



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

A.C. ON BEHALF OF Z.P.,

Petitioner,

v.

**WEST WINDSOR-PLAINSBORO
REGIONAL BOARD OF EDUCATION,**

Respondent.

OAL DKT. NO. EDS 07748-19

AGENCY DKT. NO. 2019-30069

Denise Lanchantin Dwyer, Esq., for petitioner (Law Office of Denise Lanchantin Dwyer, LLC, attorneys)

Marc G. Mucciolo, Esq., for respondent (Methfessel & Werbel, attorneys)

Record Closed: November 7, 2020

Decided: March 30, 2021

BEFORE **CARL V. BUCK III**, ALJ:

STATEMENT OF THE CASE

Petitioner A.C. (A.C. or mother), on behalf of her minor son Z.P. (Z.P. or student), filed a Petition for Due Process against the West Windsor-Plainsboro Regional Board of Education (District) alleging Z.P. was denied a free and appropriate public education (FAPE) as required under the Individuals with Disabilities Education Act (IDEA). Petitioner contends that: The District failed to provide FAPE by not finding Z.P. eligible for special education and related services until after his third birthday; by not developing a formal behavioral intervention plan (BIP); and by not including speech-language services in his individualized education plan (IEP). The pleadings also allege that the

District failed to provide Z.P. appropriate transportation considering his allergy and health needs as required under the IDEA, Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act.

The District asserts that it appropriately determined Z.P. was not eligible for special education services prior to his third birthday; that the District offered Z.P. FAPE through its August 8, 2019 and December 16, 2019 IEPs; and that the District provided appropriate transportation to Z.P.

Petitioner seeks: Compensatory education services; reimbursement for costs incurred in obtaining private preschool services for Z.P. between his third birthday and the date the District found him eligible for special education; reimbursement for costs incurred in obtaining private speech-language therapy for Z.P. from his third birthday to the present; for the District to modify Z.P.'s IEP to include the requested speech-language services and the development of a formal BIP; appropriate transportation for Z.P. considering his medical condition.

PROCEDURAL HISTORY

On February 21, 2019, petitioner filed a Request for Mediation on behalf of Z.P. with the New Jersey Department of Education's Office of Special Education Policy and Dispute Resolution (SPDR) requesting an evaluation of Z.P. to determine if he was eligible for special education and related services. The request was withdrawn without prejudice after the District agreed to evaluate Z.P. The evaluations were performed on March 27, 2019, April 3, 2019, and April 5, 2019. Based on the evaluations the District determined that Z.P. was ineligible for special education and related services.

Petitioner filed a second Request for Mediation with the SPDR on May 29, 2019 requesting the District to re-evaluate Z.P. after he was moved to a new class at his school. On June 10, 2019, petitioner converted the request to a Petition for Due Process alleging that the District had violated the IDEA, the ADA, and New Jersey state law. Both parties agreed to waive mediation and a resolution session and requested the matter be transmitted directly to the Office of Administrative Law ("OAL") with a settlement

conference to be held on June 20, 2019. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

This matter was originally assigned to Dean J. Buono, A.L.J. At the settlement conference it was agreed that the hearing would be postponed while the District observed Z.P. at his school on July 11th, and that Judge Buono would retain jurisdiction over the matter until after the parties' post-observation eligibility determination meeting. On August 8, 2019, the District determined that Z.P. was eligible for special education services, classified as a Preschool Child with a Disability. The petitioner consented on August 14, 2019, to the District's proposed IEP providing Z.P. placement at the District's half-day integrated preschool program, but noted she disagreed with the determination that Z.P. did not qualify for speech-language services.

The case was assigned to Carl V. Buck, A.L.J. in September 2019 after the parties were unable to reach an agreement on the issue.

On October 1, 2019, the parties agreed that the District would perform another Speech and Language screening to determine if Z.P. qualified for speech-language services. On November 11, 2019, petitioner filed a Request for Emergent Relief requesting that the District develop and implement a BIP for Z.P. to address behavioral concerns which arose after Z.P. needed to be restrained from attempting to leave the school building in October 2019. The request also sought speech-language services for Z.P. On November 21, 2019, the District opposed petitioner's motion and filed a cross-motion to compel a new speech-language evaluation. Oral arguments were held on both the motion and cross-motion on November 27, 2019.

Following oral arguments petitioner consented to a speech-language re-evaluation with an IEP meeting to be held afterwards. On December 18, 2019, petitioner agreed that a decision regarding the motion for emergent relief would be postponed for thirty days to allow for both speech services to begin and for petitioner's behavioral analyst to observe Z.P. A pre-hearing order was issued on December 26, 2019.

On or about January 30, 2020, petitioner filed a motion for an Amended Petition for Due Process. Hearing dates were originally assigned to take place through March, April, and May 2020. On March 18, 2020, State government offices, including the OAL, closed due to the COVID-19 pandemic. Consequently, the scheduled hearing dates were adjourned. During a status conference call, the tribunal proposed continuation of the hearing by way of virtual technology. The parties agreed and the hearing was conducted on May 21; June 15 and 19; July 2, 17, and 20; and, August 7, 2020 by use of a ZOOM platform. The parties submitted closing documents and the record closed on November 7, 2020.

On March 9, 2020, the Governor of the State of New Jersey issued Executive Order 103, declaring a public health emergency, due to the COVID-19 pandemic. The Governor's Executive Order 127 authorized the extension of time for the completion of administrative decisions, after the public health emergency. Subsequent Executive Orders have extended the public health emergency, which continues as of the date of this initial decision.

The filing of this decision was delayed partially due to illness of the tribunal and due to the COVID-19 public health emergency.

FACTUAL DISCUSSION AND FINDINGS

The following is not in dispute. I therefore **FIND** the following as **FACT**:

1. Z.P. was born on March 22, 2016. He was evaluated for Early Intervention (EI) services and began receiving EI services in March 2018 under an Individualized Family Service Plan as a result of developmental delays.
2. Services were delivered at Bright Horizons daycare center and at his home.
3. In December 2018 he was evaluated at Children's Hospital of Philadelphia (CHOP), Division of Developmental and Behavioral Pediatrics by Amanda Bennett, M.D. who diagnosed Z.P. with autism spectrum disorder, mixed

receptive-expressive language disorder and behavioral insomnia of childhood.

4. Z.P. resides in the West Windsor-Plainsboro School District ("District").

Testimony

The following is not a verbatim recitation of the testimony. Rather, it is a summary of the testimony and evidence that I found helpful to resolving the issues presented in this matter.

Respondent's Witnesses

Laura Nash (Dr. Nash or Nash), Z.P.'s case manager was qualified as an expert in special education and an expert school psychologist with concentration/expertise in educating preschool aged students with disabilities. She served as Z.P.'s case manager for the 2018-2019 and 2019-2020 school years.

Dr. Nash became familiar with Z.P. when his EI coordinator invited her (Nash) to Z.P.'s transition planning conference scheduled for mid-December 2018. Z.P. was receiving EI services, and it was the role of the EI to inform the District when the child was turning 3 years of age. Dr. Nash testified that she assigned herself as Z.P.'s case manager, as it was a common custom of the preschool team to assign a case manager amongst themselves and at that point in the case her role was to set up the Initial Evaluation Plan (IEP) meeting with the parents and the child. She reviewed records that were provided through EI and the parents. Dr. Nash communicated with A.C. regarding the actual date of the meeting due to a need to reschedule it. (T1 33.)

Dr. Nash testified that A.C.'s concerns regarding Z.P. were specific to his speech development as well as also a general ability to follow directions - including general coping skills. She stated that there seemed to be an indication from Z.P.'s Early Intervention records that he was making progress and that at the time of her initial involvement, Z.P. was attending Bright Horizons at Carnegie Center (program), a local program for

students. Dr. Nash was familiar with the program as she had been to observe other students in the building roughly five times over the course of her career. (T1 35.)

The IEP meeting for Z.P. was held on January 15, 2019 to discuss Z.P.'s needs with his parents and for the CST to work with the child and determine if the student had a potential educational disability. Dr. Nash, A.C., Z.P. and rest of the CST attended this meeting. (T1 37.)

Dr. Nash stated it is important for meetings like this for the student to be in attendance because, particularly for preschool students, it allows the team to meet and interact with the student prior to making any evaluative or educational decisions regarding the student. The team also considered outside evaluations and information provided by A.C. as a part of this meeting.

During the IEP meeting, the team observed that Z.P. had excellent visual perceptual skills. Z.P. also worked on a preschool language skill screener, which indicated that he demonstrated age appropriate communication skills on the demands of language into personal and articulation skills. (T1 41.) The District's representatives at the meeting included a general education preschool teacher, a school nurse, a speech language specialist, a social worker, a learning disabilities teacher consultant, and a school psychologist, all of whom were required by code to be at the meeting. Id. Dr. Nash testified that most of these people were interacting with Z.P. during the meeting. There was also an observation window so, even if someone like the social worker and parent were not part of the room where they were not directly playing with Z.P., there was an ability to observe him. The nurse's primary role is to conduct hearing and vision screenings which is required by code, and while she did not normally interact with the child after that, she remained for the meeting to discuss any potential medical needs. (T1 42.)

The District was looking for how a child was performing in the five domains that the code identifies in preschool children. Dr. Nash identified those domains as cognitive skills, communication, social and emotional development, adaptive behavior, and motor development. (T1 43-44.)

Regarding cognition, Z.P. appeared to have a grasp of information that was appropriate for his age in terms of quantitative knowledge, body parts, interest in books, and interest in playing, including making many comments about the activities he was engaged in. Dr. Nash stated that Z.P. followed some directions, understood size concepts, could answer yes or no questions and looked at the adults for help, which is considered a social and emotional skill. Z.P. demonstrated a sense of humor and the team felt generally good about what they saw from him in the domains of cognition, social, and emotional development. Dr. Nash stated that the team also felt strongly that Z.P. had a firm grasp on gross motor skills; he safely navigated around the room, got up and down from the chairs without falling, and used tools to open things. (T1 46-47.)

The CST did not recommend further evaluation of Z.P. at this time and the team did offer an application to A.C. on behalf of Z.P. if she was interested in considering the Project Child Clinic, a County based clinic that offered weekly speech therapy. Dr. Nash stated the CST communicated the decision not to evaluate to A.C. at the meeting. At the time Dr. Nash felt that A.C. seemed satisfied with that recommendation. (T1 47-48.)

After the IEP meeting, she received e-mails from A.C. regarding concerns about Z.P.'s exit testing from EI, specifically his scores in the domain of communication. (T1 49.) (J12.) Z.P. had been administered the Battelle Developmental Inventory (Batelle), a test that EI uses to establish eligibility for EI Services and conduct exit evaluations. A.C. provided Dr. Nash with Z.P.'s scores on the Battelle, to which Dr. Nash responded the next day, asking for time to talk and set up a conference call to determine next steps. (T1 50.) A.C. responded the next day that she wanted an evaluation set up for Z.P. as soon as possible, to which Dr. Nash responded that she would be willing to invite A.C. in for further discussion. Dr. Nash also stated and clarified that the District had given A.C. a rationale of the January 15th meeting as to why they felt the data they had at the time determined that evaluations were not warranted. (T1 51.)

On March 11, another IEP meeting was held, based upon A.C.'s request of additional testing. (T1 52.) (J87.) The purpose of this meeting was to determine an appropriate evaluation plan for Z.P. given the parents made newly offered concerns and

the new information from the Battelle. At this meeting the CST offered to evaluate Z.P. in the areas of speech and language and psychosocial fields. The team did not pursue any assessments related to cognitive development, specifically because they had solid evidence that Z.P. was a bright child who was learning information quickly and had well above average scores on the Battelle in the cognitive domain. (T1 55-56.)

Dr. Nash testified that based upon this unique situation, the District was ready and able to test Z.P. in these areas on the day of the meeting. Dr. Nash testified that while it was not typical, the District knew they were going to proceed with evaluation and wanted to move quickly to attempt to address both Z.P.'s needs and the parent's concerns. (T1 57.) Dr. Nash testified that the team was not permitted to evaluate Z.P. at this time, as the parent advocate indicated that her recommendation to the parent was that the evaluations be conducted after Z.P. turned three (his birthday being eleven days away). Dr. Nash stated that at the time of the meeting Z.P. was about eleven days prior to this third birthday and the advocate expressed her opinion about the norms of testing that would change after he turned three. Dr. Nash did not agree with the advocate's recommendation and wanted to move forward with the testing as she thought it was important for the student. (T1 57-58.)

