



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 07045-21

AGENCY DKT. NO. 2022-33204

R.S. AND S.S. ON BEHALF OF S.S.,

Petitioners,

v.

PARSIPPANY-TROY HILLS TOWNSHIP

BOARD OF EDUCATION,

Respondent.

Lori M. Gaines, Esq. for petitioners (Barger & Gaines, attorneys)

Eric L. Harrison, Esq. for respondent (Methfessel & Werbel, attorneys)

Record Closed: May 20, 2022

Decided: June 27, 2022

BEFORE **KELLY J. KIRK**, ALJ

STATEMENT OF THE CASE

Petitioners, R.S. (Dad) and S.S. (Mom) (collectively, the parents) on behalf of S.S., filed for due process against the Parsippany-Troy Hills Board of Education (the Board or the District), seeking placement and/or reimbursement for unilateral placement at a specialized, therapeutic residential school and compensatory education.

PROCEDURAL HISTORY

On or about July 22, 2021, the parents filed a Petition for Due Process against the Board alleging, inter alia, that the District's program denied S.S. a free, appropriate public education and seeking, inter alia, placement and/or reimbursement for unilateral placement at a specialized, therapeutic residential school and reimbursement of all costs, including tuition and transportation expenses and compensatory education. On or about August 2, 2021, the Board filed the Answer to Due Process Petition. The matter was transmitted by the New Jersey Department of Education (the Department), Office of Special Education Policy and Dispute Resolution, to the Office of Administrative Law (OAL), where it was filed on August 20, 2021.

The hearing was held on January 19, 2022, January 25, 2022, January 26, 2022, and February 4, 2022, and briefs were submitted on May 20, 2022.

FACTUAL DISCUSSION

Findings of Fact

Diane Pierce (learning disabilities teacher-consultant), Timothy Walker (teacher), Michele Medina (teacher), and Joshua Joslin (school counselor) testified on behalf of respondent. R.S. (Dad), Jennifer Zeisz (psychologist) and Josh Prince (social worker) testified on behalf of petitioners.

Having had an opportunity to consider the evidence and to observe the witnesses and make credibility determinations based on the witnesses' testimony, I **FIND** the following **FACTS** in this case:

S.S. was born in March 2007. (P-1.) He was originally referred to the Intervention and Referral Services (I&RS) committee in kindergarten due to behavioral issues. On March 18, 2013, the parents consented to a functional behavioral assessment by a behaviorist because of "specific difficulties" and "observation/consultation by specialist"

to determine present levels of performance and educational needs and whether S.S. demonstrated specific delays suspected from inefficiencies in performance. (P-1.)

S.S.'s classroom teacher reported that he did not complete in-class assignments and that he became angered by constructive criticism and exhibited sudden outbursts of anger and kicked adults. (P-3.) On March 18, 2013, S.S. was evaluated by Jacqueline Nadler, LDT-C, who prepared an Educational Evaluation, dated March 25, 2013. (P-3.) Nadler interviewed S.S., reviewed his files, observed his classroom, and administered the Wechsler Individual Achievement Test-III (WIAT-III). (P-3.) She concluded that in math, S.S. was able to add two single-digit numbers, identify which number is more and which is less, and read a ruler and a calendar; in reading, S.S. was able to identify rhyming words, identify beginning and ending sounds and consonant blends, and his speaking vocabulary was in the above average range. (P-3.) However, his ability to repeat sentences, a test of short-term memory, was in the below average range, and he appeared inattentive in the classroom when the teacher was giving directions. (P-3.)

S.S. was referred by the I&RS committee for a psychological evaluation to determine eligibility for special education and related services, as he exhibited oppositional behavior and escalating episodes of aggressive behavior directed toward authority figures. (P-4.) On March 14, 2013, and March 21, 2013, S.S. was evaluated by certified school psychologist Susan Finchler, Ed.S., who administered the Wechsler Preschool and Primary Scale of Intelligence (WPPSI-III) and obtained assessments of S.S.'s behavior from his teacher and the parents using the Behavioral Assessment System for Children (BASC-2) Teacher and Parent Rating Scales—Child Form. (P-4.) Finchler prepared a Psychological Evaluation. (P-4.) Finchler's report includes, in part, the following background information:

[S.S.] has exhibited oppositional and aggressive behavior in the classroom that began to escalate significantly in February into March. It often starts when he would refuse to participate in completing classwork or following classroom rules. Also when [S.S.] was being asked to do something he does not want to do, or perceives that others are being "mean" to him, he may get set off. With increasing frequency, he would quickly become angry and deliberately push over or throw

chairs and tables in the classroom or pull things from bulletin boards. He has hit and kicked the classroom teacher. When the principal was called in to assist in the classroom, [S.S.'s] aggressive behavior would escalate instead of decreasing. [S.S.] would need to be restrained as he pulls at ID tags around the neck, kicks, hits, and has even bitten. In addition to classroom behavior programs, individual behavioral interventions including earning marbles as positive reinforcement for free time with the guidance counselor, were utilized with limited success. There has been frequent communication with parents, including several emails and meetings. Parents have reported that [S.S.] previously saw a psychologist (Dr. Tobias) a few times last summer for issues in preschool last year.

The aggressive episodes of defiance increased in frequency and intensity during the month of March. This resulted in a referral for a CST [Child Study Team] evaluation with a psychiatric assessment. Prior to the scheduled psychiatric assessment, [S.S.'s] aggressive behavior in the classroom resulted in a crisis evaluation (3/25/13) with Dr. Fennelly, a district appointed psychiatrist. A diagnosis of Oppositional Defiant Disorder [ODD] and possible ADHD [Attention-Deficit/Hyperactivity Disorder] was made at this time. [S.S.] returned to school and the behaviors continued. The CST felt that it was necessary to provide the supports of a personal aide and behavioral consultant to de-escalate the oppositional and aggressive behaviors prior to completion of this evaluation for special education eligibility.

Following the addition of a personal aide (1:1 paraprofessional) along with the consultation of a behavioral specialist, [S.S.] significantly improved in his behavior without any severe episodes for three weeks. In order to maintain success, he still requires frequent positive reinforcement in his behavior management plan, along with the constant support of his paraprofessional, who has been very helpful in proactively preventing "meltdowns" and episodes of anger and aggression in the classroom. [S.S.] had a mild relapse of behavior during a recent week when his parents were away and he was with his grandparents.

When [S.S.] is not behaving in a defiant, angry, or aggressive manner, he is a very sweet, bright, engaging child who is a pleasure to be with. His academic skills are good. He enjoys the individual attention of adults, which is a strong motivator for good behavior. [S.S.'s] attention/focus is still inconsistent. He sometimes does not listen to directions and needs cues

and prompts. He still tends to rush ahead in his work, and may fidget in his seat at times.

[P-4.]

As estimated by the WPPSI-III, S.S.'s general cognitive ability was in the "high average" range; general verbal abilities were in the "high average" range; general performance abilities were in the "average" range; and his processing speed was "superior." (P-4.) However, results of the BASC-2 rating scales revealed "clinically significant" scores for "Aggression, Conduct Problems, and Hyperactivity," and "at-risk" scores for "Hyperactivity, Depression, Attention Problems, Adaptability, and Functional Communication." (P-4.)

Finchler emailed certified child psychologist Bryan Fennelly, M.D. about S.S. in advance of Dr. Fennelly's evaluation. (P-7.) Finchler attached several incident reports to her email and noted that she would email the results of the BASC-2, which reflect that his behavior is worse in school. (P-7.) On March 25, 2013, S.S. was interviewed by Dr. Fennelly, who prepared a Psychiatric Evaluation, dated April 5, 2013. Dr. Fennelly's report summarized:

[S.S.] is referred for psychiatric evaluation due to aggressive behavior at school. There is no clear pattern of his behavior; however, he appears to have the most difficulty when he is told to not do something or receives any criticism. [S.S.] has great difficulty understanding that the criticism which upsets him is often in direct response to his behavior. When upset, [S.S.] can become oppositional and makes angry gestures or acts aggressively towards staff. Recently, his behavior has included pushing furniture towards other students. His behavior has escalated to the point that it's occurring every day. [S.S.] had difficulty last year in preschool. His parents have sought the advice of a behavioral psychologist.

[P-8.]

Dr. Fennelly's report reflects that his diagnostic impressions were ODD and possible ADHD. (P-8.)

S.S. was evaluated by certified child psychiatrist Mark Faber, M.D., who noted the parents' chief complaint as "[b]ehavior issues in school." Dr. Faber prepared a Child Study Team Psychiatric Evaluation, dated April 18, 2013. (P-9.) Dr. Faber's report reflects that he diagnosed S.S. with ODD (with associated mood dysregulation) and provisionally diagnosed S.S. with ADHD, combined type, which he noted would become a more definitive diagnosis if the teacher ratings are consistent with the parent input. (P-9.)

After the District completed the initial evaluations, an initial eligibility meeting was held on May 29, 2013, at which time it was determined that S.S. did not need special education and related services, but that his diagnoses of ADHD and ODD qualified him for a 504 Plan. (P-10.)

S.S. was observed by behavior analyst Anjalee Nirgudkar, Ph.D., BCBA-D, on October 9, 2013, and a Behavior Intervention Plan (BIP) was developed and implemented on October 17, 2013 (revised October 23, 2013). (P-11.) The BIP reflects that a points chart and time-out would be utilized, and defined noncompliance as "any instance of [S.S.'s] resistance to instruction, including, but not limited to: (1) putting his head on the desk after an instruction; (2) refusing to complete work by screaming or yelling, or another form of vocal refusal; and (3) engaging in property destruction to avoid a demand." (P-11).

Due to an escalation of behavioral issues, S.S.'s ineligibility for classification was reconsidered. (P-12.) An Individualized Education Program (IEP) meeting was held on October 30, 2013. (P-13.) S.S. was determined eligible for special education and related services under the classification "emotionally disturbed." (P-13.) An initial IEP was implemented on November 1, 2013, and S.S. was placed in a general education classroom with behavioral support for first grade. (P-13.) Said IEP reflects his diagnoses of ODD and ADHD, combined type (provisional diagnosis) and included behavioral consultation (four hours per month), a shared paraprofessional (with ongoing training and monitoring of the paraprofessional) and a BIP. (P-13.) His classroom behavior goal was that he "demonstrate appropriate self-management skills and classroom behavior," with benchmarks or short-term objectives as follows: demonstrate good work habits (on-task

behavior and following directions); raise hand to participate in class without calling out; accept correction or constructive criticism from adults; cooperate and complete independent seatwork; follow classroom rules and routines; comply with adult authority figures; appropriately express negative emotions or feelings without showing anger or defiance; demonstrate self-control when confronted with frustration; not damage, destroy or take classroom materials; demonstrate empathy following negative episodes; work cooperatively in groups; and participate appropriately in classroom activities. (P-13.)

S.S. began therapy with Danielle Wiesen, Psy.D. in January 2014. (P-25.)

Dr. Nirgudkar prepared a BIP, modified October 9, 2014, for the 2014-2015 IEP. (P-15.) On October 27, 2014, the CST, principal, guidance counselor, and parents met to discuss an appropriate placement for S.S. because:

Since Kindergarten, [S.S.] has experienced great difficulty in controlling his emotions and behavior during the school day. As a result, he will often become disruptive to the class by calling out and refusing to complete work or transition from one activity to another. At times, he also becomes aggressive, throwing classroom objects, such as pencils, books, and chairs. Due to this behavior, [S.S.] has hit a student and his teacher with classroom items. When this behavior occurs, [S.S.] is removed from the large setting and taken into a room to calm down. In this room, he will continue to aggress toward his one-to-one paraprofessional, by hitting, kicking, and sometimes biting her. This typically lasts about 30 minutes and happens at least 3 times a week. [S.S.] has had the support of a behaviorist since Kindergarten. At this time, other options were discussed, such as an out of district and other placements within the district. CST and parents agreed to look at Windsor Learning Center and Chapel Hill Academy. While pending placement, [S.S.] will be on home instruction.

[P-16.]

A draft IEP, dated October 27, 2014, placed S.S. on home instruction. (P-16.) Thereafter, an IEP, dated November 10, 2014, placed S.S. at Windsor Learning Center (WLC), a private day school for students with disabilities, effective November 13, 2014, for the remainder of second grade. (P-17.) An annual review IEP, dated December 15,

2014, also reflects S.S.'s placement at WLC. (P-20.) The 2014-2015 IEPs reflect the concerns of the parents as "his emotional well-being as it pertains to his school day" and that S.S. "takes medication at home to assist with behavior management in school." (P-16, P-17, P-20.) The IEPs reflect social/emotional/behavioral goals and benchmarks or short-term objectives as follows: identify and comply with teacher directives, classroom rules/expectations and school rules throughout the day with 90 percent success (comply with school rules during structured times (e.g. accept discipline, abide by safety rules)); eliminate negative and/or physically aggressive behavior throughout the school day with 95 percent success (eliminate verbally aggressive behaviors (e.g. teasing, cursing, loud tone, yelling)); adapt to changes in his environment with 85 percent success (transition between routine activities and new or unexpected occurrences (e.g. schedule change, guest speaker, staff absence, seat change, field trip)). (P-16, P-17.) The December 15, 2014, IEP reflects behavior goals (strengthen positive work habits; strengthen self-control; strengthen self-esteem) and objectives (complete a given task; complete homework assignments; make a smooth transition from one activity to another; accept praise and constructive criticism). (P-20.) WLC's Behavior Modification System had three levels and a points system for privileges. (P-20.)

By letter dated June 13, 2016, Adam Gibbons, principal of WLC, notified the District and the parents that S.S. had been suspended because he was physically aggressive towards staff. (P-23.) S.S. was evaluated by Dr. Wiesen at his parents' request on June 27, 2016, June 28, 2016, June 30, 2016 and July 12, 2016, and she prepared a Psychological Evaluation. (P-25.) Cognitive, achievement and executive functioning testing was administered, including the Wechsler Intelligence Scale for Children—Fifth Edition (WISC-V) and WIAT-III. Dr. Wiesen's report reflects that S.S. "is prescribed Abilify and more currently ADHD medication by treating psychiatrist, Dr. Shaley Sehgal," but also reflects "S.S. has never been on medication for his ADHD symptoms, therefore it hard [sic] to determine if [S.S.] actually has a learning disability in the area of reading or if [S.S.'s] ADHD symptoms, including difficulty with focusing, sustained attention and impulsivity have impacted his availability to learn the reading strategies taught in the lower grades, which is now affecting his overall reading ability." (P-25.) Dr. Wiesen's report reflects, inter alia, the following recommendations: continue treatment with Dr. Wiesen to address self-esteem, anxiety and frustration regarding his

academic functioning; continue monitoring by Dr. Sehgal regarding medication for ADHD and ODD symptoms and be reevaluated to rule out the possibility of an underlying mood disorder; and an occupational therapy (OT) evaluation to determine if OT services were needed to address his dysgraphia diagnosis. (P-25.)

By letter dated November 9, 2016, WLC provided the parents with a progress report for the IEP goals and objectives for 2016-2017. (P-30.) S.S.'s social/emotional/behavioral goals were generally at a criteria of 80 percent success with moderate assistance as follows: S.S. will state eight personal qualities (e.g. strengths, weaknesses, likes, dislikes) about himself and verbalize how these qualities impact his interactions with others (identify four personal strengths; identify four personal weaknesses); S.S. will identify behavioral triggers (e.g. events, thoughts, emotions/feelings) and explain how these triggers impact on his behavior or on the behavior of others (recount a personal experience/situation and identify the way in which the events led to personal thoughts and feelings; recount a personal experience/situation and identify three ways in which his behaviors led to others' thoughts, feelings and behaviors); S.S. will engage in cooperative play skills (e.g. initiate and maintain play with peers, demonstrate turn-taking, display appropriate response to winning/losing) for thirty plus minutes (independently approach peers and an attempt to join the play activity when in the presence of peers who are actively engaged in cooperative play; appropriately handle defeat in a competitive game situation (e.g. congratulating the winner without engaging in negative behaviors)); S.S. will identify and comply with teacher directives, classroom rules/expectations and school rules throughout the school day (comply with school rules during structured times (e.g. accept discipline, abide by safety rules); comply with school rules during less structured/transition times (e.g. hallways, study hall, lunch room, bus, after-school activities)); when S.S. expresses a negative emotion at school (e.g. frustrations, anger, anxiety, sadness, impulsivity), he will identify and appropriately use a coping skill (e.g. perspective-taking, assertive-communication, deep breathing, problem solving, planned positive activities) to maintain acceptable school behavior (accurately express a plan to change the situation and/or thoughts that led to the negative emotion when faced with a negative emotion (e.g. frustration, anger, anxiety, sadness); express displeasure verbally, rather than by withdrawing from participation in school/class activities when frustrated). The legend reflects that "[p]rogressing satisfactorily" means

the student is making satisfactory progress and is expected to achieve the goal; “[p]rogressing gradually” means the student is making less than anticipated progress but may still achieve the goal; and “[p]rogressing inconsistently” means the student is making inconsistent progress and may not achieve the goal. (P-30.) S.S.’s social/emotional/behavioral goals and objectives/benchmarks were progressing, in some cases “gradually” and in others “satisfactorily.” (P-30.)

By letter dated November 8, 2017, WLC provided the parents with progress reports for the IEP goals and objectives for 2017-2018. (P-35.) Four of the prior social/emotional/behavioral goals and objectives were repeated, one was removed (engage in cooperative play skills for thirty plus minutes), and one was added at the same general criteria: S.S. will adapt to changes in his environment (adjust his behavior as appropriate for different settings and/or events; use multiple adaptive strategies to cope with change (e.g. seeking social support from an adult or peer, taking deep breaths, engaging in another activity)). (P-35.) Most social/emotional/behavioral goals and objectives/benchmarks were progressing “gradually,” with four progressing “satisfactorily,” and two progressing “inconsistently.” (P-35.)

An annual review IEP, dated November 15, 2017, placed S.S. at WLC for fifth grade, with group counseling services twice weekly for thirty minutes and group OT once weekly for thirty minutes. (R-3.) By letters dated January 30, 2018, and June 28, 2018, WLC provided the parents with progress reports for the IEP goals and objectives. (P-37, P-39.) Most social/emotional/behavioral goals and objectives were progressing “gradually,” with some progressing “satisfactorily” and some progressing “inconsistently.” (P-37, P-39.)

Diane Pierce has been employed by the Board since 1999, and she is the learning disabilities teacher-consultant (LDT-C) at the middle school. She has been certified as a special education teacher of the handicapped K-12 since 1993 and certified as an LDT-C since 2004. She was S.S.’s case manager for grades six, seven and eight.

On October 10, 2018, S.S. became upset about points earned and walked to the “RESET” area and began hitting his head on a desk while seated, and a notice of

disruptive behavior was sent to the parents. (P-40.) Seated PRT¹ was the physical restraint that was implemented. (P-40.) Interventions utilized were “redirection,” “support staff respond,” “escort to RESET,” “review problem solving,” and “spoke with student.” (P-40.) On October 31, 2018, S.S. became upset with the behavior of other students in the classroom and became physically aggressive toward staff, and a notice of disruptive behavior and assault of staff was sent to the parents. (P-41.) Seated PRT was implemented. (P-41.) Interventions utilized were “redirection,” “points,” “support staff respond,” “escort to RESET,” “review problem solving,” and “spoke with student.” (P-41.) The nurse noted scattered redness on S.S.’s right and left shoulders. (P-41.)

