculation further does nothing to challenge Evarista's and Jordan's assessments that B.M. was being provided with an appropriate FAPE in light of his particular circumstances.

For these reasons, I **CONCLUDE** that the District has proved by a fair preponderance of the credible evidence that it provided B.M. with a FAPE for the 2017/18 and 2018/19 school years.

Because FRHSD provided B.M. with a FAPE during the 2017/18 and 2018/19 school years, the petitioner's claims for compensatory education cannot be sustained.

The petitioners' claims in this matter seek compensatory education from the respondents to B.M. for the 2017/18 and 2018/19 school years. (Feb. 25, 2020, Tr. at 14:10-13.) Compensatory education is a remedy not specifically provided for in the IDEA. It "is a judicially designed cure for school district failures to provide [a FAPE]." Metzger, *Compensatory Education Under the Individuals with Disabilities Education Act*, 23 *Cardozo L. Rev.* 1839, 1840 (2002). "Congress expressly contemplated that the courts would fashion remedies not specifically enumerated in IDEA." W.B. v. Matula, 67 F.3d 484, 494-95 (3d Cir. 1995). Thus, a student deprived of a FAPE may be entitled to an award of compensatory education, which is an available remedy even after the student has reached age twenty-one. Ridgewood Bd. of Educ. v. N.E. for M.E., 172 F.3d 238, 249 (3d Cir. 1999); M.C. v. Central Reg'l Sch. Dist., 81 F.3d 389, 395 (3d Cir. 1996); Carlisle Area Sch. Dist. v. Scott P., 62 F.3d 520, 536 (3d Cir. 1995); Lester H. v. Gilhool, 916 F.2d 865, 873 (3d Cir. 1990), cert. denied, 499 U.S. 923 (1991).

Compensatory education claims "aim to place disabled children in the same position they would have occupied but for the school district's violations of IDEA" by providing the educational services the child should have received in the first place. Reid v. District of Columbia, 401 F.3d 516, 518 (D.C.Cir. 2015). The legal standard for the granting of such relief is summarized by the Third Circuit as follows:

[A] school district that knows or should know that a child has an inappropriate IEP or is not receiving more than a de minimis educational benefit must correct the situation. If it fails to do so, a disabled child is entitled to compensatory education for a period equal to the period of deprivation, but excluding the time reasonable required for the school district to rectify the problem.

[M.C., 81 F. 3d at 397.]

Awards of compensatory education have included an additional two-and-one-half years of special education where the school district had been lax in its efforts to provide a proper placement, Lester H., 916 F. 2d at 873, and payment of college tuition where the disabled student would apply credits obtained toward the acquisition of a high school diploma. Sabatini v. Corning-Painted Post Area Sch. Dist., 78 F.Supp. 2d 138, 145-146 (W.D.N.Y. 1999). The remedy of compensatory education is available only where a student's substantive rights are affected by a district's non-compliance with the IDEA. "Accordingly, [a] procedural violation is actionable under the IDEA only if it results in a loss of educational opportunity for the student, seriously deprives parents of their participation rights, or causes a deprivation of educational benefits." Ridley Sch. Dist. V. M.R., 680 F.3d 260, 274 (3rd Cir. 2012) (quoting D.S. v. Bayonne Bd. of Educ., 602 F.3d 553, 565 (3d Cir. 2010)).

It is clear that a student deprived of a FAPE may be entitled to an award of compensatory education. Ridgewood Bd. of Educ., 172 F.3d 238. For the reasons detailed above, however, the testimony and evidence presented in this case demonstrate that B.M. was provided a FAPE for the 2017/18 and 2018/19 school years. Therefore, I **CONCLUDE** that the petitioners are not entitled to any compensatory education.

ORDER

Accordingly, it is **ORDERED** that petitioners' due-process petition be and is hereby **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2019) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2019). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education Policy and Dispute Resolution.

October 18, 2021
DATE



DAVID M. FRITCH, ALJ

Date Received at Agency: October 18, 2021

Date Sent to Parties: October 18, 2021

/dw

APPENDIX

WITNESSES

Eileen Evarista, School Psychologist, FRHSD

Linda Jordan, Principal, The Shore Center

Francis Perrin, Ph.D., BCBA-D

S.M., father of B.M.

EXHIBITS

For Petitioner:

- P-1 IEP, October 18, 2017
- P-2 IEP, June 6, 2018
- P-3 IEP, April 18, 2019
- P-4 IEP, June 5, 2019
- P-5 IEP, October 7, 2019
- P-6 C.V., Francis Perrin, Ph.D., BCBA-D
- P-7 Evaluation by Dr. Perrin, February 13, 2017
- P-8 Judgment adjudicating B.M. incompetent and appointing S.M. and E.M. as his legal guardians, February 10, 2017
- P-9 Letter, May 25, 2017
- P-10 Request to amend IEP, August 16, 2017
- P-11 Email correspondence, July 12, 2017
- P-12 Email correspondence, September 8 – 11, 2017
- P-13 Email correspondence, September 8 – 22, 2017
- P-14 Shore Center attendance records, September 2017–August 2019
- P-15 Coordinated transportation request, 2018/19 school year
- P-16 Letter, May 5, 2017
- P-17 Release for New Horizons
- P-18 Email, September 5, 2013

- P-19 IEP, May 31, 2012
- P-19 IEP, September 9, 2013
- P-20 Correspondence, September 6, 2013
- P-21 Photographs

For Respondent:

- R-1 Eileen Evarista resume
- R-3 Request for Due Process, April 10, 2019
- R-4 Answer to Request for Due Process and Affirmative Defenses, June 24, 2019
- R-5 Petition for Appeal and Request for Due Process, May 22, 2019
- R-6 Interim Agreement for Alteration of Stay Put Placement, July 22, 2019
- R-7 Email, February 22, 2018
- R-8 Emails, November 13, 2018 – April 9, 2019
- R-9 Correspondence, April 4, 2019
- R-10 Attendance Summary, September 2017—August 2019
- R-11 IEP, October 18, 2017
- R-12 IEP, June 6, 2018
- R-13 IEP, April 29, 2019
- R-14 IEP, June 5, 2019
- R-15 Proposed IEP, October 22, 2019
- R-16 2017-18 Annual Goal Progress Report
- R-17 Progress Report, 2018/19
- R-18 Burlington County Special Services School District Report Card, 2019/20 first semester
- R-20 Letter, April 2, 2013
- R-21 Rutgers Functional Behavioral Assessment, February 7, 2013
- R-22 Psychiatric Evaluation, October 2013
- R-23 Correspondence, January 29, 2014
- R-24 Correspondence, March 26, 2014