Dr. Nash testified that in the spring of 2019, Child Study Team conducted a multidisciplinary evaluation of Z.P. after receiving the parents' consent. (T1 59.) (J18.) Dr. Nash stated that as a part of this evaluation, the team observed Z.P. at Bright Horizons on March 27, 2019, where he attended the two-year old classroom (he had turned three on March 22). She observed that Z.P. was an eager participant in the activities offered particularly interested in the book that the teacher was reading and a playdough activity. Z.P. spoke about what he was making, appeared to enjoy teacher attention and completed some self-care tests independently. Dr. Nash opined that Z.P. was participating in his program adequately at that time. (T1 61-62.)

Dr. Nash testified that she completed the Developmental Profile 3 (DP-3) as a part of the evaluation and conducted this assessment through an interview with Z.P.'s teacher at the time and using information from the parent. The purpose of this assessment was to comply with the evaluation plan proposed to assess his social and emotional

development in school. Z.P. scored an 82, which is considered in the descriptive category of below average at the 12th percentile rank. She stated that the average range for most assessments is typical between 90 and 110 and that is why Z.P.'s performance is a little below average at the 12th percentile. Dr. Nash testified that these scores are not significant for eligibility purposes according to the New Jersey Special Education Code. (T1 63-64.)

On the DP-3, Z.P.'s performance was relatively consistent in the beginning, which was a good sign that he was developing social skills according to progression a developmental psychologist outlined in the document. (T1 65.) (J14.) Dr. Nash stated that some of the items that were harder for Z.P. were identifying feelings of other people from their faces, using words to say what those feelings were and how they impacted him, and difficulty using a word or understanding other peoples' feeling when he was upset. Dr. Nash testified that while Z.P.'s performance was technically in the below average range; it was not such so significant that the team had a concern at the moment regarding his eligibility. The team's observation wherein Z.P. was appropriately engaging with other students.

As a part of the primary evaluation, Z.P. was also administered to Test of Early Language Development-Fourth Edition (TELD-4). Dr. Nash testified that it was reported to her by Ms. Hyman (the TELD-4 administrator) that Z.P.'s performance on the communication assessment fell in the average range. She was told by Ms. Hyman that pragmatic language was a little bit below the criteria of score but not significant. (T1 68-69.) (J18.) Dr. Nash also testified that an occupational therapy evaluation of Z.P. was conducted on April 5, 2018 by the District. (J21.) The occupational therapist reported to her that Z.P.'s overall performance on the assessment was on the age appropriate range. (T1 70.)

Dr. Nash testified that on May 24, 2019, the District held an eligibility conference for Z.P., in order to determine his eligibility for special education and related services. (T1 73-74.) (J94.) Dr. Nash testified that at the time, the teams still do not have enough evidence to indicate that Z.P. would be eligible for preschool student with a disability for special education. Dr. Nash testified that the parent and her advocate brought additional

information for the district to consider at the meeting for the first time and said they would be supplying even more information for the District to look at. The parent indicated that Z.P. was having an updated prior evaluation in communication, and an updated neurodevelopmental evaluation which she wanted the District to consider. (Id.)

The parent also brought up concerns that Z.P. had moved to a three-year-old class at Bright Horizons, which was a difficult transition to him. As a result of the new information provided by the parent at the meeting, the District agreed to consider and view the information and observes Z.P. again at Bright Horizons in the new classroom, and then reconvened a meeting thereafter to discuss eligibility. (T1 75.) Dr. Nash stated that based upon the information the team had at the time of the meeting, specifically the March 27, April 3, and April 5 evaluations of Z.P., he was not eligible for special education related services. (Id.)

Dr. Nash testified that on July 11, 2019, she and Michelle Fisher, a learning consultant conducted an additional observation of Z.P. at Bright Horizons in the three-year-old class. (T1 79.) (J26.) Dr. Nash testified that this additional assessment was necessary to address the continuing concerns of the parent and reported by Z.P.'s teacher about his performance in the three-year-old class. Dr. Nash testified that she observed Z.P. showing interest in the book read by the teacher, and although he did leave the area with the book because he did not get a turn he returned and chose an appropriate play area thereafter. Dr. Nash testified that she did speak with Z.P.'s teacher in order get her feedback and to have a behavior scale completed. Dr. Nash stated that the purpose of the behavior skill is to determine if the child had any significant delays or needs in a demand of social and emotional development. Dr. Nash testified that the teacher reported she had concerns about Z.P.'s social and emotional development in the classroom. (T1 82-84.) Dr. Nash also testified that Ms. Fisher got a collection sheet for the July 11 classroom observation which was significant in that her opinion, upon viewing the testing data, it reflected that Z.P. was an eager participant in many things and very curious and eager child. (T1 84-85.)

On August 8, 2019, the Child Study Team had initial IEP meeting for Z.P. to propose program replacements for the 2019-2020 school year. (T1 85.) (J30.) Dr. Nash

testified that the first portion of this meeting was to determine Z.P.'s eligibility for special education and related services. Dr. Nash testified that based upon all of the information collected by the Child Study Team over the last few months, including their own private testing, observation data and parent input, the team found Z.P. eligible for special education related services as a preschool student with a disability. (T1 87.)

At the IEP portion of the meeting, Dr. Nash testified that the District offered an integrated preschool program, also known as an in-class resource program, for Z.P. for the 2019-2020 school year. (T1 87.) (id.) Dr. Nash testified that the program was two and half hours per day, five days per week, consistent with what the District offered for tuition students and exceeds the preschool program requirements as set forth in the New Jersey Special Education Code. Dr. Nash testified that the program was selected for Z.P. because he exhibited strong cognitive development and the team felt that he was appropriate to continue to participate in the general education preschool but with the support of the special education teacher and appropriate accommodations and modifications. Dr. Nash testified that there were no related services provided to Z.P. through this IEP, because Z.P. did not meet the eligibility criteria for related services at that time. (Id.)

Dr. Nash testified that she did not come to the meeting with the goals and objectives for the IEP already prepared. Instead, she prepared the goals and objectives during the initial IEP meeting with the team and with the parent. Dr. Nash testified that at the meeting she requested that the parents sit next to her so the parent could watch and give Nash input as to specific concerns and so she could clearly demonstrate to the parents how the goals were being developed. Dr. Nash also testified that all the accommodations and modifications provided in the IEP were selected using input for both the team and the parent. Dr. Nash testified that the parent's main concerns at the time of the meeting were Z.P.'s allergies, the impact of his sleep disorder, and her concerns with his pragmatic language skills. Dr. Nash testified that after the meeting, the IEP was finalized and sent to the parent, and the parent signed her acceptance of the document. (T1 87-90.)

Dr. Nash testified that when the parent returned the signed IEP form on August 14, 2019, she also added a request for a weekly session of speech and language therapy to address concerns about Z.P.'s intelligibility and pragmatic use of language. Dr. Nash stated that the team made clear to the parent that Z.P. did not meet eligibility criteria for services of speech and language at that time but that a screening of articulation needs could be conducted within four weeks of school starting to determine the possible impact on Z.P.'s ability to be understood by adults and peers. Dr. Nash testified that the IEP went into effect for Z.P. (T1 90-92.)

Dr. Nash testified that after the IEP meeting, she completed a transportation form where she identified that there were specific concerns related to food allergies and Z.P.'s risk for allotment observation of him and that Dr. Nash also stated that she recommended a bus for Z.P. that included an aide. Dr. Nash testified that she forwarded this form by e-mail to the transportation department and to the school nurse. (T1 92-93.) (J29, J34.)

Dr. Nash testified that after Z.P. entered the program, she observed him many times informally and reserved her formal observations of him for when the decision had to be made or question arose that about needing more information for programming for him. (T1 95-96.) Dr. Nash testified that she spoke with Z.P.'s teachers every day, and that her office was in the same building as Z.P.'s classroom, and in fact was just down the hall. Z.P.'s teachers reported to Dr. Nash that Z.P. had a lot of background knowledge, was an eager participant in almost all activities, enjoyed play and they did notice some of the behavior concerns for which the District had specifically created goals and objectives. (T1 96-97.) Dr. Nash testified that in her opinion, these behavior issues evidenced as difficulty waiting her turn, and remaining calm, which she did not feel were atypical issues for a student in his age. Dr. Nash testified that on or about October 24, 2019, she was involved in an incident where Z.P. was required to be deescalated and restrained for a short period of time during the school day. (T1 98.) (J40.) Dr. Nash testified that although she was not present for the entirety of the incident, she did show up after the incident had started. Dr. Nash testified that after that she witnessed Z.P. roll around the floor and get up and try to run toward an exit door, which she and Mr. Guest, the general education teacher, attempted to block in order to keep Z.P. safe. Dr. Nash testified that although they were blocking the door, there was a water fountain very close

to the door at his head level. Dr. Nash expressed concerns to Mr. Guest that Z.P. might have hit the water fountain so the special education teacher administered a primary restrained seated hold on Z.P. to keep him safe. (Id.)

Dr. Nash testified that Ms. Weston, the special education teacher, came after she brought the other students to physical education for the morning. Dr. Nash testified that the nature of the hold is to keep the child safe from hurting his or herself, specifically about keeping their body safe and helping them calm down. Dr. Nash testified that during the hold the staff member is often saying things like take a deep breath, tell us when you feel better, and other things that might help the child relax and control their body. Dr. Nash testified that normally the child will be seated, with the staff member seated behind them, and the staff member will be calming the child's arms and legs as a part of the hold. Dr. Nash testified that the hold is modified depending on the age of the student, and whatever is in the best interest of keeping the students safe. (T1 99-101.)

Dr. Nash testified that on the form, it did reference that Z.P. was restrained for ten minutes, from 10:20 a.m. to 10:30 a.m. Dr. Nash testified that in her experience there is a definitive progression for de-escalating a student such as Z.P. during this type of incident. Dr. Nash testified that such a progression would include using calming words to help ensure the child is breathing properly, reinforcing the student is not in trouble, and ensuring that the student is able to safely re-enter the classroom setting. (T1 102-103.) Dr. Nash testified that at the end of the incident, Z.P. easily and calmly re-entered the classroom, asked for a drink of water which was provided to him, and addressed some fourth or fifth grade students who were running in the hallway telling them that they should not run. Dr. Nash testified that to the best of her knowledge there were no other incidents of this nature with Z.P. either before or after the October 24th incident. (T1 104.)

Another IEP meeting was held on December 18, 2019, for the purposes of adding speech therapy to Z.P.'s IEP. (T1 104.) (J57.) Dr. Nash testified that at the time of this meeting, the team was in possession of additional information including a speech assessment completed by the District's speech and language therapist, Amanda Gagnon. Dr. Nash testified that the District offered Z.P. speech therapy in a small group twice per week, as well as a speech and language consultation individually twice a year for fifteen

minutes. Dr. Nash testified that the best way to describe the consultation was that throughout the school year, at various intervals, the speech and language department would include formal consultation to gather information specifically from the classroom teachers and from direct observations of the students in their classroom environment in order to determine progress and the needs moving forward. (T1 105.) Dr. Nash testified that at the time of the meeting, Z.P.'s teachers reported that they were pleased with his progress.

Dr. Nash reported that also at the time of the meeting, there was an extensive discussion regarding Z.P.'s behaviors in the school setting. Dr. Nash stated that the teacher reported Z.P. was making progress with the modifications that were implemented in the classroom. (T1 106-107.) Dr. Nash testified that also at the meeting, the parent requested that her private BCBA be able to come in and observe the classroom as part of her functional behavioral assessment. The parent also requested a BIP, to which the District responded that they have anecdotal data to determine that Z.P. was making meaningful educational progress on his goals with the modifications and accommodations implemented. (T1 108.) Dr. Nash testified that in her professional opinion, a BIP was not necessary for Z.P. at this time. Dr. Nash stated this was a team decision not just her own, and that they did not feel that Z.P.'s behaviors were significantly interfering with his own or other students' learning at that time. Dr. Nash testified that Z.P. was responding very well to the District's modifications and the incidents of Z.P. either refusing to do something or crying excessively diminished quickly from the start of the school year, and within a few months the student was making good progress using his words to address concerns. (T1 109.) Dr. Nash testified that this IEP went into effect for Z.P. and he began getting the services contained therein.