An annual review IEP, dated October 31, 2018, placed S.S. at WLC for sixth grade, with group counseling twice weekly for thirty minutes and group OT twice weekly for thirty minutes. (R-4.) S.S. also received extended school year (ESY) special education and related services, including group speech-language therapy once weekly for thirty minutes and group OT once weekly for thirty minutes. (R-4.) The October 31, 2018 IEP reflects the concerns of the parents as “his emotional well-being as it pertains to his school day” and that “[t]hey report that some behaviors have increased and are concerned that he is not progressing as much as they thought he would have at this point.” (R-4.)

By letter dated November 7, 2018, WLC provided the parents with a progress report for the IEP goals and objectives. (P-43.) S.S.’s social/emotional/behavioral goals and objectives were primarily progressing “gradually” with some progressing “inconsistently.” (P-43.)

S.S. was referred by Dr. Sehgal to licensed psychologist Tina Snider, Ph.D. for a psychological evaluation. Dr. Snider evaluated S.S. on November 3, 2018, November 8, 2018, and November 13, 2018, and observed S.S. on December 11, 2018, and she prepared a Comprehensive Psychological Evaluation, dated January 9, 2019. (R-5.) Dr. Snider’s report summarized his diagnostic picture as follows: Disruptive Mood Dysregulation Disorder (DMDD), Adjustment Disorder with Mixed Anxiety and Depressed Mood; ODD – by history; ADHD – combined type – by history; dysgraphia – by history;

¹ Primary Restraint Technique.

and Specific Learning Disability: Reading (Comprehension), Mathematics (Fluency), Written Expression. (R-5.) Dr. Snider's report states, inter alia, that "[w]hile [S.S.'s] behaviors within [WLC] didn't initially diminish, over the years his behavioral symptoms have significantly subsided;" "[h]e uses physically aggressive behavior on rare occasion (considerably improved from 2013); he is more mood stable and regulated, and when he does show some obstinance or disinterest, he is able to 'rebound' and carry on with his day with correction;" "[S.S.] regularly shared that he does find it challenging to maintain good behavior when others around him are behaving badly, which was corroborated by parent and teacher report;" and that S.S. "shared that in order to 'seem cool' he can act out so that others accept him and don't think that he's trying to be a 'teacher's pet.'" (R-5.) She noted three concerns from her WLC observation: (1) a clear gap between [S.S.'s] current emotional and behavioral patterns and those of many of the other students present in the classroom; (2) actual instruction time appeared to be impacted by the amount of behavior correction and modification needed; and (3) S.S.'s fears of aggression and others becoming aggressive with him appeared to be plausible. (R-5.) Dr. Snider's report reflects her behavioral observations as follows:

[S.S.] is a very kind and polite boy who came to the testing session ready to work each and every session. He very openly shared his difficulties (his history of aggressive behavior, his triggers, his fears) and consistently highlighted that he feels afraid of his peers at school. At each session he shared how he is afraid that his peers will hit or push him, and feels there are times that he reverts back to "bad behaviors" (being obstinate, hitting/pushing, being "fresh" to teachers) so that others don't think that he is a wimp. [S.S.] responded very well to nurturance, care, and compassion. He dysregulated when he was told "no" or when he wasn't able to have things go exactly as he wished/planned. At those times he showed a very stubborn, defiant picture. With a break and some relaxation cues, he easily came back to task. Interactions observed with his parents followed a similar trajectory—when they showed [S.S.] nurturance, empathy, and compassion his mood softened and he seemed very regulated and compliant. When his parents approached him with more of a strict position or strong directive, [S.S.] seemed to dysregulate and become upset. [S.S.] was much more confident and charismatic in the office environment than in school, which he attributes to "sometimes being afraid" in

school that violence or aggressive behaviors will erupt (from others) and he will be a target.

[R-35.]

Dr. Snider's report also states that "[w]hile it seems as if [WLC] may have been an appropriate placement at one time (to address the severe level of his behavioral outbursts in the past) his symptom picture—including the frequency and intensity of symptoms—has changed" and "[i]t now appears that a focus should be placed on helping [S.S.] access education in a therapeutic school that will offer him a greater academic focus." (R-5.) Among the recommendations in Dr. Snider's report was that he transition to a therapeutic placement more consistent with his current behavioral, emotional, and educational needs. (R-5.)

On December 20, 2018, S.S. became upset with peer interaction during physical education and attempted to elope from the school building, and a notice of runaway attempt was sent to the parents. (P-45.) Interventions utilized were "redirection," "points," "support staff response," "escort to RESET," "review problem solving," and "spoke with student." (P-45) PRT via Handle with Care training was the physical restraint that was implemented. (P-45.) The nurse noted a small cut on his left thumb due to biting. (P-45.)

By letter dated January 29, 2019, WLC provided the parents with a progress report for the IEP goals and objectives. (P-46.) S.S.'s social/emotional/behavioral goals and objectives were primarily progressing "gradually" with three progressing "inconsistently." (P-46.)

On February 4, 2019, S.S. was upset about being redirected to an academic task in class and became physically aggressive toward staff, and a notice of disruptive behavior and assault of staff was sent to the parents. (P-47.) PRT via Handle with Care training was the physical restraint that was implemented. (P-47.) Interventions utilized were "redirection," "points," "support staff respond," "escort to RESET," "review problem solving," "therapeutic report," and "spoke with student." (P-47.) The nurse noted that his left arm was reddened by his elbow, but there was no swelling or abrasion. (P-47.)

By letter dated April 12, 2019, WLC provided the parents with a progress report for the IEP goals and objectives. (P-49.) S.S.'s social/emotional/behavioral goals and objectives were primarily progressing "gradually" with three progressing "inconsistently." (P-49.)

By letter dated May 9, 2019, Gibbons notified the District and the parents that S.S. had been suspended because he was physically aggressive toward staff and eloped from the building. (P-50.)

On May 15, 2019, S.S. became emotionally elevated in the gym and physically aggressive toward staff and attempted self harm by biting, and a notice of disruptive behavior was sent to the parents. (P-51.) PRT (seated and two-person) was the physical restraint that was implemented. (P-51.) Interventions utilized were "redirection," "points," "support staff respond," "escort to RESET," "review problem solving," "therapeutic report," and "spoke with student." (P-51.) The nurse noted that the skin on the upper anterior portion of his left arm was broken, without blood, which he stated was a bite mark, and there was petechiae noted on his left posterior arm and right upper arm. (P-51.)

On May 16, 2019, S.S. was accepted to Chapel Hill Academy (Chapel Hill), a private day school for students with disabilities, for seventh grade. (R-6.) By letter dated May 17, 2019, Gibbons notified the District and the parents that S.S. had been suspended because he was physically aggressive toward staff and eloped from the building. (P-53.)

An IEP, dated May 31, 2019, placed S.S. at Chapel Hill beginning in September 2019, with group counseling twice weekly for thirty minutes and group OT twice weekly for thirty minutes. (R-7.)

In September 2019, S.S. started school at Chapel Hill, which serves students with behavioral, social, emotional and learning disabilities. Services are delivered based upon individual need and can include, but are not limited to: social skills class, individual crisis counseling, in-class intervention, and specialty groups. Chapel Hill provides individual counseling services to all students to ensure that students with disabilities can fully benefit

from the program. (R-8.) Counselors are available to focus on school-related issues, emphasizing practical social/emotional skills necessary to demonstrate educational progress. (R-8.) Chapel Hill did not provide behavioral interventions to students outside of school hours.

Chapel Hill employs a behavior management system—BASE system (behavioral, academic, social, and emotional) with four levels that students can achieve by demonstrating consistent academic and behavioral growth, with each level allowing for greater student responsibility and individual privileges. (R-19.) A student is given three individualized (determined by the student and counselor) goals on their point card for the day. It was a 100-point system, so if the student met all three goals for the day the student would earn 100 points. Students on Level I must earn 80 points in a day to make the points for the week for a reward or privilege of choice. If the student earned the points for four consecutive weeks, the student would be eligible for Level II, where the student must earn 85 points a day to make the points for the week for a better reward or privilege of choice.

Joshua Joslin has been employed by Chapel Hill for fourteen years. He was trained in Crisis Prevention Institute techniques and initially worked as part of the Crisis Prevention and Intervention (CPI) team. He is a CPI trainer. He has worked as a school counselor for the past ten years. Joslin was S.S.'s school counselor at Chapel Hill. Joslin kept an activity log for the 2020-2021 school year, which included S.S.'s check-ins, observations, and Joslin's contacts with parents and staff and medical professionals. (P-95.)

Timothy Walker has been employed at Chapel Hill as a teacher since 2012. He worked initially as a teacher's aide and as a paraprofessional, and thereafter worked as a middle school teacher of students with disabilities since 2018. He has been certified as a teacher of grades K-6 and a teacher of students with disabilities since 2017. He teaches homeroom, social studies, language arts, and remediation.

Michele Medina has been employed by Chapel Hill for twenty-two years. She first worked in kindergarten, then in grades five through eight, and one year in high school.

For approximately eleven of her years as a teacher she taught middle school. She is certified as a teacher K-8 and as a teacher of the handicapped K-12.

A reevaluation planning meeting was held on October 1, 2019. Per the Reevaluation Planning notice, dated October 1, 2019, the District proposed that no additional information was required to determine that S.S. continues to have a disability. (P-59.)

An annual review IEP, dated October 1, 2019, placed S.S. at Chapel Hill, with group OT twice weekly for thirty minutes. (R-8.) The October 1, 2019, IEP reflects that S.S. experienced difficulty regulating his emotions and presented with a high degree of oppositional and defiant behaviors in the general education setting and that the frequency and duration of the disruptive behaviors impeded his ability to succeed in the general education environment. (R-8.) The October 1, 2019, IEP also reflects the parents' concerns as:

[S.S.] is easily overwhelmed by the amount of work given to him. If he is given a packet that is due in one month then [S.S.] will not complete the packet until the very last day. His parents would like him to learn time management skills and begin to learn coping skills to deal with the frustration of feeling overwhelmed. Also, they want him to do homework but would like it structured so that he can complete it more independently.

[R-8.]

The October 1, 2019, IEP also reflects "instructional area-social and behavioral goals" (develop positive interpersonal skills; develop appropriate behaviors for dealing with emotions; develop appropriate ways of receiving attention) and objectives (develop age appropriate coping mechanisms; accept responsibility and consequences for behavior; identify and express difficulties, needs and feelings appropriately; decrease physically aggressive behavior towards peers and adults; develop positive peer relationship and friendships). (R-8.) The academic goals and objectives were from the New Jersey core curriculum content standards. The strategies were utilization of a point card, behavior modification system, group and/or individual counseling, and group individual rewards.

(R-8.) A Student Behavior Management Plan reflects the disciplinary techniques used when necessary to address inappropriate behaviors and that the continuum of interventions is designed to move from the least restrictive to most restrictive in response to behavior. (R-8.)

A Report Card, dated December 5, 2019, reflects S.S.'s first marking period grades as follows: A- language arts literacy; A- mathematics; B+ science; B social studies; A Spanish; A physical education; A health; A- art; and B electives. (R-9.) His effort in all subjects was "consistently satisfactory" and his conduct in all subjects was "satisfactory" or "consistently satisfactory." (R-9) S.S.'s social/emotional development goals of "develop age appropriate coping mechanisms;" "accept responsibility and consequences for [behavior];" "identify and express difficulties, needs and feelings [appropriately];" "decrease physically aggressive behavior towards [peers and adults];" and "develop positive peer relationships and friendships" were all marked "3" (sometimes) on a scale with a key of 5-consistently, 4-usually, 3-sometimes, 2-seldom, and 1-not exhibited. (R-9). The comments included: language arts literacy—"He put forth consistent effort and demonstrated progress in this content area. [S.S.] was most successful with close staff support to remain actively engaged in written assignments and a predictable routine with clearly defined expectations;" mathematics—"[S.S.] was most successful with close teacher proximity and frequent review of topics. He will continue to be encouraged to participate in class and continue to accept help when needed;" science—"He put forth consistent effort and demonstrated progress in this content area. [S.S.] was most successful with teacher guided notice and opportunities to review topics, the small class size and close staff support provided;" social studies—"He put forth consistent effort and demonstrated progress in this content area. [S.S.] was most successful with a predictable classroom routine and staff support during independent work periods;" Spanish—"[S.S.] received Spanish instruction in a whole group setting where the focus was on family and community. [S.S.] was most successful when given leadership opportunities in class;" health—"He put forth consistent effort and demonstrated progress in these content areas. [S.S.] responded well to positive feedback and close staff proximity. [S.S.] will continue to be reminded to ask for and accept help when needed;" physical education—"He put forth consistent effort and demonstrated progress in these content areas. [S.S.] responded well to positive feedback and close staff proximity. [S.S.] will be encouraged

to accept the help and support offered;” art—“He was most successful with gentle reminders to remain on task and close staff support;” and electives—“He was most successful with close assistance to maintain focus.” (R-9.) The first marking period comments were:

[S.S.] was an active participant in his classes. He struggled to appropriately and cooperatively participate in classes he deemed as non-preferred. [S.S.] benefitted from frequent reminders to remain on task and encouragement. He was encouraged to remain safe when agitated, accept help offered, and comply with staff direction without issue.

[R-9.]

Per an FYI dated October 10, 2019, in science class, S.S. kept leaving his seat to help in the “demo,” but he was told to stay seated and speak from his seat. (P-95.) He grew upset when directed to return to his seat. He stated he would throw the Chromebook out the window. (P-95.) The inappropriate or concerning behavior noted was “verbally abusive” (profanity towards staff), “left designated area” (left classroom), “threatening words/behavior” (threatened to break things), “disruptive in class,” and “work refusal,” and the resolution was “time out with counselor,” “conference with counselor,” and “further intervention: contacted Mom.” (P-95.) Per an FYI dated October 11, 2019², in science class, S.S. was asked to exit a game on his Chromebook. He became argumentative and the instruction was repeated, at which point S.S. kicked over a trash can, left the room, and became physically aggressive. (P-95.) In the hallway he yelled at staff, attempted to leave the assigned area, flipped something and was physically aggressive. (P-95.) The inappropriate or concerning behavior noted was “verbally abusive,” “physically abusive,” “property damage,” “left designated area,” “threatening words/behavior,” and “disruptive in class,” and the resolution was “time out with counselor,” “conference with counselor,” and “further intervention: emailed parents”. (P-95.)

² The FYI does not include the year, but the corresponding email to Mom about the incident was October 11, 2019. (P-95.)

On October 28, 2019, Mom emailed Carol Lander and stated that she was happy S.S. got 91 points but wanted to know what specifically caused it to be 91. (P-95.) On October 29, 2019, Lander replied that S.S. did not earn all his points in gym (9 out of 15), and that S.S. got upset over a rule that he disagreed with the teacher about—either as applied to him or because it was not applied to another student as S.S. thought it should be. (P-95.) On October 29, 2019, S.S.’s counselor, Michele Patti, also emailed Mom, stating that S.S. got upset in gym in the afternoon, causing him to “shut down;” he was not available to staff who attempted to help resolve whatever it was that upset him; they gave him some space and time to calm down; he did not rejoin the class, but as far as she knew he transitioned to the next class without issue. Lander further advised that on a positive note, he did remain safe and she has been positively reinforcing those efforts with him. (P-95.)

Per an FYI dated November 11, 2019, in science class, S.S. saw his points on his card; said “that’s not right;” broke several pencils and threw pieces around the room, and knocked over students’ work and threw dirt from a potted plant. (P-95.) During class he kept his feet in the aisle even after being told the teacher might trip on them. (P-95.) The inappropriate or concerning behavior noted was “property damage,” “threatening words/behavior” (tripping hazard), and “disruptive in class,” and the resolution was “conference with counselor”. (P-95.) Per an FYI dated December 12, 2019, S.S. was witnessed dismantling audio equipment in the auditorium and when confronted by staff, he became physically aggressive and ripped a plaque off the wall and threw it at staff. (P-95.) He then punched a staff member in the face. (P-95.) The inappropriate or concerning behavior noted was “verbally abusive,” “physically abusive,” “property damage,” “left designated area,” “threatening words/behavior”, and the resolution was “further intervention: in school suspension.” (P-95.) The parents and case manager were contacted. (P-95.) Per a second FYI dated December 12, 2019, S.S. was walking quickly through the auditorium into the front hall and ripped a wood plaque off the wall and threw it at “Scott” and proceeded to take off his backpack and threw it at “Scott” and proceeded to try and hit and kick “Scott.” Backup was called. (P-95.) The inappropriate or concerning behavior noted was “physically abusive” and “property damage,” and the resolution was “further intervention: in school suspension.” (P-95.)

On December 12, 2019, a request for mental health clearance was made by Chapel Hill because:

[S.S.] entered Chapel Hill Academy and walked into the auditorium and dismantled the sound equipment. A staff member asked him to leave the auditorium and [S.S.] attacked the staff member. The staff member got control of [S.S.] and escorted him out of the auditorium then [S.S.] took a wood plaque off the wall [and] hit the staff member repeatedly. The staff member called his physical intervention team and [S.S.] punched him twice with a closed fist. After the physical altercations [S.S.] was able to be calmed down. The counselor was speaking with him and at no time did [S.S.] show any remorse or even why [sic] he was attending “in school detention.” He did not seem aware that his behavior was out of control and unacceptable. He was asking random unrelated questions.

[P-61.]

On December 12, 2019, S.S. was evaluated at Saint Clare’s Hospital, and determined to not present a danger to himself or others and to be able to return to his regular school program. (P-95.) As a result of the December 12, 2019, incident, S.S. received an in-school suspension on December 12, 2019. (P-64.)

On December 12, 2019, Mom emailed Patti at 9:03 p.m. stating that S.S. mentioned to her that he did not want to talk in the morning about what happened; that he did not know if he would be going to ICE tomorrow and did not want to go; and that Mom was not sure what ICE is. (P-95.) On December 13, 2019, at 4:48 a.m., Patti emailed Loretta Mitchell and principal Michael Somers, stating that she did not think S.S. should get a say on whether or not they follow up with him that morning, and that she thought S.S. should have a conversation with Scott or apologize—something to help reinforce accountability and an appropriate resolution. (P-95.) She asked that someone follow up and email Mom. (P-95.)

On December 13, 2019, Dad emailed Patti and Carol Lander and asked if there was any feedback on S.S. “now that he is off the Cotempla.” On December 13, 2019, Mom emailed Carol Lander and Patti, asking about his points and assignments, and

asking if they noticed anything different—good or bad about S.S. “being off the meds.” On December 14, 2019, Mom again emailed Lander and Patti about assignments and asked that they let her know about any behavior change. (P-95.) Lander replied that he received a 90, and since it was a half day there was less pressure so he did fine at the beginning and struggled at the end and would not do any work during learning activities. (P-95.) On December 16, 2019, Patti emailed the parents stating, inter alia, that they would continue to keep an eye on any changes and let the parents know, and regarding S.S. not wanting to meet or talk with anyone about the incident, it is standard practice for Somers and Patti to meet with a student upon returning from a mental health evaluation and clearance as a way to re-establish expectations and closure to the incident. (P-95.) Dad asked what Somers learned from S.S. (P-95.) Somers replied that his conversation with S.S. was not extensive, but S.S. expressed an understanding of the seriousness of his actions and why the steps that followed were taken; Somers laid out the conduct expectations to which S.S. agreed; S.S. was distant and did not apologize but did converse with Somers in an acceptable manner; and Somers was overall happy with his presentation and demeanor. (P-95.)