Dr. Nash also analyzed Z.P.'s progress reports for the 2019-2020 school year. (T1 110.) (J91.) Dr. Nash testified that upon reviewing his goals, Z.P. was making satisfactory progress in all areas. Dr. Nash stated that this meant that Z.P. was achieving some goals and making gradual progress in other goals but at a level with which the teachers were very pleased. (T1 113.)

Dr. Nash then stated that, in her professional opinion, Z.P. was successful with the program, placement and services provided to him from the District. Dr. Nash and her team saw a child who loved coming to school, who on a regular basis said things to his teachers like “I love you,” and was the first child in the room because he was excited to get into the classroom. (T1 114.) In her opinion, Z.P. was safe in the classroom and that the District was equipped to keep him safe and give him the tools to help manage his feelings. Dr. Nash testified that Z.P. was also learning extremely well. (Id.)

Dr. Nash testified that in her professional opinion, the August 8, 2019 and December 16, 2019 IEPs offered Z.P. a free appropriate program in a least restrictive environment. (Id.)

On cross-examination, Dr. Nash testified that she was aware that Z.P. was getting services several times a week through early intervention. (T1 119.) She was aware that Z.P.’s neurodevelopmental pediatrician diagnosed him with an autism spectrum disorder. (T1 125.) Dr. Nash testified on cross-examination that although the behaviors that Z.P. demonstrated during early intervention could be those characteristics of a child with autism spectrum, she also felt that typically developing children might behave in situations like that in a similar fashion and expressed concern that she did not know specifics about the evaluator with Z.P. that witnessed these incidents. (T1 127.) She disagreed with the parent’s attorney regarding whether appropriate individuals had completed the forms filled out as part of the evaluations. (T1 128.) Dr. Nash also testified regarding her experience and knowledge of the New Jersey Autism Program Quality Indicators. (T1 135.) (J77.) Dr. Nash testified that in her professional experience there were recommendations contained in the New Jersey Autism Program Quality Indicators for programming for students on the autism spectrum, but that those recommendations were not contained in the New Jersey Administrative Code. (Id.)

Dr. Nash also disagreed with the characterization of specific scores located in Z.P.’s testing as below the average range, as a review of the scores indicated that they were at the bottom of the average range. (T1 145.) Dr. Nash testified that in sections where the Children’s Hospital of Philadelphia evaluator referenced that the scores from Z.P. should be interpreted with caution, in her professional opinion if the evaluator felt

that the scores might not be accurate it was in her ethical professional imperative to do follow up assessments to find out and justify and verify why she felt the way she did. (T1 148.)

She was in receipt of a request from the parent that the Vineland Adaptive Behavior Skills (Vineland) be used to assess Z.P.'s social abilities. In her opinion the Vineland had been around since the 1940s, one of the earliest forms and its primary use was for diagnosis of intellectual disabilities. (T1 171.) Dr. Nash also testified that the reason the District moved forward with evaluations in March of 2019 had nothing to do with the parent's filing for mediation, but in fact because the District received new and additional information from the parent and private physicians regarding Z.P. that was relevant to such a determination. (T1 176.) On cross-examination, Dr. Nash denied telling the parent not to move Z.P. to the three-year-old class because she wanted to observe him with a familiar adult. (T1 181.) Dr. Nash testified that she did not have the power to tell parents where to put their children or private daycare and certainly would not tell the daycare such a thing. Dr. Nash testified that she asked the daycare if there was a plan to move Z.P. but was not given that information. (Id.)

Dr. Nash testified that her interpretation of the event between Z.P. and Ms. Kempler at the March 11, 2019 meeting was that Z.P. was playing relatively well and independently for quite a while and at some point, he became frustrated and tossed a plastic hammer at Ms. Kempler. (T1 191-192.) Dr. Nash testified that she did not see Z.P. throw the hammer but heard Ms. Kempler get up and say something to the parent about disciplining the child. On redirect examination, Dr. Nash testified that although she received many reports from Z.P.'s private physicians at CHOP, none of these providers ever observed Z.P. in the District, their recommendations were based upon their own observations of him and parent input. (T2 117-118.) Dr. Nash also testified that the Vineland was not completed on Z.P. at the parent's request, because the Vineland is primarily used as an assessment for overall adaptive behavior in conjunction with potential intellectual disability. Dr. Nash testified that at that point the team was confident that Z.P. did not have an intellectual disability. Further, Dr. Nash testified that the Vineland started at age 3 and that Z.P. was not three years old at the time that the parent

requested. Thus, Dr. Nash testified that the CST chose a social skill that is used for children from ages one through eleven as a better instrument in this situation. (T2 119.)

Dr. Nash testified that at no point despite the diagnosis of autism did the District consider an Applied Behavioral Analysis (ABA) program for Z.P., as he had very strong cognitive skills, ability to use language and respond socially to adults. Dr. Nash also testified that at no point did the parent request an ABA program for Z.P. (T2 120.) Dr. Nash testified that at the May 24, 2019 meeting, she and the team made it quite clear to the parent that the team was going to consider additional information before making a formal determination as to Z.P.'s eligibility. This included additional information that the parent provided that very day to the team, for the first time. (T2 121.) Dr. Nash testified that it was obvious (to her) that the parent understood the team's decision at that time, and that the parent was also represented by an advocate who understood what was going on.

Dr. Nash testified with regard to a documentation made by Ms. Weston, the classroom teacher regarding Z.P.'s utterances relative to speech and language therapy. Dr. Nash testified that in her opinion, the utterances recorded by Ms. Weston were not inappropriate for a three-year-old student given what she knew as a school psychologist. Dr. Nash also testified that Z.P. conversed with adults readily, so she was not surprised that he was able to do so in this instance. (T2 122-123.) (J35.)

Amanda Gagnon (Gagnon), the speech therapist who provided direct services to Z.P. during the 2019-2020 school year and evaluated him, was qualified by the Court as an expert school-based speech therapist. (T2 136-137.) She became familiar with Z.P. during the 2019-2020 school year and was aware of Z.P. as a member of Mr. Guest and Mrs. Weston's integrated pre-school class but did not officially meet him until October of 2019 when she received consent to begin his screening process. (T2 137.)

She regularly visited the classroom, so upon interacting with students during play, she knew Z.P. as a student in the class. Ms. Gagnon stated that she did not formally interact with Z.P. or introduce herself to him until she was assigned to evaluate him. (Id.)

Ms. Gagnon testified that several concerns were brought to her attention after beginning the screening process, particularly from the parent. Ms. Gagnon testified that although she did not complete the initial multidisciplinary evaluation that had a speech component in the spring of 2019, she reviewed the report when she was first assigned to evaluate Z.P. (T2 139.) (J18.)

Ms. Gagnon testified that Ms. Hyman completed the Test of Early Language Development-Fourth Edition (TELD), the Goldman Fristoe Test of Articulation (Fristoe), and the Description Pragmatic's Profile portion of the Clinical Evaluation of Language Fundamentals. Z.P. scored within the average range of development in the areas of receptive language, expressive language, and overall spoken language. (T2 140.) Ms. Gagnon testified that these scores painted the picture of average understanding and expression of language. Ms. Gagnon also testified regarding Ms. Hyman's completion of the Fristoe. Ms. Gagnon stated that although there were no scores reported, that was not a required measure for this assessment. Ms. Gagnon testified that Ms. Hyman commented that Z.P. was producing all the sounds that were customarily required by the age of three. (T2 142.)

Ms. Gagnon then identified her speech and language screening from October of 2019. (T2 143.) (J38.) The purpose of the speech language screening was to determine if a further assessment was warranted in any areas of speech and language due to a potential deficit. She completed three separate classroom observations, an informal speech sample and an informal language sample and compared those to the results of the multidisciplinary evaluation. Ms. Gagnon also completed a standardized screening, the Fluharty-2, which tests articulation and expressive receptive language. Finally, Ms. Gagnon received teacher input to talk about his performance of the classroom. (T2 143, 144.) Her first observation of Z.P. took place on October 7, 2019 in the morning. Ms. Gagnon stated she observed Z.P. on the playground as well as in the classroom setting. Ms. Gagnon stated that this was the first time Z.P. was formally introduced to her, he said hi and told her that he was eating his food. Ms. Gagnon stated that Z.P. told her about his snack what he liked and what he didn't like. He also told her the procedures for washing his hands before he had to go outside and then told her about a butterfly he saw on the playground. Ms. Gagnon felt that from this initial observation she got a pretty good

sense of his articulation and although he was a little bit difficult to understand, he seemed to have fairly strong language skills and was able to communicate his message. (T2 146.) Ms. Gagnon stated that in her professional opinion her interactions with him were within the realm of what she would normally see for a student of that age.

Ms. Gagnon observed Z.P. again on October 16, 2019 at 10:00 in the morning. Z.P. was in the classroom with a small group at the table completing a project with his instructional assistance. Ms. Gagnon testified that he was making a mummy picture for Halloween. Ms. Gagnon stated that Z.P. was able to tell her a little about the mummy, and he continued work on the craft until he was finished. Ms. Gagnon stated that her conclusion from this observation were very similar to the first, in that she had some concerns about his articulation and phonology but generally he seemed to effectively communicate language. (T2 147.) Ms. Gagnon stated that her concerns with his articulation and phonology could be demonstrated in her meeting a lot of contextual information to be able to understand what he was saying.

Ms. Gagnon observed Z.P. for a third time on October 23, 2019 in the morning. Ms. Gagnon stated that her observations during this session were like the first two sessions. (T2 148.)

Ms. Gagnon testified regarding the informal speech and language sample she took. Ms. Gagnon stated that she analyzes utterances and productions during the observations that she completed of Z.P. and compared them to his production during the Goldman Fristoe Test that Ms. Hyman administered. According to the data collected, Z.P. was producing all the sounds that were expected by the age of three. In Ms. Gagnon's opinion, Z.P. was producing more phonological processes and articulation errors than he was previously. However, she felt that his unintelligible utterances were sometimes able to be interpreted based on context. (T2 148-149.)

Ms. Gagnon testified regarding the Fluharty screening she did of Z.P. explaining that this test is administered to identify children who are at risk of speech and language problems and need more comprehensive evaluations. Ms. Gagnon stated the Fluharty in particular looks at articulation, repeating sentences, following directions, answering

questions, describing actions and sequence and events. Ms. Gagnon testified that she chose this assessment because she knew it had not been administered to Z.P. before. Ms. Gagnon stated that Z.P. scored very poor in overall area of articulation, average in the receptive language, poor in expressive language and below average in general language. Ms. Gagnon stated that her two main areas of concern were at the conclusion of the screening which were articulation and expressive language. Ms. Gagnon stated that she was somewhat surprised about his scores for expressive language, but she seemed to think that it was because Z.P. was tired as this screening assessment went on for longer than she anticipated. Ms. Gagnon stated that this was the first time pulling him to her room to complete any sort of testing and she wanted to finish it in one shot so she was not surprised that the articulation results were the way they were. (T2 153-154.) Ms. Gagnon concluded that because of the screening there were possible educational needs in the areas of articulation expressive language, so she wanted to administer some standardized assessment to get a look at these areas. (Id.)

The formal speech and language evaluation she completed on Z.P. was in December of 2019. (T2 154 to 155.) (J52.) Ms. Gagnon testified that the difference between the screening she did previously, and the current testing was that the testing would go much more in depth into each of the areas that she was able to assess. This evaluation consisted of completion of the Goldman Fristoe Test of Articulation, observations completed earlier in the school year and an additional observation of Z.P. in class, as well as input from his teachers.

Ms. Gagnon stated that Z.P.'s teachers reported to her that sometimes they found it difficult to understand him in the classroom, but his deficit did not appear to make him avoid speaking in class or effect his social interaction with his peers. (T2 156-157.) Z.P. did not show concern or awareness of problems with speech sound production, and typically did not give on trying to say something because he could not make himself understood. Ms. Gagnon stated that Z.P. did have difficulty producing a variety of speech sounds, especially in the words with many syllables. In the classroom, Z.P.'s teachers would try to model the correct production on the speech sound areas that Z.P. produced. They also tried to give him verbal and visual accuse. (T2 157.)

Ms. Gagnon testified that Z.P. scored very poorly on her administration of the Goldman Fristoe Test of Articulation. Z.P. received a standard score of 55, which falls 3 standard deviations below the mean score of 100. Ms. Gagnon compared her completion of the Goldman Fristoe with that which was done by Ms. Hyman in the spring of 2019. In comparing the two, Ms. Gagnon concluded that Z.P. produced more speech sound errors during her evaluation and the errors were more inconsistent. Ms. Gagnon stated that Z.P.'s length and complexity of utterances had increased as he was a little older than he was during the multidisciplinary evaluation, which she believed contributed to her only understanding him to decrease. (T2 159.) Ms. Gagnon concluded that Z.P. presented at the time with a speech sound disorder characterized by developmentally inappropriate substitution errors, i.e. replacing one sound with another, omission errors, phonological errors, and multisyllabic errors with multisyllabic words. Ms. Gagnon stated that Z.P. was perceived to speak with a fair to poor intelligibility at the word level, and poor intelligibility at the conversation level. (T2 159-160.)

Ms. Gagnon identified the December of 2019 IEP for Z.P., which she attended the meeting for as it proposed to include speech services for Z.P. (T2-161.) (J57.) Ms. Gagnon testified that she recommended speech therapy twice a week for twenty minutes for Z.P. in the small group, not to receive two students as well as individual speech consultations twice per year for fifteen minutes. Ms. Gagnon stated that based on the severity of Z.P.'s perceived deficits, twice a week was appropriate. Ms. Gagnon did not feel that Z.P. required any sort of communication device or assistive technology to help him get his message across. (T2 161-162.) Ms. Gagnon stated the purpose of the consultation was to speak with Z.P.'s classroom teachers and other therapist should there be any and any other team members, in order to talk about strategies that could be implemented in the classroom or answer any other questions or provide them with supports if they requested. (T2 162.)

Ms. Gagnon testified that in her role she frequently goes into the classroom to observe students with the teacher's presence and discuss with issues. Ms. Gagnon would often show teacher strategies they could use instead of just telling them what to do. Ms. Gagnon stated that she would answer informal questions as well as formal questions from the teachers and would occasionally provide them with research to review

if it was better suited to the issue that arose. Ms. Gagnon stated that she proposed services in a small group setting for Z.P. because she liked to provide services in a least restrictive environment. She felt that Z.P. being pulled out of the classroom individually was very restrictive. Alternatively with another peer present he could practice communication with that peer getting his message across to someone closer to his age who might be less able to understand him than an adult would and overall be able to interact with the work with another student. (T2 163-164.)

Ms. Gagnon stated that she started providing direct services to Z.P. in January of 2020 after the return from winter break. Ms. Gagnon stated that she would pull Z.P. out of the classroom and once the students arrive in her therapy room, they would greet each other and enter the room. Ms. Gagnon testified that students have the option to sit in regular chairs or beanbag chairs around her kidney shaped table where she could easily access the students and provide tactile or touch cues. Ms. Gagnon testified that she normally uses visuals in books to teach the students about the sound or process that they were working on and incorporated targeted practice into a motivating game or activity. Ms. Gagnon testified that the peer she had Z.P. work with during the school year, he already had to go to report with. Ms. Gagnon observed them being comfortable in the classroom with one another and they also had individual goals that were compatible to work on. Ms. Gagnon felt that it was very easy to facilitate working with both. (T2 165-166.)

Ms. Gagnon testified that at that time she was specifically working on a production of K and G sounds with Z.P. as well as suppressing a phonological process. Ms. Gagnon described suppressing a phonological process as a pattern that a child uses to sound more like an adult to replicate adult speech. Ms. Gagnon stated that in attempting to eliminate that pattern she had Z.P. switch his focus on specific letters, the letter sounds that he was making. (T2 166.) Ms. Gagnon stated that she created the goals at the IEP relative to speech and language services, at the IEP meeting with the parent and the rest of the team, and the parent agreed with them. (T2 167.) Ms. Gagnon felt that the goal she picked were developmentally appropriate to target at that time based upon Z.P.'s age and needs. (Id.)

Ms. Gagnon testified that overall, she was pleased with Z.P.'s progress in articulation with regard to producing earliest developing sounds such as P, B, D, M, and N. Ms. Gagnon felt that Z.P. was producing these sounds very inconsistently during her evaluation and that by the time she had to report his progress he was producing them accurately and consistently the way the goal is written. (T2 168.) Ms. Gagnon concluded that the programing and services she provided to Z.P. during this time were appropriate. Ms. Gagnon stated that Z.P. made progress on all his goals, and even achieved one of them which was significant for her given that she only saw him for a short period of time before the COVID outbreak. (T2 168-169.)

On cross-examination, Ms. Gagnon stated that she did review several reports or speech therapy evaluations that Z.P. received at CHOP. (T2 171.) Ms. Gagnon stated that Z.P.'s scores on the pre-school language scale were within the average range. (id.) Ms. Gagnon testified on cross-examination that she did not see reduced eye contacts with the social initiative, limited variation of facial expression, inconsistent response to name or limited attention to communication partner during her sessions with Z.P. (T2 174.)

Ms. Gagnon testified that although she could not speak exactly to what Ms. Hyman tested Z.P. on during a multidisciplinary evaluation, in her own experience it was very common to record language rather than speech during such an evaluation. Ms. Gagnon stated that sometimes it can be very difficult to transcribe every speech sound production note, so she interpreted Ms. Hyman's report as recording the language that he used rather than the speech sound errors. (T2 183.)

During the cross-examination of Ms. Gagnon, there was a discussion about Ms. Weston's classroom observation document produced for the purposes of the Court proceedings. Ms. Gagnon stated that Ms. Weston was simply notating his language and words used, not his speech sound production. (T2 205-206.) Ms. Gagnon was also asked as to why some of the factual information contained in her draft report was omitted from her final report. Ms. Gagnon replied that to the extent that any information from her draft report was omitted from the final report, it was because that information was not

relevant to her speech and language observation and evaluation. (T2 220-221.) (J37, J38.)

On redirect, Ms. Gagnon again stated that in her professional opinion, that anything removed from her draft report and not included in her final report had no impact on the speech screening that she was conducting. (T2 231.) She also testified that she did not recall any suggestions from the District Supervisor, Ms. Samantha Tognela, relative to removing specific observations from her final report. (T2 232.)

Kristen Weston (Weston) Z.P.'s special education teacher for the 2019-2020 school year was offered as an expert special education teacher in instructing preschool students with disabilities. The tribunal reserved on whether to consider her an expert in the field as most of the testimony she gave was factual in nature. (T3 10-11.)

Ms. Weston testified that her first foray into working with Z.P. was phoning in to the August 8, 2019 IEP meeting prior to the start of the 2019-2020 school year. (T3 16.) Ms. Weston testified that there were no specific concerns presented to her at that time. She was told that Z.P. was a nice boy who liked to read books and would be an incoming preschool student in her class. (Id.)

Ms. Weston testified that when she had an incoming student in her three-year-old class she typically read the IEP and spoke with the team about the student to get some impression of the student. Ms. Weston also stated that sometimes she and her co-teachers would read the reports provided as background information so they were aware of the needs and modifications and accommodations that needed to be given to the students and anything they might need input in before the student entered into the classroom. (T3 17.)

Once Z.P. entered our classroom, she found him to be very excited to come to school, excited to see the classroom and play with toys and explore the area. Ms. Weston stated that in her professional opinion Z.P. was a happy student who liked to talk to the adults and asked a lot of questions about everything that was going on in the room. (T3 19.) Ms. Weston testified that she knew coming in that Z.P. was a child that was going

to have social emotional issues in terms of coping skills or frustration tolerance, and although she did not see that from the beginning, she was aware of it.

Ms. Weston testified that the District uses a curriculum called Creative Curriculum, which helps the teachers in designing the classroom specifically into different areas of learning such as dramatic play, library, science center, art center, toys and games, circle time and everything taken in a way to create a positive environment and climate that is safe for the students. (T3 20.) Ms. Weston also testified that she and her co-teachers were trained in something called ECERS, which is the Early Childhood Environment Rating Scale used to design the classroom. Ms. Weston testified that the ECERS talks about things like keeping things at children's eye level, putting up their work, having things accessible for students because a lot of the curriculum is about student choice, child centered and play based, and there is a lot of time for playing and socializing and choosing what they want to do. (Id.)

In her opinion the classroom was designed in such a way that it made it easy for students to complete tasks, provided clear expectations for them, and a consistent daily routine throughout the day. Ms. Weston testified that the routine was written on the board with visuals, so they were aware what was going to come and what was next in the classroom. (Id.)

Ms. Weston testified that in her professional opinion, the student choice aspect of the program was very important for students at this age, as it was important for them to feel like they are active participants in the school that they are not just constantly being told what they have to do. Ms. Weston testified that in her professional opinion it was important to give students such as Z.P. the opportunity to explore and discover on their own and the curriculum was research based and state approved. (T3 21.)

Ms. Weston testified that the curriculum was full of information that explained how important it was for students to get opportunities to play and to be in charge of their play while also remaining safe, having a certain amount of students in certain areas, teaching them the routine and limits of the routine.

Ms. Weston testified that prior to school being ended for the year due to COVID, there was roughly a one to five teacher-to-student-ratio in the classroom, including herself, Mr. Guest, and an instructional assistant. Ms. Weston testified that she and Mr. Guest have been teaching together for the past eleven years. Ms. Weston testified that Mr. Guest were always to help and co-teach with her. She and Mr. Guest generated lesson plans together, reflected on student progress together and shared similar responsibilities as far as the way they interacted with students inside the classroom. Ms. Weston stated that students and parents would not be able to tell the difference between her instruction and that of Mr. Guest, as both were very inclusive and very collaborative. Mr. Guest helped to implement Ms. Weston in the classroom's curriculum and teach and work with students and was also aware about every single aspect of each student's needs as Ms. Weston was. (T3 23.)

Ms. Weston testified that she felt that Z.P. did a wonderful job in his first year in their program. Ms. Weston stated that she thought he started with the skills and the needs that were written in his IEP and his behavior reflected that. Ms. Weston testified that in her opinion, a lot of work went into teaching him coping skills, feeling words and just the general curriculum that was taught in the classroom. Ms. Weston stated that visuals were available all over the classroom, including reminders of how to take deep breaths. There was also a feelings chart where students could go up and pick out feelings and put on the board that was something that Z.P. enjoyed and was very good at. Ms. Weston testified that Z.P. responded well to the class-wide modifications that were made such as stop signs on toy areas. (T3 23-24.)

Ms. Weston testified that Z.P. started off the school year with incidents, most of which dealt with sharing or taking turns. Ms. Weston stated that as the school year went on, Z.P. grew more interested in his peers, spent more time with his peers and was much more successful in interacting with his peers. Ms. Weston testified that as far as Z.P.'s behaviors, he went from long periods of twenty minutes of having behaviors to down to five minutes in duration. But Ms. Weston also felt that it was not just the duration decreasing, it was how Z.P. was able to cope with the behaviors, expressed himself more and explained why he was feeling a certain way and what happened. Ms. Weston felt strongly that Z.P. trusted the teachers to help him through whatever situation arose. (T3

25.) Ms. Weston testified that initially they saw behaviors such as hitting, kicking, and crying and by March prior to the COVID, the behaviors had reduced to just crying occasionally. (Id.)

Ms. Weston testified that there were very frequent opportunities for Z.P. to interact with peers in the class socially, as a vast majority of the day lends itself to social interaction. Ms. Weston testified that the class offered over an hour of what they called choice time, which was essentially play time where the students had the free choice to play where they want but there were always other students in the area. Ms. Weston stated that she and Mr. Guest facilitated social interactions when needed and the beginning of the school day was spent socially interacting at the tables in a more structured environment. Ms. Weston stated that the class would play games that have the students interact with each other, and she felt that at the age of three this was important for all students to learn social skills. (T3 25-26.)

Ms. Weston stated that in her professional opinion Z.P. made a progress in social interactions with peers. Z.P. had goals specific to cooperation and associative play skills and he continued to make satisfactory progress in all those areas. Ms. Weston stated at the beginning of the year Z.P. was more inclined to talk to adults and play alongside of his peers as opposed to with his peers. Ms. Weston stated that as the year went on and skills were taught and opportunities provided, the staff saw shift in Z.P. to more interest in wanting to be with peers specifically exhibited in things that he was saying and things that he was doing. Ms. Weston stated that Z.P. would ask the staff to help him find something to play with and his desire to be around other students grew tremendously. Ms. Weston also stated that the amount of support needed to be given to him to interact with peers lessened over time. (T3 28.)