Per an FYI dated December 18, 2019, in literacy, S.S. was working on an assignment for most of the period. He told the teacher he was concerned he would not finish. She tried to explain to him that he would earn candy for working up to the end of the period even if he did not finish it. He walked away during her explanation, so she asked him if he was clear on what the expectation was. After that, he did not do any more work. He sat on a desk and said, “This class is a mess.” She told him “You do not need to be in here if you feel that way. You may leave the room and sit on the bench.” He refused to leave, so his counselor was called. Prior to the discussion about the expectation to earn candy, he called another student a “VSCO boy.” That other student became very upset, and she spoke with S.S. about making comments toward his peers. (P-95.) The inappropriate or concerning behavior noted was “verbally abusive” (said “This class is a mess.”), “property damage” (knocked clipboards all over the floor), “threatening works/behavior” (refused to leave, kicked at desks, people when leav[ing]), “gossiping/rumors/name calling” (called a classmate “VSCO boy”), “disruptive in class” (sat on top of a desk refusing to comply [with] direction), and “work refusal” (refused to continue working on assignment (game)), and the resolution was “conference with

teacher/counselor” (S.S. was not available to interventions offered) and “further intervention: parents contacted met with Michael S.” The FYI also noted that S.S. was noncompliant, and his behavior escalated in the hallway, as he pulled the fire alarm and was escorted to ICE and was physically aggressive and unsafe during the transition. (P-95.) On December 18, 2019, Dad emailed Patti, in part, as follows:

The evening at home wasn't great. He was okay when we first got home, but got upset as [Mom] tried to talk to him about today. He isn't giving us much on what he is feeling in school. Statements are basically:

1. I don't like school!
2. These people don't know what they are doing.
3. They can't just put me in a room. (I don't know where you removed him to)
4. Simply speaking he seems very angry and this evening didn't seem remorseful, which is normally where he ends up. We asked him what we could do to change things. He had nothing other than getting home schooled. We did speak to Mike about:

1. Getting him some activity during the day to burn off some energy. Whether that is running an errand or somehow getting him into a gym class daily.
2. He needs a goal he can work towards, but on a scale. It is never taken away, just more or less time to do it. Once you take something away, he has no incentive to try to work back towards it.

A few other items:

1. He hasn't been eating much at school. He didn't have the feast today and he brought home most of his lunch. I think this can definitely add to his behavior issue. He is always better once he eats.
2. We spoke to his Psychiatrist and are going to:
 - a. Try to change out Clonidine to Guanfacine starting on Saturday (don't want to do for the next couple of days)
 - b. If that is of no help, maybe up his Abilify or try to use as an [sic] “fast acting” drug if he will take during an episode (still has 30 minute lag time).
3. He sees his new DBT therapist on Sunday.
4. We are trying to get him to the therapist he has been using for years (likely Monday) to see if he will open up to her. We will see in the morning on how he is doing. Right now he doesn't want to return. I have no clue how the next two days will go. I know Mike said tomorrow is a normal day with Friday being a fun day. I'm hoping [S.S.] wakes up in a better mood.

[P-65, P-95.]

On December 19, 2020, Patti forwarded the email to Somers stating that S.S.'s behaviors are not triggered by lack of physical outlets, but instead when he does not like the expectations or outcomes; and that she had told the parents that he was in the ICE room but they might not have heard that as there was a lot for them to take in. (P-95.) On December 20, 2019, Somers replied to Dad as follows:

Thank you for following up today. I spoke to [S.S.] this morning directly off the bus and expressed my concerns and expectations of him for today and tomorrow. He was receptive to the conversation. I spoke to Michele about our conversation yesterday. She and I are going to gameplan what we can add to his daily route to meet some of the requests you have made. As we discussed yesterday, there will be some additional physical outlets added to allow him some time "blowing off steam." I will also remind his teachers to keep an eye on his lunch habits and communicate with you should they see him not eating when we return from break. Thanks for letting us know what the plan with you at home will be over the break. I expect that Michele will reach out to you again sometime during the first week of January with what has been added. As I did not have to speak with him today after our initial talk, I expect that he met my expectations for the day.

[P-95.]

Per an FYI dated January 14, 2020, staff noticed that the Activ Connect G Box was missing when trying to use the Promethean board, and the previous day S.S. was looking at it and asked how much it cost. (P-95.) The resolution was "further intervention: contacted parents", and the FYI notes that the parents found the G Box at home the next day. (P-95.) On January 14, 2020, Patti emailed Mom, stating that the school was missing an older Dell laptop, two microphones, and another item shown in an attached image. Mom replied that she was upset, disappointed and sorry, and that S.S. did take the Activ Connect and that she would return it to the school. Mom also asked the brand name of the other items, stating that Dad would be back on Friday and would check S.S.'s things again. (P-66.)

S.S. was evaluated on January 17, 2020, at Morristown Medical Center, but hospitalization was not recommended and clinical recommendations were listed on a follow-up referral form given to the parents. (P-67.)

A meeting was held on January 21, 2020, and S.S. and the parents signed a Student Behavior Contract reflecting that S.S. was expected to demonstrate the following behaviors: refrain from physically aggressive behavior; remain in the building and in designated areas; no destruction and/or theft of school property; and respond to staff request to take a “time-out” (with counselor or bench) or leave the classroom and seek counselor. (R-10.)

A Chapel Hill Interim Progress Report, dated January 23, 2020, reflects marks of “making progress,” “satisfactory,” and “excellent” in the various categories, with none marked “improvement needed.” (R-11.) S.S.’s social/emotional development goals of “develop age appropriate coping mechanisms,” “accept responsibility and consequences for behavior,” and “identify and express difficulties, needs and feelings appropriately” were marked “2” (seldom), and “decrease physically aggressive behavior towards peers and adults” and “develop positive peer relationships and friendships³” were marked “3” (sometimes). (R-11). The Comments on his social/emotion development were as follows:

[S.S.] demonstrates progress in his preferred academic classes. He struggles to complete assignments that he feels are too difficult or are nonpreferred. [S.S.] is working on using coping strategies during stressful situations, accepting help from staff, and identifying and expressing his feelings appropriately. He is encouraged to seek out or accept assistance when feeling upset and ask for a break as needed.

[R-11.]

³ There is a discrepancy between the Report Card, dated December 5, 2019, which reported “develop positive peer relationships and friendships” as “3” (sometimes) in the first marking period, and the Interim Academic Progress Report, dated January 23, 2020, which reported it as “4” (usually). (P-9; P-11.)

Per an FYI, dated February 4, 2020, in science lab, S.S refused to do a worksheet that was done as a class and all answers were put on the Promethean board by the teacher. When they did the actual lab, a teacher sat at his table. One-on-one assistance was offered, but he refused to participate. (P-95.) The inappropriate or concerning behavior noted was “verbally abusive” (called teachers bitches) and “work refusal” (noncompliant), and the resolution was “conference with counselor.” (P-95.) Per an FYI dated February 5, 2020, in science lab, S.S.: refused to participate in class despite being offered help and alternatives; was unsafe in the lab, getting out of his seat and sitting on the lab table; was argumentative about his points; and ultimately tore up his points card and needed to be removed from class. (P-95.) The inappropriate or concerning behavior noted was “disruptive in class” and “work refusal,” and the resolution was “conference with counselor.” (P-95.) Per an FYI dated February 11, 2020, in science lab, S.S. was standing on a chair, sitting on a table, and using letters to spell bad words at the end of the period. (P-95.) The inappropriate or concerning behavior noted was “disruptive in class” and “work refusal” (working in group simple lab puzzle of periodic table), and the resolution was “conference with counselor.” (P-95.)

S.S. was suspended from school on February 26, 2020, for one day, for destruction of school property, physically aggressive behavior towards staff, non-compliance with behavior contract regulations, and disrupting the educational process. (P-71.)

A Chapel Hill Report Card, dated March 12, 2020, reflects S.S.’s second marking period grades as follows: B- language arts literacy; A- mathematics; A- science; B social studies; B Spanish; A- physical education; A health; B+ art; and B+ electives. (R-12.) His effort and conduct in all subjects was “consistently satisfactory” or “satisfactory,” except art and electives, where his conduct was “fair.” (R-12) S.S.’s social/emotional development goals of “develop age appropriate coping mechanisms,” “accept responsibility and consequences for [behavior],” and “identify and express difficulties, needs and feelings [appropriately]” were marked “2” (seldom) and “decrease physically aggressive behavior towards [peers and adults]” and “develop positive peer relationships and friendships” were marked “3” (sometimes). (R-9). The comments included: language arts literacy—“He put forth consistent effort and demonstrated progress in this content area. He responded well to clearly outlined behavioral and instructional objectives;”

mathematics—“He put forth consistent effort and demonstrated progress in this content area. [S.S.] was most successful with gentle reminders to remain on task. He will continue to be encouraged to stay focused on his own academic and behavior progress;” science—“He put forth consistent effort and demonstrated progress in this content area. [S.S.] responded well to positive praise and encouragement, subtle redirection, teacher guided notes, and reminders to use coping skills and counselor intervention when feeling angry or frustrated;” social studies—“He put forth consistent effort and demonstrated progress in this content area. [S.S.] benefitted from a predictable classroom route and support from staff during independent classroom activities;” Spanish—“His effort and participation were both consistent with expectations. [S.S.] was most successful with frequent redirection and verbal praise;” health—“He put forth consistent effort and demonstrated progress in these content areas. [S.S.] responded well to positive feedback and close staff proximity. [S.S.] will continue to be reminded to ask for and accept help when needed; physical education—“He put forth consistent effort and demonstrated progress in these content areas. [S.S.] responded well to positive feedback and close staff proximity. [S.S.] will be encouraged to accept the help and support offered;” art—“He put forth consistent effort and demonstrated progress in these content areas. [S.S.] responded well to positive feedback and close staff proximity. [S.S.] will be encouraged to accept the help and support offered;” and electives—“He was most successful with redirection and encouragement.” (R-12.) The second marking period comments were:

[S.S.] demonstrated a consistent effort, academically. He struggled to manage his frustrations safely and appropriately, and to accept staff support during stressful situations. [S.S.] was encouraged to use coping skills taught to manage his frustration, to accept offered help, and to accept responsibility for his behaviors.

[R-12.]

Due to the COVID-19 pandemic, all public and private schools in New Jersey closed in mid-March 2020 and instruction was continued online for the remainder of the 2019-2020 school year. Per a letter dated May 29, 2020, S.S. was named homeroom Student of the Week. (R-13.) A Chapel Hill Report Card, dated June 19, 2020, reflects

S.S.'s third marking period grades as "passing" in all subjects⁴, due to remote instruction because of COVID. There were also no marks for effort or conduct due to remote instruction because those were geared toward in-person instruction. (R-14.)

A Chapel Hill Interim Progress Report, dated August 14, 2020, for the ESY reflects marks of "satisfactory" in the various categories, and marks of "excellent" in attendance. (R-15.) S.S.'s social/emotional development goals of "develop age appropriate coping mechanisms," "accept responsibility and consequences for behavior," "identify and express difficulties, needs and feelings appropriately," "decrease physically aggressive behavior towards peers and adults," and "develop positive peer relationships and friendships" were all marked "4" (usually). (R-15.)

A draft annual review IEP, dated September 2, 2020, placed S.S. at Chapel Hill for eighth grade, with group OT twice weekly for thirty minutes. (R-17.) The September 2, 2020, IEP reflects the same parent concerns and instructional area social and behavioral goals, and strategies as the prior year's IEP. (R-17.) The academic goals and objectives were from the New Jersey core curriculum content standards. School days were shortened by one hour during the 2020-2021 school year due to COVID, and there were instances of virtual instruction for COVID-related reasons. (R-17.)

Per an FYI dated October 22, 2020, in group, S.S. was asked to turn off his Chromebook, but he refused and then was angry and tossed his Chromebook on the floor and then took out a calculator and broke it into pieces. (R-60.) The inappropriate or concerning behavior noted was "property damage," "disruptive in class," and "work refusal," and the resolution was "time out with counselor," and "further intervention: counseling time." (R-60.)

A Chapel Hill Progress Report, dated October 15, 2020, reflects his first marking period progress as follows: 97% literacy; 95% math; 96% social studies; 96% science; 93% PE/health; 99% art; and 95% Spanish. (R-18.) Comments included: "participates in class discussions" for literacy, math, social studies and PE/health; "requires extended

⁴ Electives was marked "NA".

time” for science; “enthusiastically participates in class discussions” for art; “completes classwork with support” for Spanish, literacy and math; “benefits from frequent review of skills/concepts” for social studies and math; “responds well to immediate feedback” for science, PE/health, Spanish, and literacy; “completes classwork independently” for art; “follows directions with few prompts” for social studies; “benefits from redirection and reminders” for science and PE/health; and “demonstrates self motivations” for art and Spanish. (R-18.) S.S.’s social/emotional development goals of “develop age appropriate coping mechanisms,” “accept responsibility and consequences for behavior,” identify and express difficulties, needs and feelings appropriately,” “and “develop positive peer relationships and friendships” were marked “3” (sometimes), and “decrease physically aggressive behavior towards peers and adults” was marked “4” (usually). (R-18.) S.S. earned six out of six total BASE points, and the comments reflect:

This marking period, [S.S.] put forth consistent effort and demonstrated progress across all subject areas. He benefited from access to his counselor and review of concepts before independent work. [S.S.] is encouraged to continue to ask for clarification when faced with a task he perceives as difficult.

[R-18.]

By letter dated October 16, 2020, the parents were notified by Chapel Hill that S.S. had been elevated to Level II on the BASE points system. (R-19.)

Per an FYI dated November 16, 2020, in math class, S.S. refused to close his Chromebook after being asked multiple times and began cursing and threatened to “smash” his Chromebook if he wasn’t allowed to use it. (R-60.) The inappropriate or concerning behavior noted was “threatening words/behavior,” “disruptive in class,” and “work refusal,” and the resolution was “time out on bench’ and “time out with counselor.” (R-60.)

A Chapel Hill Report Card, dated December 3, 2020, reflects his first marking period grades as follows: 85% B literacy; 89% B+ math; 94% A social studies; 91% A-

science; 93% A PE/health; 100% A art; and 90% A⁵ Spanish. (R-20.) Comments included: “participates in class discussions” for literacy, social studies, science and PE/health; “enthusiastically participates in class discussions” for art; “completes classwork with support” for math and Spanish; “benefits from frequent review of skills/concepts” for literacy, math, social studies and Spanish; “responds well to immediate feedback” for PE/health and literacy; “completes classwork independently” for art; “follows directions with few prompts” for science; “utilizes counselor support often” for math and social studies; “benefits from redirection and reminders” for science and PE/health; and “demonstrates self motivations” for art and Spanish. (R-20.) S.S.’s social/emotional development goals of “develop age appropriate coping mechanisms,” “accept responsibility and consequences for behavior,” “identify and express difficulties, needs and feelings appropriately,” “and “develop positive peer relationships and friendships” were marked “3” (sometimes) and “decrease physically aggressive behavior towards peers and adults” was marked “4” (usually). (R-20.) S.S. earned seven out of seven total BASE points. (R-20.)

Per an FYI dated December 10, 2020, in math class, S.S. asked for help with classwork and refused to complete the assignment when he realized he needed to correct his answers, and when told he could not use his Chromebook if he refused work, he began disrupting the class. (R-60.) The inappropriate or concerning behavior noted was “gossiping/rumors/name calling” (“counselors are bullshit”), “disruptive in class” (argued about Chromebook, touched items around the room) and “work refusal” (started playing with ping pong balls, banging drumsticks and bongos, and initially blocked the doorway before leaving with a staff member for a walk). (R-60.) Per an FYI dated December 11, 2020, in math/science class, S.S. refused to take the science test and threw it on the floor and began using his Chromebook and talking to other students while they were taking their tests. (R-60.) The inappropriate or concerning behavior noted “disruptive in class” and “work refusal.” (R-60.) Additionally, per the Student Safety Data System (SSDS), on December 11, 2020, S.S. was physically aggressive towards staff; pulled the fire alarm at school; and disrupted the educational process. (R-21; R-60.) Per an FYI dated December 14, 2020, S.S. refused classwork in math and science, he slammed and hit his

⁵ The key reflects that 90-92 is an A-.

Chromebook when it was blocked, he refused to go to OT special services, and he refused to participate in science. (R-60.) The inappropriate or concerning behavior noted was “verbally abusive,” “physically abusive,” “property damage” (pulled fire alarm), “disruptive in class” and “work refusal”, and the resolution was “ICE” and “further intervention: parent meeting, sent home, 2 days out of building.” (R-60.) Joslin emailed the parents a recap of the day as follows:

[S.S.] and I met to get a plan in place for Science and Math. We discussed the expectations as well as possible consequences, such as restricting his chromebook. He was visibly frustrated when I mentioned the consequence. He walked away from me and reentered class.

During Math I approached [S.S.] and offered a break to get himself ready for both Math and Science. He did not respond and he put his mask over his eyes.

I observed throughout Math and Science. [S.S.] refused work and began to disrupt the class by pushing things off his desk. I offered a walk/break, but he refused. [S.S.] refused to go to O.T. He also refused his medication.

During [S.S.’s] lunch period he began to pull the keys off of his chromebook. When we redirected and offered a break he refused and said “it’s not mine so I don’t care”. I removed the chromebook from his desk and let him know that I would hold onto it. He began to break plasticware, drawing and squeezing glue on his desk. I offered time to talk and a break, but he continued to be unreceptive. I moved the desk away from him. He got up and kicked a glass candle across the floor. He walked out of the classroom with me.

Once we left the classroom [S.S.] pulled the third floor fire alarm. He became physically aggressive toward me (kicking). We then transported [S.S.] to a break space in the first floor counseling office. During the transport [S.S.] continued to be physically aggressive. We stayed in the break room until [Dad] came to pick up [S.S.].

[P-74.]

S.S. was suspended from school on December 15, 2020 and December 16, 2020 for being physically aggressive toward staff, pulling the fire alarm at school, and disrupting the educational process, and his use of technology was restricted. (R-21; R-60; P-95.) On December 18, 2020, Joslin emailed the parents stating that he spoke to S.S. and wanted to review some of what happened and work on a plan with S.S. to manage stress

and frustration, but the conversation was met with defiance and frustration from S.S. (P-95.) He recognized that he pulled the fire alarm and became physically aggressive, but also told Joslin, “I don’t care,” “I can do what I want,” and “I am ignoring you.” Joslin let S.S. know the available options and would monitor throughout the day. (P-95.) Dad replied that it had been a tough couple of days at home—not as bad as at school—and he was not sure how virtual learning would go. Joslin later replied that S.S. had moments of pushback and defiance throughout the day and seemed especially opposed to Joslin and covered his ears and was verbally aggressive and snapped his glasses case in half, so Joslin was working through his teacher instead to give S.S. some space. (P-95.)

Per an FYI dated January 11, 2021, in math/science class, S.S. refused to complete any math or science work and left without permission. (R-60.) The inappropriate or concerning behavior noted was “left designated area,” “disruptive in class,” and “work refusal”, and the resolution was “time out with counselor.” (R-60.) Per an FYI dated January 19, 2021, in math class, S.S. refused to complete worksheets, and put his head down and slept through class. (R-60.) The inappropriate or concerning behavior noted was “work refusal”, and the resolution was “time out with counselor.” (R-60.) Per a second FYI dated January 19, 2021, in science class, S.S. wrote inappropriate comments on the Google classroom assignments: “this stuff sucks,” “hi people,” “hi you suck” and “thank you for turning off my crap.” (R-60.) The inappropriate or concerning behavior noted was “verbally abusive,” “gossiping/rumors/name calling,” and “disruptive in class,” and the resolution was “time out with counselor.” (R-60.)

The parents requested that they be provided with daily reports on S.S. Per an email dated January 19, 2021, from Walker to the parents and Joslin, the breakdown of S.S.’s day was as follows:

Art—Participated willingly

Literacy—Participated and was assigned homework.

Math—Refused Work. No Homework Assigned

Science—Refused Work. MINIMAL work completed. No Homework Assigned.

Social Studies—Participated. Homework (assigned last week) due tomorrow

Health—Participated

[R-23.]

Per an email dated January 20, 2021, from Walker to the parents, the breakdown of S.S.'s day was as follows:

Literacy—Participated and was assigned homework.
Math—Slow to get started, but completed work. No Homework
Art—Participated willingly
Social Studies—Participated. No Homework Assigned Today
Health—Participated willingly
Spanish—Looked for excuses to not work. Eventually got started

[R-24.]

Per an email dated January 21, 2021, from Walker to the parents, the breakdown of S.S.'s day was as follows:

Literacy—Participated. Homework is OPTIONAL—(quiz “study guide” for tomorrow)
Math—Completed classwork without issue. HW—Study for test (reviewed in class)
Science—Completed classwork. HW—Study the cell cycle for test on TUESDAY
Social Studies—Participated. Homework due tomorrow (hardcopy and digital available)
Health—Participated.
Group—Participated. Asked to leave to see a counselor when they weren't doing an activity he preferred.

[R-24.]

A Chapel Hill Progress Report, dated January 21, 2021, reflects his second marking period progress as follows: 88% literacy (“completes classwork with support” and “responds well to immediate feedback”); 76% math (“classwork completion is inconsistent” and “is encouraged to be more available for learning”); 87% social studies (“participates in class discussions” and “follows directions with few prompts”); 64% science (“behavior impacts progress” and “multiple assignments missing”); 93% PE/health (“participates in class discussions” and “follows directions with few prompts”);

88% art (“responds well to immediate feedback” and “demonstrates self motivation”); and 84% Spanish (“benefits from frequent review of skills/concepts” and “completes classwork with support”). (R-25.) S.S.’s social/emotional development goals of “develop age appropriate coping mechanisms,” “accept responsibility and consequences for behavior,” “decrease physically aggressive behavior towards peers and adults.” and “identify and express difficulties, needs and feelings appropriately” were all marked “3” (sometimes) and “develop positive peer relationships and friendships” was marked “4” (usually). (R-25.)

Per an FYI dated January 25, 2021, in math class S.S. refused to work for the first math “mod” (he was in OT for the second), and he was argumentative when asked to persevere with the assignment and refused to continue working when asked to show his work. (R-60.) The inappropriate or concerning behavior noted was “disruptive in class” and “work refusal”, and the resolution was “time out with counselor.” (R-60.) Per an email dated January 25, 2021, from Walker to the parents, the breakdown of S.S.’s day was as follows:

Literacy—Participated and was assigned homework.
Math—Minimal Work completed. No Homework Assigned
Science—Minimal work completed. STUDY FOR TEST tomorrow.
Social Studies—Participated. Homework due 1/27
Health—Actively participated.

[R-26.]

Walker also replied to an email from Mom to confirm that S.S. had gotten a “98 today.” (R-26.)

On January 26, 2021, there were numerous emails between the parents and Joslin regarding S.S. logging off virtual learning and his issues with that format. (P-95.) Per an FYI dated January 28, 2021, in science class S.S. was given the opportunity to make up missed assignments and was on TV/movie sites instead. He was warned it would be closed if he was on them again, and he closed the Chromebook and refused work. (R-60.) The inappropriate or concerning behavior noted was “disruptive in class” (continued

talking to those who were working) and “work refusal,” and the resolution was “time out with counselor.” (R-60.) Per an email dated January 28, 2021, from Walker to the parents, the breakdown of S.S.’s day was as follows:

Literacy—Participated. No homework.

Math—Was cooperative [and] completed work at first. Then refused to accept offered help to complete missed work [and] refused to do make up missed work.

Science—Talked over Michele throughout the majority of Science class.

Social Studies—Participated. Homework (assigned yesterday) due tomorrow

Health—Participated

Group—Participated

[R-27.]

On February 8, 2021, Joslin emailed Ashley Diaz and Medina stating that S.S. did not show up for their meeting and stating that he emailed the parents but was not expecting much that week. (P-95.) Per an email from Dad, dated February 12, 2021, S.S. woke up late and was “not having a good morning” and the parents would get him online when they can. (R-28.) Walker replied that there was no need to rush because they were doing independent/asynchronous learning. (R-28.)

Per an email dated February 17, 2021, from Walker to the parents, Joslin and Patricia Martino, the breakdown of S.S.’s day was as follows:

Literacy—Participated. No assigned work.

Math—Participated. Homework sent home.

Art—Wouldn’t participate. Remained on chromebook. Materials sent home in case of snow day

Social Studies—Participated. No homework.

Health—Participated. Got argumentative at the end.

Spanish—Refused to participate.

[R-28.]

Per an email dated February 24, 2021, from Walker to the parents and Joslin, the breakdown of S.S.’s day was as follows:

Literacy—Participated and was assigned homework.
Math—Participated. HW - study.
Art—Participated willingly
Social Studies—Participated. Homework (assigned yesterday) due tomorrow
Health—Participated
Spanish—Great effort

[R-29.]

On February 26, 2021, Joslin emailed Diaz and Medina stating that the parents were planning on sitting with him throughout the day and hopefully that would get him more active. (P-95.) Diaz replied that since they were using these days as make up days, Medina was getting a list of his missing assignments together and hopefully they would be able to sit with him and get some work done. (P-95.)

An email dated March 4, 2021 from Dad to Joslin stated, in part, that he believed S.S. was in homeroom, literacy, a one-on-one chat with Joslin, science, social studies, health and group, and Dad did not expect he would do any of the day's work and definitely not any make-up work. (R-30.) Joslin replied that S.S. did well with the plan, earned a 94—with math and science points adjusted per the plan—and that they would track the work and once back in the building, would see what is owed and develop a plan from there. (R-30.) An email dated March 5, 2021 from Dad to Joslin reflects that the day's plan was homeroom, literacy, science, art, "SS" and learning activities. (R-30.)

An email dated March 4, 2021 from Dad to Joslin states:

Yesterday was [S.S.'s] weekly session with [S.S.] [sic]. She reiterated moving to small steps in this virtual format. [S.S.] said he will be in home room, literacy, social studies and group. He may show up in other classes, but he will decide. If you could let the teachers know so we are not unduly emailing about it. I will try to check in on him, but can't be by him the whole day. Getting teachers thumbs up/thumbs down after each class would be great. Feel free to give me a call if you have questions.

[P-95]

Joslin replied that he thought that could be a successful plan, and that would let the teachers know and they would keep track of the missed class work, but would look at what could be done to minimize that. (P-95.) Joslin forwarded Dad's email and his reply to Noelle Baresich and Somers, stating that S.S. has been struggling at home and with school and his therapist has pushed for this before. (P-95.) On March 4, 2021, Joslin also sent an email as follows:

I received an email from [S.S.'s] parents and outside therapist. They decided, for virtual, to have [S.S.] step back from math and science. I let them know that we still keep track of missed classwork/assignments, but that we would look to make a plan for that work in the building. They would like to know how he is doing period to period. I will communicate that if you could just let me no [sic] a thumbs up or thumbs down. I appreciate all the help and support with this. Let me know if you have any question.

[P-95.]

Per an FYI dated March 9, 2021, in science class the students were given the opportunity to work on a missed assignment together and S.S. was off-task, on his Chromebook. He was asked to get on task and offered help with the assignment, but he refused the help and refused to work on the assignment. (R-60.) The inappropriate or concerning behavior noted was "verbally abusive" (I don't give a shit) and "work refusal." (R-60.) Per an email dated March 9, 2021, from Walker to the parents, Joslin, and Martino, the breakdown of S.S.'s day was as follows:

Art—Did well

Literacy—Did well. Homework assigned

Math—Did well.

Science—Refused work

Social Studies—Participated. Homework (assigned yesterday) due tomorrow

Health—Issues at the end with his peers. Refused to write down his points. Arguing with peers.

He earned an 89 today.

[R-31.]

Per an email dated March 10, 2021, from Walker to the parents, S.S. had no issues in class that day, but gave a little pushback at the end of the day with closing his Chromebook and getting packed up. (R-31.) On March 10, 2021, Dad emailed Joslin as follows:

During a parent session with Megan today we discussed what would be helpful for us. We've chatted about getting a note from Tim giving us details of the day. This isn't always consistent and is missing a key component of knowing what homework is assigned. Part of that problem is that [S.S.] will argue whether it is and we never get to actually looking at it. Can you, Tim, or an aide sit with him during the last 10 minutes of the day to make sure things are recorded in his assignment book, that his homework sheets are in his folder, and that he is aware of what is due?

I know Tim typically posts his stuff, but Michele doesn't. It used to be simple when we could simply look in his folder and see a sheet with a due date to know what he had to get done. Our focus is going to be on small wins with the things he has to do at home, like homework, and leave the school details to all of you.

[P-95.]

On March 11, 2021, Joslin emailed Somers and Baresich requesting to meet to discuss how to move forward with Dad's request. (P-95.)

A Chapel Hill Report Card, dated March 11, 2021, reflects his second marking period grades as follows: 81% B- literacy ("completes classwork with support" and "responds well to immediate feedback"); 65% D math ("classwork completion is inconsistent" and "is encouraged to be more available for learning"); 77% C+ social studies ("participates in class discussions" and "benefits from frequent review of skills/concepts"); 60% D science ("is encouraged to be more available for learning" and "multiple assignments missing"); 87% B+ PE/health ("completes classwork with support" and "benefits from redirection and reminders"); 86% B art ("demonstrates difficulty meeting virtual learning expectations" and "completes classwork with support"); and 77% C+ Spanish ("classwork completion is inconsistent" and "is encouraged to be more available for learning"). (R-32.) S.S.'s social/emotional development goals of "develop age appropriate coping mechanisms," "accept responsibility and consequences for

behavior,” “decrease physically aggressive behavior towards peers and adults,” and “identify and express difficulties, needs and feelings appropriately” were marked “3” (sometimes) and “develop positive peer relationships and friendships” was marked “4” (usually). (R-32.) During the second marking period, Chapel Hill utilized a school-wide virtual platform for twenty-seven days (not consecutive), due to COVID-19-related precautions and guidelines. (R-32.) S.S. “put forth consistent effort and demonstrated progress across most subject areas,” his “effort and participation has impacted his grades for both Science and Math;” “he benefited from clearly defined behavioral expectations and subtle redirection,” and he “remains encouraged to ask for assistance when needed.” (R-32.)

Per an FYI dated March 15, 2021, in literacy class the students were given a short break and when the lesson continued, S.S. refused to close his Chromebook, took it and walked out. (R-60.) The inappropriate or concerning behavior noted was “left designated area” and “work refusal”, and the resolution was “time out with counselor.” (R-60.) Per a second FYI dated March 15, 2021, in math S.S. refused to do any math work. They tried to encourage him to work but he kept refusing. He was picked up for OT. During remediation, he again refused to make up math. (R-60.) The inappropriate or concerning behavior noted was “work refusal,” and the resolution was “time out with counselor.” (R-60.) Per a third FYI dated March 15, 2021, in science class the students were working on an online assignment and S.S. was asked multiple times to get on task and offered help to do his work, but he refused and continued searching on Google. (R-60.) The inappropriate or concerning behavior noted was “work refusal”, and the resolution was “time out with counselor.” (R-60.) Per an email dated March 15, 2021, from Walker, the breakdown of S.S.’s day was as follows:

Literacy—Refused to complete work. Homework assigned
Math—Refused to do math. Homework assigned.
Science—Very little effort
Social Studies—Refused to complete work. Homework assigned (due 3/17)
Gym—Participated
Remediation—Would not accept help with make-up work

[R-33.]

The email attached math work that Joslin wanted sent home because S.S. had refused to complete it during math or remediation. (R-33.) Mom replied, in part, “hope tomorrow will be better,” and “[w]e will try to work on the homework with him but we don’t know how that will go.” (R-33.)

An email dated March 16, 2021 from Mom to Lisa Bell, Joslin, Walker and Medina advised that they just changed the dosage of S.S.’s Effexor from 75mg to 37.5mg, and requested that they advise if any changes—positive or negative—were seen. (R-34.) Medina replied that in math and science he was “attentive and available for learning” and “actively participated in the lesson, accepted teacher directions, and was focused with minimal reminders,” and that she would “complete science with him tomorrow, he advocated for my help.” (R-34.) Walker replied that S.S. earned his points but was definitely coming across with a bit of an attitude—curt with his responses and gave the teachers pushback when approached for help—but could not pinpoint it to the medication or just the tone of the day. (R-35.) Mom replied that she was glad he had a better day but was not liking the attitude and maybe it is the age; she did not work with S.S. and he was able to complete the social studies, math and literacy and she hoped he would hand everything in; and he did not complete one assignment but she thought this was a great start and hoped that he keeps it up and emphasized with S.S. to use remediation so he has less work when he gets home. (R-35.)

Per an email dated March 17, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.’s day was as follows:

Literacy—Refused to do work. Refused to go with Josh. Very argumentative. Homework was assigned

Math—Completed work

Art—Completed work

Social Studies—Went outside for the period. Was well-behaved.

Gym—Participated willingly.

Spanish—Work avoidance, refusal. Negative comments. Very argumentative.

He has been having a difficult time separating/staying on task with the chromebook.

[R-36.]

Per an email dated March 22, 2021, from Walker, the breakdown of S.S.'s day was as follows:

Literacy—Refused to complete assignments. Homework was assigned

Math—Refused to do the work with help. Completed PARTIALLY during free time in Social Studies.

Science—Went with Counselor, refused work

Social Studies—Completed work. Work well in a group. Worked on missed Math with teacher

Gym—Participated.

Remediation—Continued working on Math.

[R-36.]

Per an FYI dated March 23, 2021, in math class S.S. refused all work, ripped up his papers, and when told he would not earn free time outside, he removed his mask and ate lunch after being asked not to. (R-60.) The inappropriate or concerning behavior noted was “threatening words/behavior,” “disruptive in class,” and “work refusal,” and the resolution was “time out with counselor” and “further intervention: email home.” (R-60.) Per a second FYI dated March 23, 2021, in literacy class S.S. refused to take an online quiz and continued to search on Google despite prompts to remain on task. (R-60.) The inappropriate or concerning behavior noted was “work refusal,” and the resolution was “time out with counselor” and “further intervention: email home.” (R-60.) Per an email dated March 23, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

Art—Participated willingly. Started to “butt in” on another classmate’s progress but pulled back.

Literacy—Did not complete work (short period, can make it up tomorrow).

Math—Completed work. Good period

Science—Same as math.

Social Studies—Participated. Engaged in discussion.

Gym—Good participation/sportsmanship.

Good behavior today. More open to help.

[R-37.]

Per an email dated March 25, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day on March 24, 2021 was as follows:

Literacy—Participated and completed work. Homework assigned
Math—Participated and completed work. Homework assigned.
Art—Participated
Social Studies—Participated actively in discussion and work.
Gym—Almost got upset, but pulled it together
Spanish—Worked without complaint

Another good day. Not as much pushback.

[R-38.]

Per an FYI dated March 26, 2021, in social studies, when the class was coming back in, S.S. refused to follow and started arguing and would not return to class. (R-60.) The inappropriate or concerning behavior noted was “verbally abusive” (“You have no power. You can’t make me do anything”) and “left designated area” (refused to enter building/stay with class). (R-60.)

Per an email dated March 29, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

Literacy—Hesitated to complete work. No disrespect, just work avoidance.
Math—Refused to do Simple Solutions. Similar work avoidance at the beginning.
Science—Completed work.
Social Studies—Participated in discussion willingly
Gym—Participated.
Remediation—Work avoidance. Slightly argumentative about making up work.

Less pushback today. Work avoidance but without disrespect. Excuses more than anything.

[R-38.]

Per an email dated March 31, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

Homeroom—Had a hard time staying out of a conversation a classmate and a counselor were having
Literacy—Pushback completing work, eventually got it done
Math—Participated, worked on Science quiz
Art—Participated willingly
Social Studies—Pushback at first, eventually turned it around
Gym—Slightly argumentative
Spanish—started task, no argument

Very good day. Still tends to argue/deny when he doesn't earn points during a class.

[R-39.]

Per a letter dated April 1, 2021, S.S. was named homeroom Student of the Week. (R-40.) Per an email dated April 5, 2021, from Medina to the parents, Walker and Joslin, Medina advised, inter alia, that S.S. was caught up with work in science and math, and out of thirteen classes, there were two days (in each class) that S.S. refused work or help in class, but he had since made up the work for some credit. (R-41.) Mom replied that was great news and wonderful to hear and hoped it continues, and she advised that she would try to work with getting his math homework done with him and asked if he had to complete it all to get full credit. (R-41.)

Per an email dated April 5, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

Literacy—Participated with prompting. Homework assigned.
Math—Participated. Homework assigned.
Science—Participated.
Social Studies—Participated. Homework assigned (due Wednesday)
Gym—Active participant.
Spanish—Avoided working at first. Got on eventually.

Asked for his counselor often but came back in and got his work done. Walked out at the end of the day when another student got upset. No big fuss, but didn't ask permission.

[R-41.]

Per an email dated April 6, 2021, the parents were allowing S.S. to stay home and asked if there was school work they could provide him. (R-43.) Per an email dated April 7, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

English—Participated and completed work. Homework assigned.

Math—See Michele's email.

Art—Did his work

Social Studies—Participated; hesitated to work at first. Homework assigned due 4/9

Gym—Did a good job staying out of other's problems.

Remediation—Sat quietly, chose not to work on homework

[R-42.]

Per an email dated April 8, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

Literacy—Participated willingly. HW is to complete any missing homework

Math—Participated after a little hesitation to do his Simple Solutions

Science—Participated willingly

Social Studies—Participated.

Gym—Issues coming back in after gym . . .Nothing major. Reset and continued with his day.

Group—Participated

[R-43.]

Per an email dated April 12, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

Literacy—Took a minute to close his tabs, participated willingly afterwards

Math—Did well in math and OT

Science—Participated willingly

Social Studies—Participated. Did a good job not getting frustrated with another student

Gym—Good participation

Spanish—Independently completed his assigned task

Generally well behaved. Good participation, very willing to help.

[R-44.]

Mom replied, “Awesome news. So proud of him” and Dad emailed Walker, Joslin, Martino and Megan Donohue and asked if anyone noticed a muscle spasm or difference in focus. (R-44.)

Per an email dated April 13, 2021, from Walker to the parents, Joslin and Martino, S.S. “participated willingly” in art, English, math, science, social studies and gym and had a “Great day. Earned a 100. Little if any pushback. Used his counselor when he needed it.” (R-45.) Per an email dated April 15, 2021, from Walker to the parents, Joslin and Martino, S.S. “did not have an issue in any of his classes today except for the beginning of group. He was a little upset about something that had happened in the previous class but took a minute to get himself calm and didn’t revisit the issue once it passed.” (R-45.) Per an email dated April 26, 2021 from Dad to Joslin, Walker and Donohue, S.S. said he would make an effort and be part of all his morning classes (homeroom, literacy, math (and OT which happens during math), science, and social studies), but said he would not join health or Spanish. (R-45, R-47.) Joslin replied that he thought that was a fair plan to move forward and to let them know how they could assist. (R-45, R-47.)