Ms. Weston testified that she attended the IEP meeting in December 2019 and was part of the discussion relative to the addition of a behavioral intervention plan to Z.P.'s IEP. Ms. Weston testified that the behavioral modifications set forth in the IEP were being implemented successfully by staff, and Z.P. was benefiting from them. Ms. Weston stated that depending on the modification, the amount of times these modifications were implemented was different. Specifically, Ms. Weston stated that some were done daily

but some were done on a less regular basis depending on the needs of Z.P. in the classroom at that time. (T3 31-33.) Ms. Weston testified that at the time of the December IEP meeting, she talked a lot about the success that the staff was having since the beginning of the year in terms of Z.P.'s behaviors, and how she and Mr. Guest were implementing the accommodations and how Z.P. was benefiting from them and showing progress. Ms. Weston stated that in her professional opinion, Z.P.'s behaviors were decreasing, and it had decreased significantly at that point, and that the team felt that Z.P. was responding appropriately to the interventions already in place. Ms. Weston stated that at that point, she had already charted behavior for the parents, which was something that she had offered to the parents in October after there were a few incidents. Ms. Weston stated that she thought it might have been easier to communicate through a chart that was sent weekly so that the parent could stay informed on his classroom experience. (T3 33-34.)

Ms. Weston stated that at the beginning of the school year Z.P. definitely had issues with regard to transitioning to the classroom, including having tantrums, crying, task refusal and avoidance, and there were certain things that had to be implemented in order to help to deescalate his behavior. Ms. Weston said she would have Z.P. calm down in a safe area, encouraged him to take deep breaths and did a lot of planned ignoring because they did not want to make the opportunities in which he tantrum to be enjoyable for him. (Id.)

Ms. Weston identified the behavior charting that she created and sent to the parent to keep her abreast of how Z.P. was doing during the day. (T3 36-37.) (J76.) Ms. Weston testified that based upon the data contained in the forms, the beginning of the year incidents included behaviors that were aggressive such as hitting, kicking, pushing, yelling, and throwing objects. Ms. Weston stated those behaviors of the beginning of the year had extended durations and the team had to involve many modifications to deal with them. Ms. Weston testified that further on in the school year these behaviors took a downward trend from November on and as the incidents went from more than ten minutes in nature to five minutes or less and the intensity of the incidents decreased. (T3 41-42.)

Ms. Weston stated that while they did chart the behaviors for the parent in order to keep her abreast of what was going on in the classroom, there were times were Z.P. had typical issues such as sharing or taking turns or following directions, more typical behaviors that were seen in children aged three, that were not necessarily in the forms as the team expected to see them.

Ms. Weston testified that with regard to students such as Z.P. getting pulled from the classroom for related services, her role was to talk daily with the speech therapist or whichever therapist of related services the student is working with who would give her feedback on how the session went for that student. (T3 49.) Ms. Weston testified that she prepared the students before they went to the session and let them know that on specific days they were going to specific places. Ms. Weston testified that Z.P. was always very excited to go to speech therapy with Ms. Gagnon. Ms. Weston testified that Ms. Gagnon would always give her ideas and tips of things that she could do in the classroom, like repeating the way she said things to Z.P. so he heard it in a more clear way, reporting any kind of behavioral issues he had, which he often did not, and reporting any kind of behavioral issues he had in the speech therapy room which he did not. (T3 50.) Ms. Weston testified that based on the progress reports and goals and objectives and reports cards that she filled out for Z.P., he was doing very well. (T3 51-52.) (J93.) Ms. Weston testified that in her professional opinion, the report cards and progress reports absolutely reflected how well Z.P. was doing in the class and the things that he was still working on.

Petitioner's Witnesses

Lindsay Hilsen (Hilsen), Board Certified Behavioral Analyst (BCBA) was qualified as an expert in special education in Applied Behavioral Analysis (ABA) in the education of pre-school students and in the education of students with autism with the tribunal taking into consideration the concerns voiced by defense counsel as to the allocation of Dr. Hilsen's work-day and actual time she spends with students on a daily basis. (T4 24.)

Dr. Hilsen testified extensively regarding Applied Behavioral Analysis, and in her observation and evaluation of Z.P. Dr. Hilsen testified that she first became involved with

Z.P. in December of 2019. (T4 55.) Dr. Hilsen testified that her first involvement was attending an IEP meeting to discuss revision to get speech services as well as a functional behavioral assessment done in the classroom with Z.P. Dr. Hilsen also stated that part of the behavioral discussion was potentially adding a behavioral intervention plan to Z.P.'s IEP. (Id.)

Dr. Hilsen testified extensively about both of her reports on Z.P. and stated that she observed him for roughly one-hour total between the two reports in the school setting. (T4 58-59.) (J60, 61.) Unsurprisingly, Dr. Hilsen was critical of the District's implementation of behavioral modifications for Z.P. and felt that he should have had a formal behavioral intervention plan. (Id.) Dr. Hilsen stated that in her opinion, the District's not observing Z.P. with anyone other than adults before determining not to value him was not appropriate. (T4 91.) Dr. Hilsen gave some opinions regarding the type of special education services she thought were appropriate for Z.P. However, Dr. Hilsen did not necessarily have the background to make such conclusions outside of the realm of ABA. (T4 103-104.)

On cross-examination Dr. Hilsen stated she was not a speech therapist and her criticisms of the speech therapist observation report were not based on any firsthand observation of the report being completed - as she was not present for the observation and did not complete the report. (T4 112-113.) She stated she had met Z.P. three times, one of which was at the IEP meeting in December, and two times as during her observations of him in the school setting. Dr. Hilsen stated she never worked directly with Z.P. on any level. (T4 114.)

When questioned about her testimony regarding the autism program quality indicators, Dr. Hilsen stated that an inclusive preschool program like the one Z.P. attended could be an intensive educational experience for him as recommended by the autism program indicators. (T4 116.) Dr. Hilsen also stated that while she did not see the behavioral data taken by the District as set forth in their charting, there was a definitive decrease in the duration of Z.P.'s behaviors over the course of the data. (T4 118-119.) (J76.) Dr. Hilsen stated that she never saw any of the data prior to her observations of Z.P., and did not ask any follow up questions to Dr. Nash or any of the District staff

regarding the creation of the data documents and how they were being maintained and how data was being taken. (T4 122-123.) Dr. Hilsen also stated that some of the information from the data form she received came from the parent, and she did not actually know what happened in terms of particular de-escalation strategies used by the District during those incidents. (T4 121.)

Dr. Hilsen stated that at the IEP meeting in addition to the teachers identifying the behavioral modifications that they were using with Z.P., the teachers also felt based upon their involvement with Z.P. that the modifications were working at that time. (Id.) Dr. Hilsen also recanted her statement on direct that the teachers' responses to her forms were not as lengthy as the parents' responses, given that the parties were in litigation. (T4 126-127.) Dr. Hilsen also admitted that she was not aware that the New Jersey administrative code does not require a student to be evaluated with peers as part of an initial determination of eligibility for special education related services. (T4 132 to 133.) Dr. Hilsen identified several areas in her report where Z.P. did in fact follow directions, respond to prompting and socializes with peers. (T4 136 to 137.) Dr. Hilsen also stated that several times during her second thirty-minute observation of Z.P., he was able to complete task with direction and minimal to no prompting. (T4 142 to 143.)

In examining the recommendations from her report list the modifications already being provided to Z.P. in the classroom, Dr. Hilsen was unaware that the teachers were already ensuring that Z.P. was attending prior to presenting directions to him, which was one of her recommendations. Dr. Hilsen was also not aware that the class was already using a visual schedule in the classroom, another one of her recommendations. She stated that the District was providing Z.P. with warnings prior to ending an activity, a third recommendation of hers. Dr. Hilsen also stated that she saw Z.P. being provided with opportunities to interact with peers, as well as reinforcements to be praised, high fives and smiles. While Dr. Hilsen stated that these incidents were minimal, she saw Z.P. for a total of sixty minutes in the classroom setting. (T4 146-149.) Dr. Hilsen stated that she could not precisely say whether certain things were being provided to Z.P. consistent with her recommendations, because it was only a thirty-minute observation. (T4 151.)

Dr. Hilsen stated that her recommendations for behavioral plans were really suggestions and that she did not think that the District should take that exact plan and put it into place. When questioned as to why if she thought additional things were necessary for the plan, she did not put them in the report Dr. Hilsen stated that it was not her place to do so. (T4 149.) Dr. Hilsen stated that when she wrote behavioral plans for classroom she wanted it to be a team collaboration with the teachers involved and that she would not say that the items of her report would be exactly what needed to be done. (Id.)

On re-cross, Dr. Hilsen stated that as she had observed in districts other than West Windsor, it was very common for districts to have a limitation on observations for outside individuals. (T4 164-165.) Dr. Hilsen also stated that the behavior logs created by the District were not IEP driven, and that she had no idea how the District staff define behavior in terms of their logs and did not ask. (Id.) Dr. Hilsen also stated that she had no recent training in curriculum and was not aware of any updates to the requirements for providing instruction using creative curriculum. (Id.)

Debra Levin (Levin), was offered to the Court as an expert in speech language pathology, particularly in pediatric speech and language including diagnosis and intervention. The tribunal accepted Ms. Levin as an expert in diagnosis and intervention within the realm in which she functions, which is as a speech and language pathologist working for CHOP. (T6 24-25.) She testified regarding the evaluations she completed on Z.P., as well as her private evaluations and working with Z.P. in the hospital-based setting through CHOP. Ms. Levin also testified extensively regarding the interactions she had with Z.P. and A.C. in the private setting. Ms. Levin also offered testimony regarding the evaluations completed by the District. She was not present for the District evaluations. (T6 49-50.)

Ms. Levin testified that on October of 2019, she felt that Z.P. was linguistically able to indicate what he wanted and what he needed. Ms. Levin testified that she felt Z.P. was able to communicate what he wanted to eat or a message he wanted to get across to someone else. (T6 67.) Again, Ms. Levin spent extensive time on direct examination giving her unsubstantiated conclusions from the observations and evaluations completed

by the District. She was not present for or involved with discussion at any IEP meetings or eligibility conferences. (T6 70.)

She was precluded from testifying about decisions made by District staff in the school setting, as objection to such testimony was upheld by the tribunal. No foundation to document Ms. Levin's background or experience to comment on the application of speech and language in the school setting was provided. On cross-examination Ms. Levin testified that the last time she had worked in a school setting of any kind was in Maryland, almost twenty-two years prior. (T6 90.) Ms. Levin testified that she had no familiarity about the eligibility requirements for students with disabilities regarding speech and language services in the school setting, as set forth in the New Jersey Administrative Code. (Id.)

Ms. Levin testified that she sees Z.P. once per week, for thirty to forty-five minutes. (T6 91.) Ms. Levin also testified that during the pandemic, she had been seeing Z.P. virtually. When provided with specific reports and documents completed by the District, Ms. Levin admitted that she was not present for any of the observations for evaluations. Ms. Levin also admitted that she could not say with certainty that Z.P. did not make the utterance as set forth in those reports. (T6 91-92.) (J18.) Ms. Levin confirmed that her conclusions about the District's observations and evaluations of Z.P. were based on her once weekly sessions with Z.P. for thirty minutes in the private clinical setting.

Relative to her initial report from June 12, 2019, Ms. Levin stated she did not recommend school-based speech therapy at that time for Z.P. (T6 95-96.) (J25.) Ms. Levin admitted that in her position she typically did not dictate exactly what a School District had to do as she was not involved in the eligibility process.

Relative to her second report from August of 2019, Ms. Levin stated that this time she strongly recommended school-based services for Z.P. Ms. Levin also admitted that she did not realize that the District had offered special education to Z.P. through an IEP that was proffered several weeks before her second progress report. (T6 96-97.) Ms. Levin also admitted that she relied heavily on parent reporting in making her determinations, as she did not ever speak to any school staff.

Ms. Levin denied that the parent asked her to write the stronger language in the second progress report, but stated that her change in opinion from her progress report two months earlier was based upon parent report and her seeing Z.P. a total of eight times. (T6 98-100.)