An IEP meeting was held on April 13, 2021. Per the annual review IEP, dated April 13, 2021, S.S. was placed at Chapel Hill, with group OT once weekly for thirty minutes and ESY. (R-46.) The parent concerns were the same as the prior IEP.

Per an email dated April 28, 2021, Joslin advised Ashley Diaz, Medina, Martino and Walker that he was not expecting much from S.S. because S.S. has a plan with his parents to attend preferred classes, and that Joslin had explained to them that is fine and they will support it, but his grades would suffer accordingly. (R-48.)

Per an email dated May 5, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.’s day was as follows:

Literacy—Did well. No homework assigned.

Math—Did well. Homework assigned.

Art—Participated willingly

Social Studies—Did well

Gym—Went with Josh

Remediation—Participated in activity

Since [S.S.] isn't allowed to participate in gym, I was wondering if you had anything you might want to send in with him to do during those periods. I was thinking [something] like a book to read, a book of word puzzles, magazines, an advance coloring book, something along those lines. I just don't want him to get frustrated about not being [able to] participate. Let me know what you think.

[R-49.]

Dad replied that he would ask S.S. what he wants to bring in to keep him busy. (R-49.)

A Chapel Hill Report Card, dated May 6, 2021, reflects his third marking period grades as follows: 80% B- literacy; 80% B- math; 83% B social studies; 82% B-science; 87% B+ PE/health; 89% B+ art; and 89% B+ Spanish. (R-50.) Comments included: "completes classwork with support" for literacy, math, social studies, and art; "participates in class discussions" for science; "responds well to immediate feedback" for PE/health and art; "benefits from frequent review of skills/concepts" for Spanish; "follows directions with few prompts" for literacy; "recent improvement noted" for math; "benefits from redirection and reminders" for social studies and PE/health; "benefits from opportunities to demonstrate leadership" in science; and "demonstrates self motivation" in Spanish. (R-50.) S.S.'s social/emotional development goals of "develop age appropriate coping mechanisms;" "accept responsibility and consequences for behavior;" "identify and express difficulties, needs and feelings appropriately" were marked "3" (sometimes), and "develop positive peer relationships and friendships" and "decrease physically aggressive behavior towards peers and adults" were marked "4" (usually). (R-50.) The Report Card comments were:

This marking period, [S.S.] put forth effort and demonstrated progress across most subject areas. He was most successful with clearly outlined academic and behavioral expectations and access to his counselor. [S.S.] is encouraged to access

available support and put forth his best effort during all academic classes.

[R-50.]

Per an email dated May 7, 2021 from Walker to the parents, Martino and Joslin, S.S. earned a 100 and there was “effort in all of his classes with little pushback.” (R-51.)

Per an email dated May 10, 2021, from Walker, the breakdown of S.S.’s day was as follows:

LITERACY—Good effort. No homework

MATH—Good effort. Homework assigned, may have finished in class (?)

SCIENCE—Good effort

SOCIAL STUDIES—A little distracted, but responded to prompts

GYM—Came inside during class, didn’t want to discuss issues with me. Responded to Josh. Had a snack and sat in class for remainder.

REMEDIATION—Worked on Spanish goal for the week.

He seemed tired for most of the morning but managed to stay engaged and complete the tasks that were asked of him.

[R-52.]

Mom replied that they had gotten home late the night before so that could be why he was a bit distracted, and she was glad he got through the day without any issue, and she asked Joslin about the gym issue. Joslin replied that S.S. told him that he was frustrated because he cannot participate in gym right now due to his wrist and that they talked for a few [minutes] and Joslin and Walker let him calm down at his desk until the class returned. (R-52.)

Per an email dated May 11, 2021, from Walker, to the parents, Joslin and Martino, the breakdown of S.S.’s day was as follows:

ART—Worked with Jill.

LITERACY—Good effort. Was willing to accept help on essay

MATH and SCIENCE—Put his head down and didn’t work

SOCIAL STUDIES—Participated in a group activity

GYM—Filled tanks with Patty. Happy to help (as always)

[R-53.]

Per an email dated May 13, 2021, from Walker to the parents, Joslin and Martino, the breakdown of S.S.'s day was as follows:

LITERACY—Struggled to get work done on his essay. No pushback though

MATH—Completed work. Generally agreeable.

SCIENCE—Remained in class. No pushback.

SOCIAL STUDIES—Open to discussion.

GYM—Helpful.

GROUP—Participated.

Raised hand to ask if he was going to get “chromebook time” more than once but didn’t force the issue. Closed the chromebook when asked during transitions. Earned a 100 today.

[R-41, R-54.]

Per an email dated May 14, 2021, from Walker to the parents, Joslin and Martino, S.S. had a good day, they had a lot of opportunities to go outside and spend social time together and completed the work that was necessary in order to earn that privilege and he earned a 100 for the day. (R-55.)

Per an FYI dated May 18, 2021, in literacy class S.S. tossed his book on the floor and when asked to pick it up he tossed it in the garbage and then continued to empty his desk into the garbage. (R-60.) The inappropriate or concerning behavior noted was “disruptive in class” (students requested to work in the hall due to the noise disruption) and “work refusal,” and the resolution was “further intervention: parent contact.” (R-60.) Per a second FYI dated May 18, 2021, in science class S.S. was inattentive and disruptive during class, despite reminders that free time would be given if work was completed/directions followed; when the class discussion ended, S.S. was reminded that he did not earn free time with his peers; he and another peer were asked to remain in class; he responded by leaving the room and attempted to shut the door on a staff member; once the class stepped outside, he barricaded himself behind the doors of the stairwell, only coming out when the classroom door was opened, at which point he ran in

and attempted to lock/close the door on the staff member; S.S. then began picking up objects around the room and throwing at the staff member. (R-60.) The inappropriate or concerning behavior noted was “verbally abusive” (“fuck you, you’re not my mom”), “physically abusive” (throwing a book, pencil, calculator), “property damage” (throwing objects) “left designated area” (barricaded in stairwell), “threatening words/behavior” (throwing objects, swinging open/slamming doors as staff tries to access the area), “disruptive in class” (shouting/cursing) and “work refusal,” and the resolution was “further intervention: parent contact.” (R-60.)

Per an FYI dated May 24, 2021, in math class S.S. refused to do work and then began tossing items and Chromebook into the trash. (R-60, P-95.) The inappropriate or concerning behavior noted was “property damage” (threw school supplies in trash), “disruptive in class,” and “work refusal” (ripped up papers). (R-60.)

Child and adolescent clinical psychologist Jennifer Zeisz, Ph.D., PA, received a referral from Lucy Pritzker, an educational consultant at Elm Street Placements, to evaluate S.S. Dr. Zeisz evaluated S.S. and prepared a Report of Psycho-Educational Evaluation, dated June 6, 2021. (R-56.) Dr. Zeisz’s expertise is in psychology and the assessment of children. She had contact with S.S. on May 19, 2021, the parents on May 31, 2021, Chapel Hill professionals on May 28, 2021, and Pritzker on May 28, 2021. (R-56.)

Per an FYI dated June 1, 2021, in gym class S.S. left the designated area. (R-60, P-95.) The inappropriate or concerning behavior noted was “left designated area” and “disruptive in class” (interference with PE activity), and the resolution was “time out on bench” and “time out with counselor.” (R-60.)

By letter dated June 15, 2021, petitioner’s attorney requested an IEP meeting to discuss a request to place S.S. in a residential school through his IEP, based on his history and Dr. Zeisz’s report. (P-80.)

An IEP meeting was held on July 7, 2021. (R-57.) Both parties had attorneys in attendance. The IEP, dated July 7, 2021, was prepared by Pierce, and placed S.S. at

Chapel Hill for ninth grade, with group OT once weekly for thirty minutes, individual OT consultation once weekly for thirty minutes, and individual behavioral intervention consultation twice weekly for sixty minutes, and ESY. (R-58, P-95.) In addition to the those in the prior year's IEP, the parent concerns were:

[The parents] believe that [S.S.'s] behavior warrants a residential placement. They explained that [S.S.] has been out of district since the 2nd grade and still requires significant services. They are concerned that with [S.S.] entering high school and still unable to return to district or regulate his emotions, that he will not be able to be self-sustaining as he gets older. [The parents] cited low frustration tolerance at home resulting in tantrums, refusal of simple requests, defiance, and a general lack of generalization for skills. [The parents] believe that a residential placement will provide [S.S.] with consistency of interventions to make meaningful progress.

[R-58.]

The July 7, 2021 IEP reflects that the parents expressed that he “needs a more intensive learning environment where he can generalize behavioral skills beyond school hours” and that a residential placement would offer an increased level of intervention. (R-58.) The July 7, 2021 IEP further reflects that the District recognizes that S.S. struggles with emotional regulation and reviewed his progress with Chapel Hill and believed that S.S. was making progress toward his goals and objectives and that Chapel Hill was an appropriate placement. The July 7, 2021 IEP reflects the same instructional area social and behavioral goals, and strategies as the prior year's IEP. (R-58.) Dr. Zeisz's report was not summarized in the July 7, 2021 IEP.

By letter dated July 8, 2021, petitioners' attorney advised that the parents did not agree that S.S. had meaningfully progressed through his program at Chapel Hill and objected to his continued placement there and requested a residential placement or would

unilaterally place him at Whetstone Academy or Maple Hall Academy (Maple Hall). (P-83.)

Per an FYI dated July 12, 2021, S.S. was redirected several times in math and theme-based class to complete assignments instead of watching shows on his Chromebook; Go Guardian was used to lock his computer and he got upset, put his head down for about ten minutes, then threw his Chromebook across the room into the garbage, spilling it; he refused to clean up the mess; and Joslin was called and S.S. began trying to disconnect the phone and computer. (R-60.) The inappropriate or concerning behavior noted was “property damage,” “disruptive in class,” and “work refusal,” and the resolution was “time out with counselor,” “escorted from class by Josh,” “ICE 15-20 minutes – door closed then opened for convo,” and “further intervention: parent contact.” (R-60.)

Per a July 21, 2021 letter ostensibly from Rathna Mallela, MD, S.S. had been a patient at Bartky HealthCare Center since November 2013, and met the criteria for diagnosis of ADHD (combined type), anxiety disorder (unspecified), and ODD, and follows regularly with the practice for medication management of symptoms. (P-84.) The letter states that she reviewed Dr. Zeisz’s Psycho-Educational Evaluation and agreed with her diagnoses and recommendations, and she recommended that S.S. attend a residential program. (P-84.)

Per an FYI dated July 22, 2021, S.S. was throwing things in the art classroom and after being redirected he became defiant. (R-60.) The inappropriate or concerning behavior noted was “verbally abusive” ([S.S.] was argumentative and disrespectful); “property damage” ([S.S.] threw a container of beads on the floor rendering them useless), “disruptive in class” (his behavior required the teacher’s full attention), and “work refusal” ([S.S.] refused to clean the mess that he made), and the resolution was “time out with counselor.” (R-60, P-95.)

By letter dated July 27, 2021, counsel for the parents enclosed Dr. Mallela’s letter and requested that the District make a residential placement through S.S.’s IEP, and

stated that if the District did not agree, the parents intended to unilaterally place him in a more intensive school. (R-62.)

Per an FYI dated July 29, 2021, in ceramics class S.S. used his clay to make an object that was phallic in appearance, and then said he made a “dildo.” (R-60.) The inappropriate or concerning behavior noted was “disruptive in class,” and the resolution was “time out with counselor.” (R-60.)

Per the Attendance Report, S.S. was absent a total of 6 days during the 2020-2021 school year, which included the two days of suspension, two excused absences, one illness and one vacation. (P-95.)

By letter dated August 5, 2021, counsel for the parents stated that the parents had provided verbally at the July 7, 2021 IEP meeting, and in writing on July 8, 2021, notice of their intention to unilaterally place S.S. at either Whetstone Academy or Maple Hall, and that the parents believe that Maple Hall is the appropriate school for S.S. The letter notes that “S.S. continues to present today with the very same behaviors that first necessitated placement out of district in early elementary school.” (R-64.) The District disagreed that a residential placement was required and advised that the request was declined. (R-64.) By letter dated August 11, 2021, counsel for the parents advised that S.S. would be unilaterally placed at Maple Hall starting on August 23, 2021. (R-65.)

S.S. was unilaterally placed at Maple Hall in Lexington, Virginia, effective August 23, 2021. (P-96.) Maple Hall opened in mid-May 2021 and is for boys only. It is not licensed or accredited as a private special education school. Per the Maple Hall website, Maple Hall is a therapeutic boarding school in Virginia serving students in grades five through nine. (P-96.) Students have opportunities for equine therapy, clay work to express themselves artistically and the development of culinary skills. (P-96.) The Maple Hall vision is “to provide a safe and dynamic setting where they can develop the needed tools to have effective skills and strategies for life by focusing on these four areas: Behavioral; Academic; Social; Emotional (BASE).” (P-96.) Per the Maple Hall website, each student has his own Individual Learning Plan (ILP) designed personally for him and academic staff members base the plan upon outcomes from a wide range of assessments

that test academic progress and consider personal academic history, individual strengths and weaknesses, and personal learning style. (P-96.) The website reflects “What We Offer” as individualized academic curriculum, open enrollment with flexible lengths of stay, insurance reimbursement specialists, academic field trips, participation in the local community service opportunities and projects, and camping, hiking, and other outdoor adventure trips, and “How We Help” as individual, group, and family therapy totaling 6 hours per week, equine therapy, culinary arts, ceramics and expressive arts, animal assisted therapy, therapeutic farming and gardening, and community service. (P-96.) A typical stay at Maple Hall is one year. (P-96.) The website reflected no teachers for social studies, math or English/language arts. (P-96.)

Josh Prince, Master of Social Work (MSW), was a clinical director at Maple Hall from May 2021 to August 2021 and has been a primary therapist since August 2021. (P-98.) His experience includes high school science teacher and wilderness therapy field instructor. As a social worker, he can provide individual counseling or therapy and family therapy. He carries a case load of six students for whom he provides individual therapy sessions and family therapy sessions weekly, and he facilitates group therapy sessions. Outside of sessions, his role is to build relationship with all the students to support them in reaching their goals. Prince developed a master treatment plan through various resources, including information from the parents and Dr. Zeisz’s report and his own background as a social worker. Per S.S.’s Master Treatment Plan, dated August 23, 2021, S.S.’s initial goals were to improve his anger management skills, gain healthy coping skills and improve the health of his relationship with family. He was taking Abilify, Guanfacine Hydrochloride, Venlafaxine Hydrochloride, Hydroxyzine Pamoate, Lipitor, Vitamin D and a multivitamin. (P-97.) S.S.’s diagnoses are listed as: other specified neurodevelopmental disorder; attention-deficit/hyperactivity disorder, combined presentation; and parent-child relational problem. (P-97.) The Master Treatment Plan noted that S.S. presented as a risk for destruction of property and physical aggression towards staff, and that a clinician is working with S.S. to develop appropriate coping skills. It also reflects that “After graduation from Maple Hall, student will continue to need support

through outpatient individual therapy, outpatient family therapy, and a small supportive school environment.” (P-97.)

Prince’s September 16, 2021 note states:

Medical—No medical concerns at this time

Academic—[S.S.] sometimes becomes frustrated and critical of his clay work projects. He is participating actively in all classes and is showing some leadership skills. He had one time where he shut down after staff held a boundary with technology. He was able to recover and finish the rest of class.

Clinical—Showing up to therapy with a positive attitude, working towards responding to staff redirects and prompts in positive vs negative ways, identifying situations that trigger anger. No incidents since last Thursday.

Residential—Last Thursday, [S.S.] had a blow up regarding not wanting fruit as a snack. He destroyed pieces of property around campus and was physically aggressive towards staff and needed to be put in a therapeutic hold. Eventually was able to express hunger and wanting a snack and was able to advocate for one appropriately. Expressed accountability and apology about 10 minutes after. Staff helped him come up with a plan for how to get his needs met in a more appropriate way. Needed some redirection but handled it all well over the weekend.

[P-97.]

The September 16, 2021 printout reflects: in math his participation is “great,” his “division and multiplication skills are not very strong” and he “loves math and really tries [sic] hard to get everything right;” in social studies he “actively participates in class,” he had no academic struggles at that time, and he “is well mannered in class and actively contributes meaningfully in class discussion;” in English/Language Arts he “participates willingly,” had no academic struggles at that time, and he “shares his opinions about the subject matter and isn’t afraid of speaking in front of others;” in science his participation is “great,” no academic struggles were observed in class, and he “loves animals and wants to learn

about them;” and in health he “participates willingly,” struggles “staying focused in a disruptive environment,” and is “focused on creating a good presentation.” (P-97.)

Prince’s September 23, 2021 note states:

Medical—

Academic—Has been open to attending tutoring sessions as needed. Is advocating more in the classroom. Has not had any second chance classes this week.

Clinical—identifying sources and instances of anger, using new skills to manage anger

Residential—Became upset this weekend due to being bored and eventually had a blow up locked himself in the game room. When the staff broke the door he got the wood and threatened the staff. Was not allowed to go off campus and handled that well. Does not want to participate in some activities but complains he is bored. He wants to constantly clean something.

[P-97.]

Prince’s September 30, 2021, note states:

Medical—Lab work is back, not many changes

Clinical—identifying triggers to his outbursts of anger, has made progress in managing these outbursts over the past week

Residential—Had a moment this weekend whenever a peer was bullying him, he got upset and walked into the house, locked the door behind him but staff came in the other door and sat and talked to him and allowed him to calm down. Once he was calm he did really well talking with staff and had a good night. Very sarcastic, tries to be a junior staff.

[P-97.]

The October 6, 2021 printout also reflects that: in math his participation is “great,” he “gives up easily,” and “understands complex ideas and wants to learn;” in social studies he “is a good participant [and] sometimes he takes some convincing to get going,” he “struggles sometimes to work on projects/classwork that doesn’t really appeal to him,” and “offers up insightful background knowledge during class discussions;” in English/Language Arts he “participates with some prodding,” he struggles with “not following along when directed,” and “has a great line of thinking—if only he’d stay

focused;” in science his participation is “good,” he “does not like to try new things,” and he is “an intelligent student.” (P-97.)

Prince’s October 14, 2021, note, states:

Medical—nothing to report!

Academic—[S.S.] is working on building confidence in academics. Can be hesitant about trying new things. [S.S.] is completing tutoring and second chance as necessary.

Clinical—worked on building positive self identity and outlining things he enjoys doing and would like to explore in the future, continues to manage his anger without physical aggression and destroying property, needs to work on managing his yelling (healthy communication) in moments of intense emotion (learned behavior from parents), processed a challenging moment this week with his parents and reflected on coping skills he used (insightful). Most open he has ever been in family session

Residential—Very bossy telling staff and students what to do or how to do things. Fixated on cookout and firepits.

[P-97.]

Prince’s October 17, 2021, note states:

Medical—no concerns at this time

Clinical—continues to show up in a positive manner to therapy, parents are planning first visit at the end of [O]ctober, working to identify and cope with emotional triggers, very successful first brainspotting session this weekend.

Residential—Had a good week. Becomes very fixated and obsessed with things such as cleaning and wanting the school to purchase a new firepit. Could benefit from building better relationships with peers instead of telling them what to do. Does not always want to participate in the many options of activities that are offered to him but complains about being bored without giving any suggestions on what he wants to do. Weekend update – Getting upset because he does not like the meals being served and then refuses to eat anything else,

mini staffing often and needing to be reminded that he is a student.

[P-97.]

Per a letter from Dr. Zeisz, dated October 19, 2021, she followed up with S.S. and Prince after S.S.'s placement at Maple Hall. (P-91.) Prince's October 21, 2021, note states:

Medical—had a great visit Dr. Rooney yesterday. Next visit in Dec. No med changes.

Academic—can still give up easily on assignments. We are continuing to try to build confidence with [S.S.] He attends all tutoring sessions that are asked of him.

Clinical—completed anger iceberg assignment this week and has made great progress at managing his anger overall, using respectful communication during family sessions, working towards sharing feedback with his parents around their yelling.

Residential—Escalated last Thursday when he heard he did not make All Stars which resulted in a hold. The rest of the week went well with a few redirections for worrying about himself and not others. Better with not being a “junior staff.” Followed all instructions well over the weekend. Needing some reminders not to “junior staff.” Seemed to be really worried about making all stars this week.

[P-97.]

The October 21, 2021 printout reflects that S.S.: in math his participation is “OK,” he “gives up easily when he is given something that he feels as [sic] difficult,” and “is very good at everything that has been given to him;” in social studies participation “needs improvement,” he “keeps his head down for most of class,” and “is usually very polite, kind, and respectful of others views;” in English/Language Arts he “participates willingly,” “doesn’t always follow along when we read aloud,” and his “ideas about a dystopian society are on the mark;” in science his participation is “very good,” he “gives up easily,” and “wants to learn things in science,” and “pays attention and will answer questions that are asked of him.”⁶ Additionally, the October 21, 2021 printout reflects that in culinary his

⁶ The comments on the October 21, 2021 printout are identical to those included in Prince's November 11, 2021 notes. Thus, it is not clear if the comments were added to the wrong date in Prince's notes or if both dates were to reflect identical comments. (P-97.)

participation is “overall, good,” “he “can lose interest at times and turn off,” and he is “very polite and engaged.” (P-97.)

Prince’s October 28, 2021, note states:

Medical—medically fine

Academic—Can shut down easily with new material. Has been open to attending tutoring. He has been struggling to fully participate in history.

Clinical—working to challenge thoughts, struggling with rigid thinking and taking accountability, upcoming off campus visit with family this weekend.

Residential—On Friday he became upset with a peer for leaving their things on the floor and threw them away. Whenever he was asked to take accountability he got upset and became aggressive with staff. He was in and out of holds, broke things, and threatened staff. On Saturday he became upset because staff was not able to go get him a rake at the time and he was told no so he walked out of sight. He threw sticks and rocks at the window but did not break them. Threatened staff and then sat away from the group for 2 hours to take space he rejoined the group and did well. Had moments he would walk away when upset out of sight but would just sit down. After his difficult weekend, he had a good week. Some days he tried to tell staff how to do their job. Got frustrated with a few peers. Took feedback well. Said he is going to try to communicate to staff when he feels a “blow up” is about to happen. Did not make All Stars because of the event over the weekend and he understood and accepted this well.

[P-97.]

Prince’s November 4, 2021, note, states:

Medical—good medically

Clinical—successful family visit this past weekend, working on social skills, exploring and practicing flexible thinking vs rigid thinking, prepare for home visit during thanksgiving

Residential—Had a good weekend, went off campus with his family and followed all instructions on campus. Had a moment

where he got upset on Saturday and took space had to talk it out with staff to calm down but did well.

[P-97.]

Prince's November 11, 2021, note states:

Medical—concern from staff about his arm. I'm just having him washing it normally and use neosporin, keep it ota
Start vistaril when it is delivered from pharmacy. Parents are slightly concerned about starting new med. Reassured them
Academic—Goal for [S.S.] is to continue to build self confidence academically. He reported that he likes school and has a deep history of not enjoying school. He can still give up on assignments if they are too difficult but will reattempt after a lot of encouragement.

...

Clinical—emotional dysregulation last Sunday, has bounced back in recent days, completed individual equine therapy session this week, appeared sad/down during family session monday.

Equine therapy focus—authenticity and congruence

Residential—Seemed to be on edge all weekend. Got upset whenever other peers were upset Sunday before the park and once we came back from the park he began yelling at a peer and jerked a chair from underneath a student when staff redirected him he became very escalated. Broke windows, hit staff with a stick leaving bruising, this went on for about 2 hours. See IR. Became dysregulated the day after his big blow out but was able to handle his emotions a lot better than in the past. Continues to become fixated on certain things. This week he wanted to move the dehumidifier from the game room to the sleeping area on the third floor.

[P-97.]

Prince's November 18, 2021 note states:

Medical—Lowered hydrox to ID to help with drowsiness

Clinical—states new medication is helping him, repaired relationship with weekend staff member, home visit for thanksgiving, recent individual equine therapy sessions

Residential—Had a much better weekend. Seems to enjoy the intervention being used and following most instructions

well but still getting overly competitive in games and need reminders not to “mini staff.”

[P-97.]

Prince’s December 2, 2021 note states:

Medical—Seems to be doing really well on the current dose of hydroxyzine. This is a good spot, he isn’t too drowsy?

Academic—[S.S.] can struggle with getting frustrated with new material but instead of putting his head down, he is able to remain engaged and with encouragement, will attempt assignments. A goal is for him to advocate more during class. He is showing strong comprehension of material and is actively participating in all classes.

...

Clinical—great family visit, continued to work on frustration tolerance and flexible thinking, exploring hobbies and other activities to partake in when bored,

Residential—Not participating in too many activities. Stands on sideline and watches. Bossy to peers at times and constantly asking staff for things that would only benefit him. Dad said he had a good home visit.

Moving Forward: Help him find new hobbies and activities to entertain himself. This is to help him occupy his time, self-soothe, and regulate—especially at home during down time. Will be using the previous intervention with 2 times a day one-on-one check ins with staff. Look for ways to offer opportunities to build physical coordination and confidence in physical coordination.

The December 2, 2021 note also reflects: in pottery his participation is “excellent,” he “tends to quickly lose interest in his clay-work projects [and] therefore does not put much detailed work into them,” and “always has a good attitude about working with clay;” in math his participation is “great,” he “gives up easily when the work is difficult,” and “once he tries he is able to complete the work;” in social studies his participation is “OK,” he “struggles with writing and completing assignments during class time,” and “when prompted to discuss topics, [S.S.] can recall background knowledge and seems genuinely curious about discussion topics;” in English/language arts, he “participates willingly,” “will participate even on days he feels tired,” and his “ability to bring elements outside of our readings is GREAT! Great additions to our discussions;” in science his participation is “great”, he had no specific academic struggles, and “puts work in on projects and wants

to do a good job;” in health he “actively participates” and has no specific academic struggles or strengths or bragging points; and in culinary his participation is “great,” “he will sometimes delegate tasks to other students rather than doing them himself,” and he “is engaged and has great retention.” (P-97.)

Prince’s December 9, 2021 note, states:

Clinical—still struggling with fairness, bounced back quickly following major frustration event early this week, equine therapy every other week for his individual session.

Residential—Following instructions well over the weekend. Eating mainly alternatives at meals rather than the actual meal. Still tends to be bossy to peers during games like capture the flag and need some redirections. Attempting to advocate for his needs more on the weekend.

[P-97.]

Prince’s December 16, 2021 note, states

Medical—doing well medically

Clinical—continues to work on flexible vs rigid thinking, working on building frustration tolerance and patience, continues to show up more open and engaged in therapy sessions, individual equine therapy every other week

Residential—Has a lot of input about anything and everything that is not asked for. Junior staff’s a lot. When he does participate in field games, he is extremely competitive. Does not really participate at the farm because it is not task oriented. When he does not participate in activities, he wanders around constantly asking for tasks and snacks. Every meal he claims he cannot eat something and needs an alternative but when asked to try the meal, he does and

usually eats the entire serving and sometimes asks for seconds.

Visit dates—12/21 to 1/3, 3pm

Moving Forward: Find opportunities to offer him care and nurturing. An example might be dinner with staff or peer group meal with fun conversation topics.

[P-97.]

Prince's January 6, 2022 notes states:

Medical—new dietary needs due to fatty liver, more vegetables, less carbs and sugars

Academic—Has adjusted well into his new class. He is actively participating and showing a lot of positivity in class.

Clinical—working to increase frustration tolerance, overall positive holiday home visit, was put into a therapeutic hold last night due to aggressive behavior

Residential—Since returning from break he has been trying to boss peers around and micromanage them and staff. Was placed in a hold last night by residential staff after walking from staff eyesight, shutting himself in the gym, and breaking a frame with glass in it.

Neurofeedback—He will be working on his mid session review next week

Moving Forward—Due to health concerns, encourage more vegetable and more exercise, less carbs and sugars. He is aware that he needs to be mindful of his diet

[P-99.]

Prince's January 13, 2022 note states:

Medical—thoughts on discussing a new med with Dr?

Academic—[S.S.] is participating actively in classes. Can struggle with focusing on peers instead of his own assignments/tasks.

Clinical—continuing to effectively manage anger and frustration, current goal is to increase frustration tolerance, needs to explore activities and hobbies for future time at home in order to manage boredom, continuing to work towards more flexible thinking – long term goal. Equine individual therapy 2x per month

Residential—Has been disinterested in activities. He does not ever sign up for activities and tries to do the bare minimum. Has been pushing peers and staff to complete

tasks his way. Had a couple incidents where he became dysregulated and threw a picture frame on the floor which broke the glass as well as threatened students and staff with a shovel.

Neurofeedback—He is halfway through and will be working on his mid assessments and brain map

Moving Forward: He is working toward and intervention with Josh selecting a few known areas for taking space. He will build trust by asking to take space and going to the specific selected place. Extremely rigid thinking and rules feel very “black and white” “right and wrong” to him. Mariah will be speaking further with Dr. Rooney about possible medication evaluation.

[P-99.]

Prince’s January 27, 2022 note states:

Medical—fine medically

Academic—Has been completing all assignments during this reporting period. Continues to need some encouragement to start assignments but usually works well once he has started the assignment.

Clinical—bi-weekly equine therapy sessions, take space alone intervention still in place, using his voice more and shares he is feeling more confident recently, continuing to work on and identify flexible vs rigid thinking patterns (please spotlight this in the moment)

Residential—Did well with regulating his frustrations and anger when things did not go how he would like for them to go. Did show signs of disrespect towards staff when staff tried to regain control of situations and set boundaries with the students. [S.S.] felt the staff were picking on the students. Had a wonderful later part of the week. Swept and mopped the dining hall while students watched a movie. Helped a frustrated peer understand why peers were upset with him. Said a mean comment to a peer but apologized once staff pointed it out to him.

Neurofeedback—He just completed his mid brain map

Moving Forward—Still has intervention in place where he can take space out of eyesight when asking permission in specific location—gym or pond house, upstairs room. Provide him

with feedback and observations of moments of junior staffing.
This is to help understand his locus of control.

[P-99.]

S.S.'s 2021/2022 Report Card reflects that in the second marking period, his grades were: 97 in language arts (“[S.S.] performed well this semester.”); 92 in mathematics (“[S.S.] works great with math work that he feels confident with. He gets nervous with new information and will be reluctant to try. With guidance [S.S.] can complete complex work.”); 88 in science (“[S.S.] is a very good student. He wants to understand things about the world. He doesn’t like to get his ‘hands dirty,’ he would rather watch and observe than to participate in an activity.”); 98 in social studies (“[S.S.] has done well in class. He required continued support to participate and try even if he is having an off day.”); and 95 in clay works (“[S.S.] continues to enjoy working with clay and when focused/engaged he shows creativity and vision with his work. He is also improving his wheel-throwing skills. He is always willing to help other students and he also enjoys cleaning, straightening and organizing the clay cabin.”). (P-97.) S.S.'s 2021/2022 Report Card reflects that in the third marking period, his grades were: 96 in language arts (“[S.S.] willingly participates in class and is able to provide great insight to the literature theme of revenge as presented in ‘Moby Dick.’”); 91 in mathematics (“Has a great attitude and wants to learn. He needs to say focused in class to reach his potential with math.”); 89 in science (“Wants to learn. He asks good questions in class. Puts forth good effort.”); 87 in social studies (“[S.S.] is good at recalling information from previous lessons and connecting them to our current discussions. He will speak up and ask for clarification when something doesn’t really make sense to him. He doesn’t like to write very much. He will participate and contribute to discussions when prompted, but sometimes he would prefer to remain silent with his head down.”); 98 in culinary arts (“[S.S.] is a great student. He is always polite and respectful. He is eager to work in the kitchen. At times he will delegate tasks to other students rather than getting his hands dirty himself, but I have seen improvements with even this in recent weeks.”); and 98 in clay works (“[S.S.] seems to always enjoy working with clay. When he is able to focus

and put time into his clay-work assignment, he demonstrates a lot of creativity and skill ability.”) (P-97.)

Testimony

Diane Pierce

S.S.’s PARCC scores in May 2018 reflect that his performance in mathematics and ELA/literacy were at “Level One: Not Yet Meeting Expectations,” but for children with emotional regulation impairment issues, standardized testing is not always a strong suit. (R-4.) His NJSLA scores in May 2019 reflect that his performance in mathematics and ELA/literacy were at “Level 2.” (R-8.)

Based on Dr. Snider’s report and the data, including parental input, as well as her own observations of WLC, she agreed with the recommendation of a school with a behavioral component but with greater academic focus. Chapel Hill had less extreme student behaviors, with a supportive behavioral component and an excellent counseling program. She created the seventh grade IEP and Chapel Hill provided goals and objectives and the Present Levels of Academic Achievement and Functional Performance (PLAAFP).

Communication was outstanding among Chapel Hill, Pierce and the parents. Chapel Hill communicated about S.S. on a daily and weekly basis. No one from Chapel Hill expressed an inability to handle S.S.’s behaviors. His report cards and progress reports were consistent with communications from Chapel Hill about S.S. A student diagnosed with ODD and behavioral issues often needs a behavior plan year after year, and it does not indicate a lack of meaningful educational progress. A behavior contract was not out of the ordinary. That he was still having behaviors does not mean on a day-to-day basis he was not able to regroup and return to his classwork and complete assignments and participate in his education. That his conduct in electives—which were less structured—or non-preferred activities was fair rather than satisfactory was a concern but not a red flag. Some of his behaviors were triggered by transitioning to non-preferred classes. His counselor was available to him prior to his transition and worked with him and offered him a break five minutes prior to the transition and, if needed, his counselor

was also available during class. Sometimes S.S. left class or shut down, but it was not something that happened frequently where he was missing instruction. He utilized counselor support often, which is typical for the program at Chapel Hill. His behaviors were still a concern, but Chapel Hill had an appropriate behavioral support system and a behavior plan in place for him to improve and was willing to tweak it as needed. The behavioral reports did not cause her to believe that he was not appropriately placed at Chapel Hill.

There were indicators of progress. He was elevated to Level II which was a higher level of independence and he achieved student of the week. Despite some behaviors—which were addressed by the behavioral plan—teachers and counselors were pleased with his progress at the annual review IEP meeting in April 2021. The April 13, 2021 IEP, noted improvement with the physical aggression that year, but he continued to shut down and refuse to complete work. The April 13, 2021, IEP also noted that he works closely with the counselor and school, his personal therapist, parents and the District to see what interventions can be used to support his emotional needs and help him meet with success academically. He was attending a school for children with behavioral needs and diagnosed with ODD, so it is not atypical for such a child to continue to have some shutdowns. None of them had the idea that he would be able to eliminate behaviors completely. Children with emotional regulation impairment struggle and they were pleased with the progress that he was making both academically—based on his progress reports, report cards and performance in the classroom—and with the progress he was making with his counselor. There was progress in his ability to accept help and to ask for help prior to having an outburst. He was not engaging in the negative behaviors as frequently as before. The demands in some classes were greater and he was a little more resistant to complying, but his grades showed improvement. He was making meaningful progress.

Two recommendations of Dr. Zeisz—a sensory diet and consultations with a behaviorist with the possibility of home visits—were reasonable and were added to the July 7, 2021, IEP. Sensory diets have been successful with children who have sensory regulation issues. Prior to July 2021, the District had not offered any home programming to the parents. She and the parents had talked about parent training and behavioral

intervention techniques at length over the course of the three years, but the parents sought private therapies and Dad made it clear that they were taking care of that.

Nothing she heard during the July 2021 IEP meeting changed her opinion that he had been making meaningful progress based on his capabilities or that Chapel Hill was an appropriate placement. She did not visit or contact Maple Hall to discuss the program.

Timothy Walker

Each classroom has a main teacher and a teacher's aide. Every student is assigned a counselor and a backup counselor so there are supports for any academic or behavioral issue or if the student needs to talk to someone. The staff is very supportive and class size was never more than eight students. Chapel Hill practices CPI and every staff member at Chapel Hill is trained. Experts are on staff to de-escalate situations. It is not unusual on a typical day at Chapel Hill for students to act out to the point where some level of CPI is deployed.

In seventh grade, he had S.S. for social studies and found it easier to get through to him when there were common ground interests to talk about. During seventh grade, episodes of physical violence were few and far between and not characteristic of S.S.'s behavior. Work refusal was one of the only behaviors he saw more than once. Several strategies were used for work refusal with S.S. If S.S. did not want to do the work in the classroom, he could do it elsewhere, like a counselor's office or the hallway. If S.S. chose not to do the work at that particular time, he could choose another time to do it—like lunch or another period. Or they would move forward and the assignment would be written down and his counselor would be notified to find time to get it done at some point. Additionally, sometimes S.S. would be offered alternatives in completing the work, like modifying the assignment, spreading out the work, or chunking the work into sections. It would still be grade-level work and he would be held accountable for it. During COVID, each subject had a virtual class via Google Meet. Social studies was one of the classes that S.S. preferred, both in-school and during virtual instruction. During virtual instruction, he attended class and did his work with relative consistency and had good attendance and participation.

In eighth grade, he had S.S. for homeroom, social studies, literacy and remediation—which is a period for make-up work and extra support. Due to COVID restrictions, classrooms were self-contained, so teachers moved from homeroom to homeroom rather than the students moving for classes. S.S. benefited from the self-contained classroom because it allowed him to form stronger bonds with the people he saw daily and removed some of the transition struggles. He witnessed S.S. having meaningful social interaction with his peers, including asking if they could go on one of the social websites to meet and play games and talk after school and talking to a peer about going to the mall or each other's house. During eighth grade, he began communicating daily with the parents after they requested daily updates to keep track of his points, homework, and outstanding assignments and to see how he was doing in class.

Student of the week is an award given by the homeroom teacher which shows that the student earned their points and achieved behavioral or academic or social success. All teachers the student interacts with weekly have a say on the student of the week; it is not random. It provides an incentive for the students, but also gives them a feeling of satisfaction for doing their best and succeeding in school. Although a behavior incident required that he be picked up from school on March 25, he was student of the week on April 1 because his performance in class had been better—he had been staying in class and getting his work done—and he had a very good week in terms of his attitude toward his classmates—he had been very social and good at keeping out of negative situations in the classroom. One of the things that students rely on is that nothing is held against them from period to period or week to week. S.S. was also actively involved in the BASE points system.

To hold S.S. accountable for work refusal, he might reach out to Joslin and let him know about it. Joslin regularly interacted with S.S., and if S.S. needed it Joslin would take him for a walk for five or ten minutes and S.S. would return in a better frame of mind and be able to get some work done. Using a counselor is encouraged. The teachers had meetings to discuss student issues and Medina alerted Walker and Joslin to S.S.'s slipping grades. They tried to isolate some of the reasons why and determined that work refusal had increased on virtual instruction days and S.S. had incomplete work. Virtual

instruction did not benefit S.S. He relies on consistency and routine within the classroom and personal attention. There was also some discussion about the slipping grades coinciding with a medication change.