Ms. Levin also stated on cross-examination that her criticisms of Ms. Weston's speech observation, although focused on Z.P.'s speech with peers, were based upon her interacting with Z.P. and his mother in a private setting. Ms. Levin admitted that she never saw Z.P. with peers, and therefore could not offer any conclusion or opinion as to his ability to converse with peers. (T6 101- 103.) (J35.)

Ms. Levin stated that she never observed Z.P. in the school setting, never heard him speak to Ms. Weston or Mr. Guest, and was never present when he had spoken to anybody in the District who might have evaluated or observed him. (T6 103.) Finally, Ms. Levin countered her previous testimony on direct that it was not surprising that Ms. Gagnon had not put formal recommendations of her speech evaluation of Z.P., as any formal recommendations would be discussed in the context of the IEP team of which the parent is a member, at an IEP meeting. (T6 104-105.) On re-cross, Ms. Levin stated that none of her conclusions were based upon any actual firsthand observation of Z.P. in the school setting interacting with other adults other than herself or the parent, or peers. (T6-109.)

A.C. testified on behalf of her son, Z.P., and provided some history and insight into her son's disability and needs. She testified as Z.P.'s mother and as a member of the IEP team about her opinion of the root of Z.P.'s issues, the evaluation and eligibility process, what the Child Study Team proposed during the IEP meetings, and her opinion of Z.P.'s needs and progress in the District.

It had been discussed during the pendency of this matter that A.C. worked "in the field" of special education and her testimony crossed from expressions of a parent into a field more appropriate for an expert witness.

On cross examination, A.C. stated she was not a board-certified behavioral analyst although she has started the coursework for same. (T5 30-31.) A.C. also stated that the level of communication for the Bright Horizons program Z.P. was attending should have higher than it was relative to the district program because the students were younger and had less of an ability to communicate in the Bright Horizons program. (T5 34.) A.C. testified that she felt that CHOP used a team approach, but the only reason she didn't feel that the district used the team approach was because they did not agree with her. (T5 36.) A.C. stated that no one from the district ever said to her that they were not considering her input. (Id.) A.C. also stated on cross examination that as attorneys were involved and the matter was litigious from almost the very beginning, it was to expect that responses from the district to her might take longer. (T5 37.)

A.C. also stated on cross examination that her complaint was not that the District did not consider her input, but that they did not agree with her and the private individuals she hired to work with Z.P. A.C. asserted that the district did not provide her with notice as to the January and May eligibility meetings but demurred when shown the actual notices given to her relative to both meetings, although questioning the sufficiency of the notice. (T5 40.) A.C. stated she did not agree with the team's determination at the initial January meeting, and as a result brought them more information which led Dr. Nash to convene another meeting to discuss this additional information. (T5 42.) When questioned regarding her email correspondence with Dr. Nash after the January meeting, A.C. identified the emails that the district was responsive to her requested. (T5 43.) (J12.) A.C. admitted that a meeting was held and that the district considered her request and again appeared to persevere over a misunderstanding between consideration and disagreement. (T5 45.)

When cross examined regarding her testimony that the district refused to tell her which evaluations would be done after the March meeting, A.C. admitted that the form she was provided with did show which evaluations would be completed and stated her concern was not being told what specific assessments would be completed as part of the evaluations were being completed. (T5 47-48.) A.C. also offered testimony regarding her request for a sensory assessment as part of the OT evaluation. (T5 50.) A.C. also admitted that the assessment she asked for was not an age appropriate test for Z.P. (T5

52.) On cross-examination A.C. stated she was not aware that the district was ready, willing, and able to test Z.P. on the March 11, 2019 planning meeting in contravention to Dr. Nash's earlier testimony. (T5 54-55.)

A.C. also stated on cross-examination that her opinion that Ms. Tognela was dismissive of her concerns regarding the speech evaluation on Z.P. was based on Ms. Tognela responding to all her emails. (T5 59-60.) Regarding the May 2019 meeting, A.C. admitted that there was no documentation to substantiate her claim that Z.P. was ineligible because of this meeting. A.C. also admitted that she provided the district with additional information to consider at the meeting, which they agreed to do immediately. (T5 62-63.)

About the initial IEP, A.C. stated that Dr. Nash sat with her and went over all of the goals and objectives proposed in the IEP, giving her the opportunity to ask questions and provide her input for the goals. A.C. also denied that part of the issue with the IEP was that she wanted to be right when she had testified on direct examination that was part of her issue with the IEP. (T5 68-69.)

A.C. stated on cross-examination that despite having very serious concerns with Z.P.'s food allergies, she made no written follow ups and had no documentation to substantiate any conversations held with district staff between September 2019 and January 2020. (T5 69-70.) When questioned why she did not communicate with the district regarding this allegedly serious concern, A.C. deferred to her attorney and stated that she did not get involved because her attorney was handling it. When questioned again as to sending email over other issues but not the food allergy, petitioner again deferred to her attorney. (T5 70-71.)

When questioned regarding her disagreement with the behavior charting that the district chose to create to satisfy her, A.C. stated she had recommended that a different chart be used but could not point to any email for documentation in evidence to substantiate that claim. (T5 72.) A.C. also stated she followed up with Ms. Weston regarding the charts but did not provide any email or documentation to substantiate any follow up discussion. (Id.)

When questioned regarding her statements on direct that the district did not advise her as to when the progress reporting would be provided regarding Z.P., A.C. stated that the IEPs from August and December delineated the frequency that progress reporting would be provided to the parent. A.C. also stated that although she logged into Genesis frequently, she did not send any communication via email or any other method to the district from September through June regarding her inability to access progress reports on the Genesis system. A.C. stated she did not know how progress reports would be disseminated in the school. (T5 88-91.)

On redirect, A.C. stated she was never given any written notice of the district's response to her request for a behavior plan. However, on re-cross, A.C. was directed to the IEP in question and identified where the district had put in writing their reasons for denying her request for a BIP at that time. A.C. asserted that this document did not constitute written notice. (T5 108-110.) (J57.) Also, on re-cross, A.C. discussed the purported objection to Ms. Tognela stopping and starting the video of the restraint as well as narrating it when viewed at the December 2019 IEP meeting. A.C. also stated that despite her serious concerns with Z.P.'s life threatening allergies, she did not follow up with the district regarding transportation issues relating to the allergies and deferred to her attorney. (T5 112.)

Discussion:

It is the duty of the trier of fact to weigh each witness's credibility and make a factual finding. Credibility is the value a fact finder assigns to the testimony of a witness, and it contemplates an overall assessment of the witness's story considering its rationality, consistency, and how it comports with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); see In re Polk, 90 N.J. 550 (1982). Credibility findings "are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record." State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions on credibility on his or her common sense, intuition, or experience. Barnes v. United States, 412 U.S. 837 (1973). A trier of fact may reject testimony because it is inherently incredible, or

because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super 282, 287 (App. Div. 1958).

Dr. Laura Nash, Z.P.'s case manager and an expert in special education and a school psychologist met Z.P. during the time he was receiving EI services specifically at his transition planning conference in December 2018. She reviewed his EI records and set up his IEP meeting. She detailed his mother's concerns, stated that his EI records indicated progress, and attended the IEP meeting of January 15, 2019 with Z.P., his mother A.C., and the CST.

During the meeting the CST, the members of which were in Dr. Nash's testimony, were looking for cognitive skills, communication, social and emotional development, adaptive behavior, and motor development. The team did not recommend further evaluation of Z.P., but did send over an application to A.C., if she was interested, in the Project Child Clinic. This was done at the meeting and Dr. Nash stated she felt A.C. was satisfied with the team position. After the IEP meeting Dr. Nash received emails from A.C. concerning EI exit testing results in communication. Dr. Nash reviewed the information with A.C. who requested an evaluation which was discussed by the parties.

Another IEP meeting was held on March 11, 2019 regarding the request for additional testing made by A.C. The CST was willing to evaluate Z.P. that day in the areas of speech, language, psychological and social skills (but not cognitive development) but an advocate for the parent at the meeting demurred to having the tests done then and requested the they be done after Z.P. turned three (his birthday being March 22).

The test was done at the daycare on March 27, 2019 in the two-year-old classroom.

Dr. Nash completed the DP3 and reflected that on the TELD-4 test Z.P.'s results were in the average range.

An eligibility conference was held on May 24, 2019 and the team felt that there was no evidence to indicate the student should be eligible for preschool student with a disability for special education but as the parent and advocate presented additional information, that information was reviewed.

Additional meetings were held on March 27, 2019, April 3, 2019 and April 5, 2019 and the team felt that the student was not eligible for special education related services.

On July 11, 2019 Dr. Nash and Michelle Fisher conducted an additional observation at Bright Horizons to address continuing parental concerns. At an IEP meeting on August 8, 2019, taking into consideration the information collected by the CST over the past few months, Z.P. was found eligible for special education related services as a preschool student with a disability. She detailed the District's program and after the meeting the IEP was finalized, sent to, and signed by the parent with a note that the parent was requesting weekly speech and language therapy sessions. She also detailed the transportation request.

Dr. Nash detailed her observations and contacts during the program and the October 24, 2019 incident where Z.P. had to be restrained for a period.

Another IEP meeting was held on December 18, 2019 for the purpose of adding speech therapy to the IEP due to the team possessing additional information from Amanda Gagnon. During the meeting the student's behaviors were discussed and A.C. requested that her BCBA be able to observe her son in school. A.C. also requested a BIP for Z.P. which the team did not feel was warranted.

Dr. Nash stated that in her professional opinion the August 8, 2019 and December 16, 2019 IEPs offered Z.P. a free and appropriate educational program in the least restrictive environment.

I found Dr. Nash to be a credible witness. The work performed, the observations made, and the information accumulated and synthesized were, in part, relied upon by the District in developing Z.P.'s IEPs. She observed Z.P. from December 2018 onward and

had the ability to interact with him, his teachers, and other staff members as well as A.C. She also took into consideration information submitted by A.C. and her advocate and the various reports from CHOP and requests by A.C. for other studies.

Amanda Gagnon, the speech therapist who worked with Z.P. during the 2019-2020 academic year stated that she reviewed the student's initial multidisciplinary evaluation which had a speech component in the spring of 2019. She stated that Ms. Hyman completed the 1st test of early language development 4th edition and the Goldman Fristoe test of articulation and that Z.P. scored within the average range of development in the areas of receptive language, expressive language, and overall spoken language. She discussed her speech and language screening from October 2019. She completed three separate classroom observations and compared those results with the results of the multi-disciplinary evaluation and then completed a standardized screening, the Fluharty-2, which tests articulation an expressive receptive language and then she took teacher input to discuss the student's performance in the classroom.

Miss Gagnon first observed Z.P. on October 7, 2019 in the morning on the playground as well as in a classroom setting. She observed the student again on October 16, 2019 in the morning in the classroom. She observed the student for a third time on October 23, 2019. According to the data collected the student was pronouncing all sounds expected by the age of three and in her opinion the student was producing more phonological processes and articulation errors than he was previously but she felt that his unintelligible utterances would sometimes be able to be interpreted based on context.

Regarding the Fluharty-2 results the student scored very poor on overall area of articulation, average in the receptive language, poor and expressive language and below average in general language. She concluded that because of the screening there were possible educational needs in the areas of articulation expressive language, and she wanted to administer some standardized assessment to look at those areas. She completed a formal speech and language evaluation in December 2019. She also testified the student scored very poorly on the administration of the Goldman Fristoe test of articulation receiving a standard score of 55 which falls 3 standard deviations below the mean score of 100. In comparing this with the test administered by Ms. Hyman in the

spring of 2019 the student produced more speech sound errors during the second evaluation and the errors were more inconsistent. She concluded that the student presented at that time with a speech sound disorder characterized by developmentally inappropriate substitution errors and that he was perceived to speak with a fair to poor intelligibility at the word level and poor intelligibility at the conversation level. Therefore, she identified the December 2019 IEP for the student proposing to include speech services. She recommended speech therapy twice a week for twenty minutes in the small group and individual speech consultations twice per year for fifteen minutes she felt this was appropriate for the level of concern. She began to provide direct services to the student in January 2020 after the return from winter break working with a peer student as well. She detailed the work and was pleased with his progress. She also stated she did review reports and evaluations from CHOP and that the student's scores on the preschool language scale were within the average range. She did not see evidence of social concerns. Miss Gagnon was questioned about information contained in a draft report being omitted from a final report and stated that in her professional opinion that anything removed from her report and not included in the final report had no impact on the speech screening that she was conducting.