He and Joslin met on Google Meet with the home therapist once or twice to discuss S.S.'s availability at home and behaviors. The parents and home therapist discussed the possibility of eliminating homework because they were unable to get him to do homework. The plan was to make homework optional, but S.S. would remain accountable for missed classwork. In April 2021, Joslin and the parents discussed the home therapist's suggestion that rather than deal with pushback from S.S. about attending every class, he could choose to attend the classes he preferred. Classes he did not show up for would not be excused absences and he would have to make up the work or his grade would be affected. His non-preferred classes in April 2021 were science and math, but there were times when he would not show up for social studies if it was scheduled toward the end of the day.

He saw better behavior and performance in Spring 2021. Despite days when there was push back and work refusal, they worked with S.S. so he was able to get himself back on track and continue to make meaningful progress, and complete work and interact positively with classmates. S.S. was successful in moving towards accomplishing his goals on his own without support. Walker expressed during the July IEP meeting that the school year had been a good one for S.S. His third marking period grades were more indicative of his abilities than the second marking period grades. As students move closer to high school the work becomes increasingly more difficult, so S.S.'s third marking period grades are more telling of where he was in terms of dealing with larger projects that require more extended focused on a deeper level of thinking and better represent his abilities and where he was educationally at that point. Cognitive abilities are considered in making accommodations and modifications and assignments, but grades are never raised on account of cognitive ability. He was surprised at the July 2021 IEP meeting about the residential placement because the parents had not expressed any view that Chapel Hill was not appropriate at the April 2021 IEP meeting and S.S. had made meaningful progress with the assistance of supports and would continue to do so. S.S. had found a good process to navigate the workload and social elements of the classroom

and seemed to be comfortable at Chapel Hill. His academic goals and objectives were from common core standards and were appropriate for him. S.S. was performing at an eighth-grade level, albeit with some modifications to the work and making meaningful progress. The social/emotional behavioral goals from seventh grade were still something that needed to be worked on eighth grade, but they were high tasks for one year.

Educators of students with disabilities are taught they are not there to “fix” the students or to eliminate behaviors. Rather, they are there to teach them how to adapt and how to function in school and outside school with the tools and the methods that teachers, educators, and counselors can teach them. While a decrease in frequency and intensity of negative behaviors would be reasonable, eliminating them would be a stretch. Age-appropriate coping mechanisms may vary and can have different meanings given each situation.

FYIs were used for a variety of reasons including keeping track of information that may be useful to child study teams and sending districts, or for a counselor to track incidents or occurrences, or for data collection. Not every behavior would result in an FYI. Sometimes behaviors were documented in FYIs and sometimes they were documented via email. Dangerous behaviors and behaviors that are a threat or hindrance to the performance of the class are documented. Specific behaviors that a counselor has instructed the teachers to document are documented. Not everything is documented—such as a student sticking his tongue out. The negative behavior incidents at Chapel Hill over seventh and eighth grade do not change his opinion that the IEP was appropriate or that Chapel Hill is an appropriate placement. The IEP reflects that S.S.’s behavior impedes his learning, but S.S. has an ODD psychiatric diagnosis. He continued to be oppositional and defiant and had not mastered the behavioral goals and objectives in his Chapel Hill IEPs, and frequently had check-ins with his counselor. However, that does not undermine his opinion that the IEP offered him an appropriate education in the least restrictive environment for him.

Michele Medina

In seventh grade, she had S.S. only for math. During that year, other than occasional work refusal there were no oppositional or defiant behaviors that significantly interfered with his learning in her classroom. The work was not easy for him and there were times he needed help or assistance, but with modifications he was able to be successful. Virtual instruction from March 2020 through June 2020 was difficult for S.S., but he did participate and complete the work and ended up with an “A”. She does not inflate grades and he was required to make up any missed work or would be given an incomplete or zeroes or whatever the grade was at the point that the assignment was due.

In eighth grade, she had S.S. for math and science. Eighth grade math was more difficult than seventh grade math, as there was an increase in intensity and complexity of the problems. At the start of the year, S.S. was mostly compliant and in person instruction was better because routine, consistency, and personal attention are very important for S.S., and he was able to get help and assistance. During the second marking period she did observe some physically aggressive behaviors and his grades dropped. One of the factors in the drop in grades was that were twenty-seven non-consecutive virtual days during the second marking period, so there was a lot of transition back and forth, which is already difficult for S.S. His effort and participation impacted his grades for science and math because he was inconsistent with virtual instruction attendance. On return to in-person instruction, there was not as much refusal and he was not as vocal and argumentative. If anything, the issue was that he seemed more tired and his head was down, but he was more receptive to accepting help and guidance to get up and complete the work. In instances of work refusal or putting his head down on his desk, breaks would be offered, and he would be asked yes or no questions, like if he is able to discuss what is happening right now. If his response was “no” they would check back in in five minutes and try again or ask if there was something he needed help with. Most of the time there would be a “yes” response and he would request to see his counselor. If they were unable to get S.S. on track Joslin would intervene. Sometimes S.S. would go for a walk with Joslin and would reset and return and complete the work. The work might be modified, or the answer might be scribed for him if he answered verbally, or if there was a preferred

time he wanted to make it up they would accommodate it if possible. Most of the time S.S. wanted to make it up in class. S.S. would typically come back and say that he was ready to make up the work and they would make up the work together, though depending on what was being worked on, and S.S.'s availability, he sometimes wanted to do the work on his own. Remediation class allowed extra time to make up work so that it was not coming out of a preferred class. There was protocol if S.S. wanted to see Joslin—he would advocate and asked for Joslin and if Joslin was available he would get S.S. Joslin did a nice job of periodically preemptively checking to see if S.S. wanted a break before a situation arose. If S.S. gave a thumbs down, he would walk out with Joslin. If S.S. gave a thumbs up, Joslin would walk away.

Eighth grade topics are challenging, and the work is more rigorous, with more steps. Even though assignments were modified, with S.S.'s disabilities and processing issue it at times became overwhelming. But he was able work through eight or nine step math problems with the modifications of color coding and visual prompts, so he definitely made progress. In science, he required assistance in doing labs, including guidance in prompting sentence starters. However, he was performing eighth grade work, albeit not on an independent level in both classes. Some of the modifications were a discussion in class or having the work typed on the board so he could copy it and verbally explain. She utilized the modifications in his IEP. S.S. was much more available to learn and open to accepting help. By early April 2021 he was starting to turn things around in math and science and his grades improved. His behaviors diminished in frequency and intensity in the third marking period, which is reflected in his grades—if there had been too many disruptive incidents, he would not have been able to maintain those grades.

The parents required staff to keep them informed of what S.S. was doing in class. With respect to the parents' and home therapist's plan to allow S.S. to choose which classes to attend she would have preferred that he remain in classes with the routine so that he could maintain progress and consistency with his plan, including communicating his feelings and requesting breaks when needed if he was having a difficult time. That would be more success than opting out altogether and allowing his grades to suffer accordingly. If he opted out of a class, he could do make up work and get credit for assignments that he completed but he did not receive credit for work not completed and

his grades reflected it. He earned his third marking period grades. He did not opt out of too many classes to maintain that average.

She was surprised when she found out that S.S.'s parents requested a residential placement. Her observation was that he was mostly cooperative, pleasant, and he participated. S.S.'s behaviors were not unprecedented at Chapel Hill and his incidents were not the majority of the time. There are interventions, including counselors and the CPI team to help deescalate a situation until the student is ready to return to the classroom. The supports, services, and resources at Chapel Hill made it an appropriate placement for S.S. and he made meaningful progress based on his capabilities. Chapel Hill was meeting his needs and would continue to do so. Notwithstanding that he did not master all his goals and objectives, and the behavioral incidents, he was receiving a grade-level education, and with supports, services, interventions, and resources at Chapel Hill, he continued to make meaningful progress. Chapel Hill was an appropriate placement.

Joshua Joslin

He works with the students on symptoms of their diagnosis, reactions, and techniques that help alleviate stressors attendant to different diagnoses. He has experience with students with oppositional behaviors, including students diagnosed with ODD. Chapel Hill serves many different students from autism spectrum to oppositional behaviors and focuses on behavioral, academic, social and emotional support and getting students accustomed to routine and expectations of school, the community and the work world. Chapel Hill provides options to start to branch out into the community to test skills and determine progress, especially from grades 9 through 12 when they start to open the doors to how they connect outside and prepare them for real-world application.

The outside world is introduced in middle school via counseling. Joslin's students are typically more defiant and respond negatively to expectations so he tends to introduce that early, like in conversations about what real-world reactions to their behaviors would

be. Primarily, he works with students on a one-to-one basis so they are comfortable with open conversation.

He met S.S. in 2019, and responded to a few of S.S.'s incidents of negative behaviors, but he was not a point person for S.S. at that time. Given S.S.'s diagnoses, it is not out of the ordinary to have such negative behaviors and he has had quite a few students over the years with similar behaviors and reactions. Inappropriate behavior beyond simple refusal would warrant an FYI, as the point of the FYI is communication between teachers and counselors.

He was S.S.'s primary counselor in eighth grade. During that year, there were some plateaus, but there was progression, and the frequency and duration of his escalated, defiant behavior was less. He was still occasionally defiant, verbally aggressive and physically aggressive but not as frequently. He had a good rapport with S.S. and was consistent in the way that he spoke with S.S., who began to respond throughout the year to certain phrases that he would use. They had good conversations where S.S. shared a lot about his family and his interests. He checked in with S.S. daily during the school year, as he does with all his students throughout the day. A check-in can be a "hi, how are you" or just a knock on the door and eye contact. There were times during the year that S.S. was pulled from the class for a walk break due to negative behaviors but that did not occur daily. Some days he would encourage S.S. to walk just to touch base. Sometimes S.S. would miss instruction being out of class. Joslin worked with the teachers to try to have S.S. complete some of the work before he arrived, but there were times when he would miss some work and would complete it later. Missing class for counseling sessions is not punitive.

Joslin keeps notes on all his students. Joslin's counseling notes are a list of the times when he checked in with S.S. and some what was going on that day. Joslin communicated frequently with the parents, and he talked to S.S.'s home therapist about strategies being used at home and whether the strategies could be used within the classroom. Many of the strategies were utilized, such as check-ins, break times, consistency in expectations, and a routine-based approach. However, there were times when Chapel Hill's approach and the home therapist's approach were a bit conflicting.

Home expectations and school expectations were different and did not always completely gel. Some of the home therapist's requests were not appropriate, and a bit counterproductive in a classroom setting—like giving S.S. the opportunity to opt not to participate in a class or in certain work. He understands why that might work at home but there were parts of the home program that did not align with the school's approach. He advised the home therapist that the option-approach was not entirely appropriate in school given what they were working on with S.S. Joslin bases his approach on real-life expectations and opting out or picking and choosing would not be acceptable in a school setting or work setting. The home therapist's approach was introduced during some of the virtual instruction times, but if S.S. chose alternative options, he was still expected to do the work.

Chapel Hill's approach is that there is plenty of time throughout the day to make it a good day and despite how a day starts it could end better. A lot of his work with S.S. was to shorten the defiance or refusal and get to a place of quicker resolutions and listen to the help being offered. S.S. did have success throughout the year. S.S.'s refusal was usually math and science, and was rarely an issue in other classes. There was a dip in grades during the second marking period, but there was a lot of in and out of the building due to COVID. S.S. was vocal about not liking being home for learning and that was a big factor in his grades. Once in-person instruction resumed and he was settled, S.S. was more successful.

There are areas where S.S. might not have improved but nothing that Chapel Hill could not continue to work on and work through. Chapel Hill does not have a home program, but in therapy and in the classroom home and community expectations are discussed. In high school there are times when students are introduced to community experiences and physically go out into the real world. There is a small Main Street with a Dunkin' Donuts, pizza shops, and a pharmacy and the students go out for lunch. There are also after-school programs that students may sign up for where they go out shopping at stores, including the mall and an antique shop, or stock shelves at the food pantry.

Not all check-ins are for a negative reason. He was not necessarily leaving a classroom the three to five days per week for walks, because the walk might be during

free time, break time, lunch time or transition time to other classes. S.S. was only at Chapel Hill for under two years, and it was interrupted by COVID. It is common for all the students to have the same goals carried over. Developing age-appropriate coping mechanisms is not only one behavior; there are many goals and objectives that fall under that category. They break the goals down into BASE points goals on the card and they evolve throughout the weeks and months but refer back to the overarching goals to make sure to address specific needs. Decreasing physically aggressive behaviors would remain. They would like to see that go away but it does not happen over a year or two.

There were things S.S. needed to continue to work on, but he was not ill-equipped for Chapel Hill's program. The counseling modifications and services Joslin provided him were helping him access his education at Chapel Hill. S.S. was sufficiently responsive, and continuation of his program would have been appropriate into ninth grade.

Jennifer Zeisz

Dr. Zeisz performs evaluations and makes diagnoses and educational recommendations based upon those evaluations. She is licensed in New Jersey and traveled from North Carolina to New Jersey to evaluate S.S. The parents had concerns at home and at school. It raised a red flag that S.S. was still struggling after two special education schools for second through eighth grade. She spoke to the parents, and a teacher and counselor prior to her evaluation, but did not have records at that time and prefers to gather information and form her own opinion rather than copy prior information. She gathered the relevant developmental history and emotional, social functioning and tasks of daily living information through interviews and conversations.

Sensory issues, repetitive behaviors and play-restricted interest are normal to many evaluations, and she wondered if S.S. had issues on the autism spectrum. S.S. was not modifying his behaviors, even if he knew a parent was upset. He becomes set on his own thoughts and has difficulty understanding another person's viewpoint and is irritated if it does not match his own. His parents said he becomes irritated, frustrated, and exhibits a lot of demand avoidance. Chapel Hill confirmed the behavioral concerns.

She does not include a laundry list of negative behaviors because it is not necessary for her to do a diagnostic evaluation, but the behaviors were confirmed in the reams of paperwork she later received. Tantrums are not typical for an eighth-grade student, especially not at school.

She believes ADHD and learning disabilities are accurate diagnoses, but ODD is an extremely generalized diagnosis and many children could meet the diagnostic criteria for it at any time in their life. Many children with ADHD get labeled as ODD. Children with autism definitely demonstrate ODD behaviors, but also demonstrate other underlying neurodevelopmental issues which ODD does not take into account. S.S. does not have a mood dysregulation disorder.

S.S. was receiving dialectical behavior training (DBT) therapy outside of school for the past two years to learn self-regulation skills—which can work if the child has the ability to stop and think. However, when the child has impulse control and executive function issues and immature emotional regulation, they can memorize the DBT skills or steps, but struggle to access them. A child whose emotional regulation system rapidly takes off does not have time to implement a DBT skill. Children with autism-like qualities also struggle to generalize skills across settings due to rigid thinking. Generalization was an area of concern, as well as his neurological wiring issues, which make it difficult for him to slow down his brain and reactivity enough to use the skill. Learning and applying the skills are problematic, related to neurodevelopment and executive functions.

She did not observe S.S. at Chapel Hill and did not examine his academic progress at Chapel Hill. It would be impossible for her to spend an entire week at school, and “his behaviors occur intermittently” and children and adults change their behavior when being observed. When she worked with S.S. at home, he did not demonstrate oppositional or defiant behaviors.

S.S. has more problems than average with social cognition, social communication, restricted interest, and repetitive behavior. Behaviors associated with ASD (autism spectrum disorder)—self regulation, adult socialization, and atypical language were “elevated” and behavioral rigidity and attention—were “very elevated.” The BASC-3

areas of concern were hyperactivity, anger control and executive functioning. On the WIAT-IV, his composite scores were “high average” for reading, “very low” for writing expression, “average” for mathematics and “very low” for math fluency, but math fluency was a direct reflection of processing speed. During his assessment S.S. was cooperative and willing to work with her, but what stood out most was that his pace of work production was quite slow, though the slower processing speed and word retrieval issues was not unexpected. In her interview with S.S. his reports about school were common with children with attention deficits. He identified anger and schoolwork as his most troubling problems and the dramatizing scale (tendency to give a dramatic, emotional, and behavioral response) was clinically elevated. S.S.’s self-report was consistent with what his teacher, counselor and parents had shared. His behavioral reports were also consistent for most students with ADHD and ASD. On the Wechsler Intelligence Scale for Children (WISC-5), in four of the five areas (verbal comprehension, visual-spatial, fluid reasoning and working memory), he performed really well, but his processing speed was well below average, so his overall IQ score was highly impacted by the processing speed score. Essentially, he is a solidly average child with extremely slow processing speed. Processing speed is a global function of the brain and “we don’t know how to change or improve or fix it.” “So he’s a kid who is always subjectively probably going to feel a great deal of external pressure because he is not able to do things as fast as others or at the pace that would normally be expected of him,” which could cause frustration. Impulse control is important. If S.S. cannot stop, he will always be in a place of emotional and behavioral reactivity rather than thoughtful responsivity.

In neuropsychological tasks, he was “below average” in color naming, letter fluency, category fluency and empty dots, and “well below average” in inhibition and inhibition/switching. The Comprehensive Executive Function Inventory parent and teacher reports showed areas of difference between home and school, as the teacher reports were all “low average” with two areas of average (inhibition control and self-monitoring), and the parent reports were “below average” in five categories, “low average” in two categories and “well below average” in two categories. The Conners 3 parent and teacher reports show differences also, which is not uncommon. S.S.’s ability to focus on homework at home is dismal, as he has no resources left by the time he gets home. It is not unusual for children to be more hyper and impulsive at home.

S.S. struggles with peer relationships. His current behaviors would cause trouble for a ninth-grade special education classroom because there is a qualitative and quantitative leap in what is expected of a high school student. In a residential setting, there is “structure predictability on a 24/7 basis” and “creating the level of structure and predictability at home that is even created in school is almost impossible for any normal family.” There is highly trained staff to work with children with similar profile. There is a positive peer group as many programs use peer pressure in a positive manner to help stop negative behaviors. Throughout the day staff stops and slows down interactions doing emotional co-regulation and teaching concrete skills. Emotional co-regulation is an adult observing an interaction who steps in, emotionally regulates himself or herself first so as to approach the child in an emotionally regulated state, which then automatically fosters emotional co-regulation in the child. When the adult down-regulates, the child down regulates. The adult could ask what is happening and suggest “let’s breathe” or “let’s go outside,” and talk about slowing this down and being in the moment and promoting an adaptive response. Children with autism notoriously do not generalize and there would be instruction in place 24/7 that allows a consistency difficult if not impossible to achieve otherwise. Consistency, predictability, safety, and structure allow the child to learn experientially in the moment how to manage emotions and conflicts and how to slow everything down and stop. “It puts it in a bubble where these kids can actually gain some footing and develop some of these internal skills.” S.S. requires some ground building of skills. In a predictable environment one can carefully manage the number of straws put on the camel’s back, but outside that environment there is no predictability. “In a protected, isolated bubble, instead of his system being overwhelmed chronically, which it is, it allows . . . his nervous system to relax” and “in a relaxed, predictable, safe environment where you know exactly what’s going to happen every day, exactly what expectations are, . . . it reduces the overall stress on the system which then allows the child to engage in some emotional regulation.” At a residential placement there is very small class size and teachers are aware of the student’s clinical goals and functioning throughout the day and collaborate with therapists and staff. If there was no homework at Maple Hall then behaviors triggered by homework demands would not be a concern because the stimulus was removed.