I found Ms. Gagnon to be a credible witness. The evaluations performed, the observations made, and the information accumulated and synthesized by her during the 2019-2020 school year were second in observation and information on Z.P.'s case. She had the ability to interact with him, work with his teachers and make recommendations for his IEP and ongoing therapy.

Kristen Weston, Z.P.'s special education teacher for the 2019-2020 school year first interacted with the student at the August 8, 2019 IEP meeting and that no specific concerns were presented to her at the beginning of the school year. She read the IEP and spoke to the team about the student to get an impression of the student and found the student to be a happy student who liked to speak with adults and ask questions about everything going on in the room.

She testified that prior to the school terminating due to Covid there was roughly a one-to-five teacher to student ratio in the classroom including herself Mr. Guest and an

instructional assistant and that she and Mr. Guest had been teaching together for eleven years and felt the student did a wonderful job in the program dealing with coping skills, feeling words and the general curriculum that was taught in the classroom. Z.P. had started off the year with incidents but as the year progressed the duration of incidents decreased and the student was able to cope with behaviors, was able to express himself better, and the negative behaviors dramatically decreased during the course of the year in her opinion. The student made progress in social interaction with peers, and that in her professional opinion report cards and progress reports reflected how well Z.P. was doing in the class and the things he was still working on.

I found Ms. Weston to be a credible witness. She constituted the “front line” for interaction with Z.P. and was in the best position to detail his daily progress while at the same time she conferred with Dr. Nash and Ms. Gagnon.

Dr. Lindsay Hilsen, an expert in Applied Behavior Analysis, testified that she first became involved with Z.P. in December 2019 by attending an IEP meeting to discuss revision for speech services as well as a functional behavioral assessment and that part of the behavioral discussion was potentially adding a behavioral intervention plan to Z.P.’s IEP. She observed the student for approximately one hour and felt that the student should have a behavioral intervention plan. She gave opinions as to the types of special education services she thought were appropriate for the student, and even though she was not a speech therapist expressed concerns about speech therapy being provided to the student. She had met the student only three times, one of which was at the IEP meeting in December 2019, the other two times being observations of him in the school setting without working directly with the student. In her analysis she did not see the behavioral data taken by the district’s prior observation of the student. I did not ask questions of Dr. Nash or the district staff regarding creation of any of the data or how it was being taken.

I found Dr. Hilsen to be credible in her testimony, but her work dealt with meeting Z.P. only on three occasions for a short total period during the time in question. Further she is not a speech therapist so her concerns regarding speech must be considered accordingly.

Debra Levin testified as an expert in diagnosis and intervention within the realm of a speech and language pathologist working for CHOP. She testified regarding the evaluation she completed on the student and her private evaluations in working with the student in the hospital-based setting. She felt in October of 2019 that the student was able to communicate what he wanted to eat or message what he wanted to get across to another individual. Although Ms. Levin worked with the student, she has not worked in a school setting for approximately twenty-two years. She did not have familiarity with regard to eligibility requirements for students with disabilities regarding speech and language services in the school setting as set forth in the New Jersey Administrative Code. From her initial report of June 12, 2019, she did not recommend school-based speech therapy at that time for the student and in August of 2019 she did recommend school-based services for the student. She also stated that she relied heavily on parent reporting in making her determinations and then her modification and opinion was based on her prior progress report and seeing the student a total of eight times. She had never observed the student in the school setting interacting with other adults or peers.

To the extent that the hospital-based therapy is considered I found Ms. Levin to be a credible witness. The work performed, however, was not in a school-based setting – the operation of which is the basis of this action. Ms. Levin stated she had not worked in a school environment for over twenty years and was not familiar with the requirements with which the school must comply. These deficits were critical for the analysis and consideration of her testimony.

A.C., the student's mother, provided history and insight as to her son's disability and needs, both as the student's mother and as a member of the IEP team. Notwithstanding A.C. works, or stated she works, in the field of special education, she is not a board-certified behavioral analyst. She testified that CHOP used a team approach but did not feel that the district used a team approach in her opinion because they did not agree with her. Further the school did not state that they were not taking her opinions into consideration, but her complaint was that the district did not agree with her and the private individuals she hired to work with her son. She expressed a concern regarding notice as to the January and May eligibility meetings but was provided with documentation

to show she was provided notice. She did also state that a meeting was held, and the district considered her request for her son's benefit. She also felt that her opinion of Ms. Tognela was dismissive of her concerns regarding the speech evaluation on her son, but she did state that Dr. Nash sat with her at the initial IEP meeting and went over all the goals and objectives proposed in the IEP giving her the opportunity to ask questions and provide input for the goals.

Also, Z.P.'s food allergies are an issue presented in itself regarding follow-ups with staff. She deferred to her attorney and dealing with this issue. Her statements that her issues were not being addressed were partially dealt with through confusion by the school's nurse, the physician for Z.P., and the school's physician. As a side note the tribunal will state that I attempted independently to contact the appropriate individuals during the pendency of this litigation to ascertain their exact positions but was unable to do so. Therefore, the tribunal's position is that the issue is still undetermined.

A.C., like any parent, wishes the best for her child. However, the objectivity that a parent would have is clouded by her profession and her testimony strayed into areas in which she is not an expert.

In review, the District's witnesses all testified credibly and were familiar with the facts, their respective contact with the student, their various responsibilities within the school environment and how they related to the requirements of New Jersey School and New Jersey Administrative Code compliance. They were familiar with A.C. and A.C.'s advocate regarding her parental concerns documented in the meetings and emails between the parties. The detailed testimony of Z.P.'s teachers who personally worked with and routinely observed Z.P. during this period was especially persuasive. Both parties presented educational experts in delivering special instruction to children with disabilities but the testimony of the District's witnesses was more detailed as far as the chronology of events and evaluations completed to assess the suspected areas of Z.P.'s disability; his performance in school; the specific teaching methodologies used for instruction; Z.P.'s interactions with his teachers and peers; the modifications and supports in place to assist Z.P.; and the assessments utilized to determine that Z.P. made reasonable and appropriate educational progress.

Based upon due consideration of the testimonial and documentary evidence presented at this hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following as **FACTS**:

Z.P. is a (now) four-year old student in the West Windsor-Plainsboro School District who has been diagnosed with Autism Spectrum Disorder, Mixed Expressive/Receptive Language Disorder and Childhood Behavioral Insomnia and had attended Bright Horizons Day Care Center for a period while he was two years old and for a period while he was three years old, having been found eligible for EI services through the State of New Jersey.

Approaching his third birthday, his mother, A.C., requested the District to evaluate Z.P. for his eligibility for special education and related services under the categories of "Autistic" or "Speech and Language Impairment." The District made several evaluations of Z.P., reviewed information provided by Bright Horizons and information provided from CHOP and at an IEP meeting on January 15, 2019. After a review of this information, it was determined that he did not have a disability that adversely affects his educational performance. Thus, he was determined ineligible for Special Education and related services at that time.

Subsequently, A.C. provided additional information to the District, which was reviewed, and at a March 11, 2019 IEP meeting the CST determined to conduct further investigation of Z.P.'s case. The tests requested by the CST could have been performed on that date but were not done so, at the request of A.C., until after Z.P.'s third birthday (March 22, 2019). An IEP meeting was held on May 24, 2019 during which the CST did not have enough information to find Z.P. eligible for special education and related services. At that IEP meeting A.C. stated she would supply the District with additional information.

At an IEP meeting on August 8, 2019 the CST took into consideration the information provided by A.C., and information obtained by the CST over the past months and did determine that Z.P. was eligible for special education but not related services

because he did not meet the eligibility criteria for related services at that time. When A.C. returned the signed IEP form on August 14, 2019, she added a request for a weekly session of speech and language therapy to address concerns about Z.P.'s intelligibility and pragmatic use of language notwithstanding the CST stated that Z.P. did not meet eligibility criteria for services speech and language at that time but that a screening of articulation needs could be conducted within four weeks of school starting to determine the possible impact on Z.P.'s ability to be understood by adults and peers.

After that IEP meeting, a transportation form was completed identifying specific concerns related to food allergies and recommending a bus for Z.P. that included an aide. This was forwarded by e-mail to the transportation department and to the school nurse.

An IEP meeting was held on December 18, 2019, for the purposes of adding speech therapy to Z.P.'s IEP based on observations and analysis of information obtained since the beginning of the school year. Z.P. was offered speech therapy in a small group twice per week, as well as a speech and language consultation individually twice a year for fifteen minutes. And at that IEP meeting Z.P.'s teachers were pleased with his progress. Also, Z.P.'s behaviors in the school setting were discussed, particularly in relation to an incident where Z.P. was restrained for a period of approximately ten minutes. Z.P. was making progress with modifications implemented in the classroom. A.C. requested a behavioral intervention plan, which the District did not institute. Z.P. was making meaningful educational progress at school with the modifications and accommodations being implemented. A BIP was not necessary for Z.P. at that time. After this EIP meeting, Z.P. began receiving the services in the December 2019 IEP.

LEGAL ANALYSIS AND CONCLUSIONS OF LAW

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C.A. §§ 1400 to 1482. One purpose of the Act, among others, is to ensure that all children with disabilities have available to them a "free appropriate public education 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.A. § 1400(d)(1)(A). This "free appropriate public education" is known as FAPE. In

short, the Act defines FAPE as special education and related services provided in conformity with the IEP. See 20 U.S.C.A. § 1401(9). A FAPE and related services must be provided to all students with disabilities from age three through twenty-one. N.J.A.C. 6A:14-1.1(d). A FAPE means special education and related services that: a) have been provided at public expense, under public supervision and direction, and without charge; b) meet the standards of the State educational agency; c) include an appropriate preschool, elementary, or secondary school education in the State involved; and d) are provided in conformity with the individualized education program (IEP) required under sec. 614(d). 20 U.S.C.A. § 1401(9); N.J.A.C. 6A:14-1.1 et seq. The responsibility to deliver these services rests with the local public-school district. N.J.A.C. 6A:14-1.1(d).

In order to provide a FAPE, a school district must develop and implement an IEP. N.J.A.C. 6A:14-3.7. An IEP is “a comprehensive statement of the educational needs of a handicapped child and the specially designed instruction and related services to be employed to meet those needs.” Sch. Comm. of Burlington v. Dep’t of Educ. of Mass., 471 U.S. 359, 368, 105 S. Ct. 1996, 2002, 85 L. Ed. 2d 385, 394 (1985). An IEP should be developed with the participation of parents and members of a district board of education’s CST who have participated in the evaluation of the child’s eligibility for special education and related services. N.J.A.C. 6A:14-3.7(b). The IEP team should consider the strengths of the student and the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluations of the student; the student’s language and communications needs; and the student’s need for assistive technology devices and services. The IEP establishes the rationale for the pupil’s educational placement, serves as the basis for program implementation, and complies with the mandates set forth in N.J.A.C. 6A:14-1.1 to -10.2.

The Act, however, leaves the interpretation of FAPE to the courts. See Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238, 247 (3d Cir. 1999). In Board of Education of the Hendrick Hudson Central School District v. Rowley, 458 U.S. 176, 203, 102 S. Ct. 3034, 3049, 73 L. Ed. 2d 690, 710 (1982), the United States Supreme Court held that a state provides a handicapped child with FAPE if it provides personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction. The Court reasoned that the Act was intended to bring previously excluded handicapped

children into the public education systems of the states and to require the states to adopt procedures that would result in individualized consideration of and instruction for each child. Rowley, 458 U.S. at 189, 102 S. Ct. at 3042, 73 L. Ed. 2d at 701. The Act did not, however, impose upon the states any greater substantive educational standard than would be necessary to make such access to public education meaningful. Rowley, 458 U.S. at 192, 102 S. Ct. at 3043, 73 L. Ed. 2d at 703. In support of this limitation, the Court quoted Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1257 (ED Pa. 1971) and 343 F. Supp. 279 (1972), and Mills v. Board of Education of District of Columbia, 348 F. Supp. 866 (DC 1972). Rowley, 458 U.S. at 192, 102 S. Ct. at 3043-44, 73 L. Ed. 2d at 703. The Court reasoned that these two cases were the impetus of the Act; that these two cases held that handicapped children must be given access to an adequate education; and that neither of these two cases purported any substantive standard. Rowley, 458 U.S. at 192–93, 102 S. Ct. at 3043–44, 73 L. Ed. 2d at 703–04.

In addition, the Court noted that available funds need only be expended “equitably” so that no child is entirely excluded. Rowley, 458 U.S. at 193, 102 S. Ct. at 3044, 73 L. Ed. 2d at 704, n.15. Indeed, the Court commented that “the furnishing of every special service necessary to maximize each handicapped child’s potential is . . . further than Congress intended to go.” Rowley, 458 U.S. at 199, 102 S. Ct. at 3047, 73 L. Ed. 2d at 707. Therefore, the inquiry is whether the IEP is “reasonably calculated” to enable the child to receive educational benefits. Rowley, 458 U.S. at 206–07, 102 S. Ct. at 3051, 73 L. Ed. 2d at 712.

The Board will have satisfied the requirements of law by providing the student 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, 102 S. Ct. at 3042, 73 L. Ed. 2d at 701). The IDEA does not require the Board to maximize Z.P.’s potential or provide him the best education possible. 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). But an IEP must provide meaningful access to education and confer some educational benefit upon the child. Rowley, 458 U.S. at 192, 102 S. Ct. at

3043, 73 L. Ed. 2d at 703. To meet its obligation to deliver FAPE, a school district must offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. Endrew F. v. Douglas Cnty. Sch. Dist., 580 U.S. (2017);137 S.Ct. 988; 197 L. Ed. 2d 335.

“The educational opportunities provided by our public-school systems undoubtedly differ from student to student, depending upon a myriad of factors that might affect a particular student's ability to assimilate information presented in the classroom.” Rowley, 458 U.S. at 198, 102 S. Ct. at 3047, 73 L. Ed. 2d at 707. 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.” Rowley, 458 U.S. at 202, 102 S. Ct. at 3049, 73 L. Ed. 2d at 709.

Based upon the testimony and documentary evidence, I **CONCLUDE** that the August 2019 and December 2019 IEPs (finding Z.P. eligible for special education benefits) proposed and implemented by the District offered Z.P. a FAPE with the opportunity for meaningful educational benefit and progress appropriate in light of Z.P.’s circumstances. I **CONCLUDE** that prior IEP meetings, which did not find Z.P. eligible for special education, did not deny Z.P. with a FAPE.

I **CONCLUDE** that the program offered to Z.P. by the District constituted FAPE as that term is defined by law. A review of the evidence reveals that Z.P. progressed in his educational program, and that the CST regularly monitored and adjusted his program in an ongoing effort to personalize his instruction and address his educational needs. An example being the three IEP meetings at which Z.P. was found not eligible for special education; implementation of the IEP in August 2019; and amending that IEP for implementation of speech therapy in the December 2019 IEP.

School personnel testified persuasively as to Z.P.’s progress, and the burden of proof and production rests with the Board. N.J.S.A. 18A:46-1.1.

I **FUTHER CONCLUDE** that the issue of transportation has not been sufficiently addressed, and that the Board must revisit this issue to provide the student with safe and responsible transportation for his circumstances.

DECISION AND ORDER

For the reasons set forth above petitioner's requests for:

1. A determination that the respondent school district failed to conduct an appropriate identification meeting for Z.P. 120 days prior to his third birthday on March 22, 2010 resulting in a refusal to conduct an evaluation for eligibility for special education and related services.
2. A determination that the evaluation the district did conduct in April 2019, occurred after Z.P.'s third birthday was flawed in several respects resulting in the district incorrectly finding him ineligible for special education and related services.
3. A determination that the district did not find Z.P. eligible for special education and related services until August 8, 2020, by which time he missed approximately three months of educational services from the date of his third birthday to the end of the 2018-2019 school year and four weeks of an Extended School Year program in the summer of 2019.
4. A determination that the district refused to provide Z.P. with speech-language services in the IEP developed at the August 8, 2019 eligibility determination meeting although it has sufficient recent evaluations showing the need for those services.
5. A determination that the district has refused to include an individualized behaviour intervention plan in Z.P.'s IEP although the petitioner requested one both before and after the district physically restrained him at school on October 24, 2019. This contravenes not only statutes and regulations, but the district's own policies.

Are hereby **DENIED**. Respondent's request for dismissal of this portion of the action is **GRANTED**.

For the reasons set forth above petitioner's requests for:

1. A determination that although the August 2019 IEP includes transportation with an aid as a related service, the district refused, and continues to refuse, to allow Z.P.'s medications for life-threatening allergies and asthma to be carried on the bus despite being provided with proper medical orders.

Are hereby **GRANTED** to the extent that this issue has not been adequately dealt with by the district and a revised analysis of Z.P.'s diagnosis of allergy and asthma shall be re-undertaken to determine his appropriate transportation needs. Respondent's request for dismissal of this portion of the action is **DENIED**.

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.

March 30, 2021 _____

DATE



CARL V. BUCK III, ALJ

Date Received at Agency:

Date Mailed to Parties:

CVB/cb

APPENDIX

WITNESSES

For petitioners:

Dr. Lindsay Hilsen
Debra Levin
A.C.

For respondent:

Dr. Laura Nash
Amanda Gagnon
Kristen Weston

EXHIBITS

Joint:

- J-1 Early Intervention Session Notes
- J-2 CHOP Autism Evaluation – December 4, 2018
- J-3 CHOP Speech Evaluation – December 4, 2018
- J-4 Message from I. Sparv Oehlke, Bright Horizons teacher – December 5, 2018
- J-5 Message from K. Karpiscak, Bright Horizons teacher – December 5, 2018
- J-6 Evaluation Planning meeting denial – January 15, 2019
- J-7 J.Hyman – PLS.5 Record form – January 15, 2019
- J-8 J. Hyman Speech-Language-Structured observation notes – January 15, 2019
- J-9 Psych & Ed – structured observation notes – January 15, 2019
- J-10 Psych & Ed – structured observation notes – green ink – January 15, 2019
- J-11 Early Intervention update – BDI-2d – February 13, 2019
- J-12 Emails between L. Nash & A.C. – February 15-21, 2019
- J-13 CHOP Autism follow-up with recommendations – February 27, 2019

- J-14 Developmental Profile – 3 form – April 2019
- J-15 J. Hyman – Speech-Language structured observation notes – April 3, 2019
- J-16 CELF Preschool 2d – Pragmatics Profile – April 3, 2019
- J-17 GFTA-3 record form – April 3, 2019
- J-18 School district’s Multidisciplinary evaluation report – April 3, 2019
- J-19 D. Heiser – Social worker’s case study – April 3, 2019
- J-20 TELD-4th record form – April 3, 2019
- J-21 E. Kidney – OT evaluation – April 5, 2019
- J-22 Email exchange S. Tognela & A.C. – April 12-16, 2019
- J-23 CHOP visit summary – June 4, 2019
- J-24 Letter from CHOP Developmental Pediatrician with education recommendations – June 6, 2019
- J-25 CHOP Speech Evaluation – June 12, 2019
- J-26 School district’s 2nd observation report – July 11, 2019
- J-27 Time sampling form – July 11, 2019
- J-28 Z.P. Current Medications – July 11, 2019
- J-29 Transportation needs form – August 2019
- J-30 IEP dated August 8, 2019 with signature page signed August 14, 2019
- J-31 Updated diagnoses & recommendations from CHOP – August 14, 2019
- J-32 Email from A.C. to L. Nash et al. re CHOP developmental pediatrician visit – August 15, 2019
- J-33 Speech report from CHOP – August 28, 2019
- J-34 Emails re allergies & transportation – August 20-September 11, 2019
- J-35 Teacher’s speech update – October 1, 2019
- J-36 Behavior scale completed by teacher for speech screening – October 14, 2019
- J-37 Email from A. Gagnon to S. Tognela w/attachment – October 25, 2019
- J-38 Speech screening report – October 25, 2019
- J-39 Email from A.C. requesting BIP – October 16, 2019
- J-40 Restraint report – October 24, 2019
- J-41 Emails from A.C. renewing BIP request – October 25-28, 2019
- J-42 Emails re view restraint video & meeting invite – November 5-7, 2019

- J-43 Email from A.C. re need for BIP – November 22, 2019
- J-44 Email from A.C. to K. Weston re behavior at dismissal – November 26, 2019
- J-45 Email from A.C. to K. Weston re behaviors not on log – November 26, 2019
- J-46 WW-P Policy 5561 Use of Physical Restraint and Seclusion Techniques for Students with Disabilities
- J-47 WW-P Reg. 5561 Use of Physical Restraint and Seclusion Techniques for Students with Disabilities
- J-48 Report of visit-CHOP Developmental Pediatrician – November 13, 2019
- J-49 GFTA-3 record form – December 4, 2019
- J-50 Speech educational impact statement – December 10, 2019
- J-51 Email from A. Gagnon to L. Nash with attachment – December 12, 2019
- J-52 School district's articulation evaluation report – December 13, 2019
- J-53 CHOP speech evaluation & progress report – December 12, 2019
- J-54 Email from A.C. to K. Weston et al re dismissal behavior – December 16, 2019
- J-55 Email from L. Nash to teachers & S. Tognela with attachment – December 18, 2019
- J-56 Email from A.C. to Dr. Hilsen et al re dismissal behaviors – January 4, 2020
- J-57 IEP finalized after December 16, 2019 meeting-adding speech
- J-58 CV – Lindsay Hilsen, Ed.D., BCBA-D
- J-59 Functional assessment teacher interview for FBA – January 9, 2020
- J-60 FBA report – Dr. Hilsen – January 9, 2020
- J-61 Updated FBA – March 4, 2020
- J-62 CHOP Allergy Action Plan – May 16, 2019
- J-63 Asthma care plan – January 29, 2020
- J-64 D. Dwyer letter to M. Mucciolo & E. Harrison re IHEP etc. – January 30, 2020
- J-65 Note from Dr. Datta re need for rescue medication on bus – January 30, 2020

- J-66 D. Dwyer letter to M. Mucciolo & E. Harrison re inadequate IHEP – February 5, 2020
- J-67 Letter from Dr. Datta re need for rescue medication on bus – February 5, 2020
- J-68 D. Dwyer letter to M. Mucciolo re rescue medication on bus – March 2, 2020
- J-69 CHOP Allergy Action Plan – March 2, 2020
- J-70 WW-P Policy 5330 Administration of Medication
- J-71 WW-P Reg. 5330 Administration of Medication
- J-72 WW-P Policy 5331 Management of Life-Threatening Allergies in Schools
- J-73 WW-P Reg. 5331 Management of Life-Threatening Allergies in Schools
- J-74 CHOP Speech progress report – March 3, 2020
- J-75 Preschool bills March 2019-May 2020 – redacted
- J-76 Z.P. Weekly behavior logs
- J-77 NJDOE’s Autism Program Quality Indicators
<https://www.nj.gov/education/specialed/info/autism.pdf>
- J-78 CV – Amanda Gagnon, MA, CCC-SLP
- J-79 CV – Laura J. Nash, Ph.D. – School psychologist & Case manager
- J-80 CV – Diane E. Heiser, LCSW
- J-81 CV – Kristen N. Weston – Special Education teacher
- J-82 CV – Samantha Tognela – Supervisor Special Services
- J-83 CV – A.C. – Petitioner
- J-84 Emails between Nash and petitioner – October 2019
- J-85 Request for Screening – October 2019
- J-86 Emails between Nash and petitioner – May 31, 2019
- J-87 Initial ID Meeting documentation – March 11, 2019
- J-88 Correspondence from Mucciolo to Dwyer – February 7, 2020
- J-89 Correspondence from Mucciolo to Buck – March 5, 2020
- J-90 Correspondence from Mucciolo to Buck – March 6, 2020
- J-91 2019-2020 Progress Report 1
- J-92 2019-2020 Progress Report 2
- J-93 2019-2020 Report Card
- J-94 Documentation from May 24, 2019 Eligibility Meeting

For petitioners:

- P-1 Nurse's note for October 16, 2019 incident
- P-2 CV – Debra H. Levin, MA, CCC-SLP

For respondent:

None