Josh Prince

The Master Treatment Plan identifies long-term goals and short-term objectives and creates a framework for students to reach those goals. Goals are worked on all day, every day. Prince works with all staff on campus. Students can receive feedback and guidance from staff at all times. If a student has behavioral difficulties in a classroom setting, staff tries to figure out the reason for the behavior and identify goals and unique approaches that may motivate, incentivize, or help the student move away from those behaviors. Behaviors are typically addressed in the moment. Staff also addresses emotional struggles. Consistency throughout the day leads to rapid development of new skills and better understanding of students. S.S. receives support across his day.

Each student receives a minimum of six hours per week of therapy, and therapists and social workers are available to students on an as-needed basis. All staff receives over 120 hours of training so there is consistency in responding to emotions, behaviors, challenges, and successes. Therapeutic Crisis Intervention (TCI)—designed to teach staff constructive ways to handle crisis—is employed across the day. Maple Hall works to teach students constructive and adaptive ways to deal with frustration, failure, anger, rejection, hurt and depression. Students come to Maple Hall because they do not have these skills at home and their parents did not quite understand or have the skills to respond in the most effective way. It is an individualized treatment approach based on the strengths of the specific therapists and the needs of the students. Change happens by building trusting relationships. Consistency and quality time lead to a feeling of safety. A level system—where there are identified goals and tasks to move from one level to another with privileges related to those levels—is not used as that is more of a behavioral approach and does not focus on relationship. There are positive and negative reinforcements used—incentive systems—but the relationship is at the forefront of behavior modification and change. If students are struggling with certain behaviors, Maple Hall helps the student understand how negative behaviors push people away from

the relationship, and spotlight how positive behaviors help build healthy relationships. All students have struggled with social and emotional skills at home.

The academic classes are taught in teacher-directed style, with experiential methodologies—going through a process of learning a task or an activity that is not focused on listening, reading, or writing solely, but is more about movement and interacting with others. School is from 8:00 a.m. until 12:00 p.m., then lunch, then choice activities free time for an hour, group therapy from 1:30 p.m. to 2:30 p.m. Monday through Thursday, then a health, hygiene or study skills class elective from 2:30 p.m. to 3:30 p.m. and then more choice activities free time. The school day ends at 3:30 p.m. with an hour of therapy sessions in the middle and then an hour of free time. There is a weekly positive incentive system for motivation utilized called All Stars which has an outline of basic expectations for students to follow for an opportunity to get a treat of their choice or spend time on or off campus doing something fun. The students find out every Wednesday if they made All Stars or not.

Early on there were numerous aggressive behaviors, physical aggression toward staff, and destruction of property that would come up here and there from S.S. He did not possess a deep well of emotional coping skills, but S.S. did have coping skills and anger management skills when he arrived. He has learned a variety of skills over the years, but in the moment when he gets frustrated or angry, he was not able to apply them and instead would respond by yelling, throwing things and physical aggression. Coping skills and anger management skills would be worked on across all settings. S.S. was aware that his anger could overwhelm him. Prince has worked with S.S. on identifying what makes him angry and what he can do when he gets angry. When S.S. started, he had a basic understanding of what made him angry. He was able to identify certain triggers and over time they have identified more. They are working with him to apply skills in the moment he is frustrated. He can be reminded by staff that he has this skill, and this is a chance to use it. Weekends can be more challenging because there is less structure

and more downtime which leads to boredom and more behaviors and emotional challenges.

The diagnosis of parent-child relational problem was from Prince, and it is the diagnosis that most Maple Hall students receive upon admission because the criteria for it are met based on the challenges at home with the parents and child. The other two diagnoses were from Dr. Zeisz. One of the long-term goals was significant reduction in aggressive and/or non-aggressive misbehavior because it would help S.S. move forward to not be at Maple Hall longer than necessary. S.S. accomplished the short-term objective of identifying three or more situations, thoughts or feelings that trigger anger, angry verbal and/or behavioral actions and the targets of those actions. He made progress and over time he has seen a reduction in behavioral episodes and misbehavior. When S.S. encountered a difficult situation or was angered, staff intervened with providing feedback in the moment. Prince is working with S.S. toward identifying coping behaviors when communication from peers causes frustration or anger. In a month of working on that, S.S. has made progress, but he still has work to do continually. He needs to learn more compensatory skills to manage ADHD symptoms and has shown an overall increase in such skills, which is progress. He has used All Stars as an incentive to decrease his aggressive behaviors. His compliance with staff directives has improved since he started, and his work engagement has increased.

The weekly reports do not reference behavioral concerns in the academic classes. There were no reports of aggression toward classroom staff or classroom property destruction. His emotional regulation has greatly improved and he is better able to manage his anger now than when he started. His social skills and relationships with peers have improved. He likes to participate, and his physical aggression and property destruction have decreased. He has done excellently with using respectful language with family members. He has improved and done well overall with using respectful language toward staff members. He is on track to leave Maple Hall after twelve months. He has

internal motivation to go home and reintegrate into a more traditional school. Based on how he has done, Maple Hall is the appropriate setting for him.

Prince did not know if an “individual learning plan” exists and had not seen it. Students are not assigned homework until they reach the transitional phase. S.S. had not reached that phase, so he does not have to do any homework. Prince does not have any knowledge of the core curriculum content standards published by the Virginia Department of Education. Some of the teachers are certified by Virginia, but he does not know if all the teachers are certified. Two special education licensed teachers left Maple Hall in January. S.S.’s class would consist of the same four to six students throughout the day in all subject areas. The school is boys-only, so any preparation to transition to a co-ed school setting would be through one-on-one therapy and not replicated for practice. He does not know if Maple Hall draws from an accredited curriculum. He is not aware of the academic programming. He does not know if S.S. is being held to same standards as a New Jersey- or Virginia-approved school.

S.S. is more apt to shut down or become aggressive when required to do something he does not want to do. He thinks S.S.’s behaviors could be improved. There may be fewer stressors at Maple Hall, but S.S. is being asked to do things he does not want to do in the classroom. He did not know if anyone shared whether S.S. was taking Abilify prior to attending Maple Hall. He did not know whether or how much guanfacine chloride S.S. was taking prior to attending Maple Hall or that laticine hydrochloride was added or increased during the time S.S. was at Maple Hall. There is a nurse on staff and a contract psychiatrist.

Daily, narrative reports are kept, but they do not always include frequency or duration of aggressive behavior or non-aggressive misbehavior. His opinion that S.S.’s negative behaviors are diminishing is based on data in the daily reports and in the treatment team notes. The treatment team notes outline the big misbehaviors that result in therapeutic holds. S.S. has demonstrated an increased awareness and great improvement in his overall understanding and awareness of his anger and triggers. Fifty percent is common in treatment goals—kind of a baseline starting point and can be increased to 90 percent as needed. Compensatory skills for ADHD are for activities of

daily living and executive functioning skills, like hygiene routine, keeping up with academic work, and organizational skills. It may be necessary to look at the daily reports to define the data demonstrating improvement in compensatory skills for ADHD, because the data in the weekly treatment notes is not particularly robust. To his knowledge there was no maladaptive behavior in the classroom.

He would consider refusing to do work and putting one's head down on the table as acts of non-compliance. The model used is PACE—playfulness, acceptable, curiosity and empathy. If S.S. kept his head down and did not engage, he imagines that based upon the PACE mode, he would be prompted. He did not think the daily reports would report how often S.S. kept his head down. With any student with challenges like S.S. there will be good weeks and bad weeks. He does not know the basis for the academic grades—like whether it was based on performance of all work given or on work he was willing to do. Some assignments are more about participation, and some are more about content and performance. Preparing students to return to an environment where they will be held to academic expectations that are more than just participation depends on the environment the student is returning to and the student's intellectual capacity. Prince did not know what Maple Hall would do with S.S. other than discussing it in therapy and setting some goals and creating space to focus on that.

There were still aggressive behaviors in January. Complete extinction of the aggressive behaviors and non-aggressive misbehavior is not impossible, but it is not the goal. At some point the majority of humans move beyond aggressive behaviors, so it is just a matter of time when S.S. does that. He was not sure about ODD or a neurodevelopmental disorder. He believes if there were behaviors in the classroom like aggression toward staff or property destruction, they would be reflected in the weekly reports. S.S. is making progress toward significant reduction in misbehavior and providing behavioral intervention and behavioral instruction and emotional regulation across his day in all settings is helping him achieve that goal. He is taking grade-level courses. If the daily reports had misbehaviors reported, he would not earn All Stars. The January 6 incident was right after he came back from being home for two weeks and a

lot of students struggle with the transition following the home visit. He is making progress behaviorally and emotionally across all settings.

Dad

S.S. began exhibiting behavioral issues at age three. He continues to exhibit behavioral issues. S.S. pushes back on any task he does not want to do, school or home. The goals and objectives in the initial IEP were still a struggle in eighth grade, and at-home behavioral intervention services had not been offered by the District, and WLC and Chapel Hill did not offer home-based programming. Over the years, S.S. initially had a six-week and later a four-week “honeymoon” period at the start of each school year, when he is happy to be back at school, and then it goes sideways. Homework was a problem. WLC and Chapel Hill did not teach him the behavioral self-regulation skills needed to stop the negative behaviors. Remote instruction started okay in 2019-2020, but it degraded over the next year and a half of on-again, off-again virtual instruction. His understanding was that the behavioral disabilities schools would help improve his behaviors, but S.S. still had behavior problems at school and at home, and he had trouble making social connection and relationships with others. He had plateaued and was not accomplishing his goals, so they needed to try something different. The July 7, 2021, IEP was the first time the District offered behavioral intervention outside of the school day. They did not feel two hours a week would be sufficient to address his behavioral difficulties at home. Nothing said at the July 7, 2021, IEP meeting changed his mind about needing a residential placement.

S.S. is doing well at Maple Hall. He is learning regulation skills. He is engaging in school. He likes the teaching style and that they can go outside and to do things while being educated. He is progressing and happier and prouder of himself than he has been in a long time. Dad did not receive reports from Maple Hall that S.S. is disruptive or noncompliant in the classroom or any reports of work refusal. There have been some behavioral incidents, which was not surprising, but the intensity and frequency is decreasing. They learned at the very beginning of therapy over a decade ago that they may never see a net zero, but they are trying to get to a tolerable level. He received a call from Prince or another therapist any time there was a therapeutic hold at Maple Hall.

They have a family therapy session with Prince every Monday; part of it is just the parents, and part of it includes S.S. Prince reports progress and there has been improvement in physically aggressive behaviors, destructive behaviors, and frustration tolerance. He has received reports of noncompliance or disruptive conduct, but none that occurred in the classroom. There were no reports of property destruction in the classroom. He had not previously seen the printouts from Maple Hall and had not been told about many of the behaviors in the printouts but was not surprised by them. S.S.'s report cards were fantastic, his teachers loved him, and S.S. said he likes school. During Christmas break, S.S. was home from Maple Hall and despite being quarantined at home for COVID reasons, that was the longest period they ever had with so little negative behavior. In comparing his progress at the residential placement to the day school placements the journey is not over, and they cannot predict the outcome but he feels like maybe they have stepped off the merry-go-round and they are more hopeful than they have been in a long time.

They were referred to Dr. Zeisz by their attorney. They engaged Pritzker to look at other options, whether therapeutic day or residential. He did not know if it was Dr. Zeisz or Pritzker that they contacted first, but one referred them to the other. They did not ask Dr. Zeisz to observe Chapel Hill.

LEGAL ANALYSIS AND CONCLUSIONS

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, provides, "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a). Such program or activity includes the operations of a local educational agency. 29 U.S.C. § 794(b)(2)(B). An "individual with a disability" is defined under the Rehabilitation Act as any person who has "a physical or mental impairment that substantially limits one or more major life activities of such individual," has "a record of such an impairment," or is "regarded as having such an impairment." 29 U.S.C. § 705(20)(A). See also 34 C.F.R. § 104.3(j). Section 504

requires that a qualified handicapped person receive a free, appropriate public education (FAPE), and defines “appropriate education” as the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36. 34 C.F.R. § 104.33(a) and (b). To establish a violation of Section 504 of the Rehabilitation Act, it must be established that (1) S.S. has a disability; (2) S.S. was “otherwise qualified” to participate in school programs or activities; (3) the District received federal financial assistance; and (4) S.S. was excluded from participation in, denied the benefits of, or subjected to discrimination under any school programs or activities. Ridley Sch. Dist. v. M.R., 680 F.3d 260, 280 (3d Cir. 2012).

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400–1482, ensures that all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living, and ensures that the rights of children with disabilities and parents of such children are protected. 20 U.S.C. § 1400(d)(1)(A), (B); N.J.A.C. 6A:14-1.1. Under the IDEA, a “child with a disability” means a child with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, and who, by reason thereof, needs special education and related services. 20 U.S.C. § 1401(3)(A).

States qualifying for federal funds under the IDEA must assure all children with disabilities the right to a free “appropriate public education.” 20 U.S.C. § 1412(a)(1); Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176 (1982). Each district board of education is responsible for providing a system of FAPE. 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-school, or secondary-school education in the state involved; and

(D) are provided in conformity with the individualized education program required under 20 U.S.C. § 1414(d). 20 U.S.C. § 1401(9); Rowley, 458 U.S. 176.

An IEP is a written statement for each child with a disability that is developed, reviewed, and revised in accordance with 20 U.S.C. § 1414(d), 20 U.S.C. § 1401(14), and 20 U.S.C. § 1412(a)(4). When a student is determined to be eligible for special education, an IEP must be developed to establish the rationale for the student's educational placement and to serve as a basis for program implementation. N.J.A.C. 6A:14-1.3, -3.7. FAPE requires that the education offered to the child must be sufficient to "confer some educational benefit upon the handicapped child," but it does not require that the school district maximize the potential of disabled students commensurate with the opportunity provided to non-disabled students. Rowley, 458 U.S. at 200. Hence, a satisfactory IEP must provide "significant learning" and confer "meaningful benefit." T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577-78 (3d Cir. 2000).

The Supreme Court discussed Rowley in Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, _ U.S. __, 137 S. Ct. 988 (2017), noting that Rowley did not "establish any one test for determining the adequacy of educational benefits," and concluding that the "adequacy of a given IEP turns on the unique circumstances of the child for whom it was created." Id. at 996, 1001. Endrew F. warns against courts substituting their own notions of sound education policy for those of school authorities, and notes that deference is based upon application of expertise and the exercise of judgment by those authorities. Id. at 1001. However, the school authorities are expected to offer "a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances." Id. at 1002.

Additionally, in accordance with the IDEA, children with disabilities are to be educated in the least restrictive environment (LRE). 20 U.S.C. § 1412(a)(5); N.J.A.C. 6A:14-1.1(b)(5). To that end, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are to be educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment should occur only when the nature or severity of the disability of a child is such that

education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 20 U.S.C. § 1412(a)(5)(A); N.J.A.C. 6A:14-4.2. The Third Circuit has interpreted this to require that a disabled child be placed in the LRE that will provide the child with a “meaningful educational benefit.” T.R., 205 F.3d at 578.

Petitioners argue that the District’s proposed program at Chapel Hill was not appropriate for S.S. and that petitioners’ unilateral placement of S.S. at Maple Hall was appropriate, and therefore they are entitled to reimbursement for the unilateral placement. Specifically, petitioners argue that because S.S.’s negative behaviors persisted and at times increased, behavioral day schools failed to improve S.S.’s behaviors and Chapel Hill is not appropriate. Petitioners also argue that a residential placement is required and S.S.’s behaviors significantly and meaningfully improved at Maple Hall, and the parents are entitled to reimbursement. Conversely, the District argues that S.S. does not require a residential placement, that S.S.’s IEPs offered him a FAPE in the LRE, and that petitioners are not entitled to reimbursement or compensatory education. The District bears the burden of proof and the burden of production whenever a due process hearing is held pursuant to the provisions of the IDEA. N.J.S.A. 18A:46-1.1.

Since oppositional and defiant behaviors are at the heart of this dispute, it is of concern that Dr. Zeisz does not accept ODD as a diagnosis despite that S.S. has been diagnosed with ODD by multiple other doctors. Her report does not include ODD in the DSM-V diagnostic formulation, and her academic recommendations state that “S.S. is a capable student who requires supports and accommodations specifically designed for students with ASD, ADHD and Specific Learning Disorder (SLD) with impairment in written expression and his needs should be documented in written format”—omitting any ODD diagnosis. In fact, ODD was referenced only in the history section of Dr. Zeisz’s report. ODD likewise does not appear as a diagnosis on his Master Treatment Plan at Maple Hall, because the diagnoses were obtained from Dr. Zeisz’s report. Dr. Zeisz instead attributes S.S.’s oppositional and defiant behaviors to autism spectrum or

neurodevelopmental issues. Additionally, it is noted that Dr. Zeisz's opinion that S.S. does not have a mood dysregulation disorder was not consistent with Dr. Snider's report.

Notwithstanding the foregoing, there is no dispute that S.S. has multiple diagnoses, which impact him academically, socially, emotionally, and behaviorally. There is likewise no dispute that S.S. has been in out-of-district placements for seven years but still exhibits negative or maladaptive behaviors and has not mastered his social/emotional/behavioral goals. The numerous "FYIs," emails and notes from WLC, Chapel Hill and Maple Hall are set forth at length herein because they were the subject of extensive testimony and considered by the various witnesses in rendering opinions on the appropriateness of S.S.'s IEPs, on whether S.S. had made meaningful progress, and on whether the residential placement was appropriate, and they are considered in my conclusions. The records reflect that in 2013 significant oppositional and aggressive behaviors were occurring daily—worse in school than at home—and that classroom behavior programs and individual behavioral interventions were utilized with limited success, resulting in placement out-of-district. At Chapel Hill, significant oppositional and aggressive behaviors were not occurring daily. When viewed collectively the number of significant behavioral incidents may seem high, but when viewed in the context of a 180-day school year and 30-day ESY, the number of incidents that resulted in an "FYI" are low. Even Dr. Zeisz testified that S.S.'s behaviors occur "intermittently." Moreover, although the daily emails reflect additional minor issues that did not warrant an FYI, such issues are not unusual or unexpected given his various diagnoses and some were only a fraction of his day, like a single class where there was work refusal or a "shut down" and not necessarily even for an entire class.

Petitioners allege that S.S. missed a significant amount of instruction and that there is a significant discrepancy between S.S.'s cognitive abilities and cognitive efficiency. However, in reviewing the standardized testing—and accounting for the impact of processing speed which Dr. Zeisz testified cannot be changed—S.S. does, as Dr. Zeisz testified, present as solidly average. This is corroborated by his grades for the third marking period, which were B- literacy; B- math; B social studies; B-science; B+ PE/health; B+ art; and B+ Spanish. There was no allegation of any academic deficiency

relative to a specific subject and no evidence that Maple Hall specifically addressed any academic concern. S.S. did not have an ILP at Maple Hall, despite that its website states that an ILP would be designed personally based on personal academic history and the outcomes of any assessments by academic staff members. Petitioners also allege that whatever behavioral management techniques WLC and Chapel Hill taught S.S. had not internalized within him and had not generalized within and outside school. However, Dr. Zeisz testified that children with autism-like qualities struggle to generalize skills across settings and that "children with a profile like S.S. notoriously do not generalize." She also testified that learning and applying the skills are problematic for S.S., related to neurodevelopmental and executive functions. Accordingly, it is not unreasonable or unexpected that he has not mastered all his social/emotional/behavioral goals or mastered generalization of skills across settings.

Prince testified that at some point most humans move beyond aggressive behaviors, so it is just a matter of time for S.S. However, Prince was not aware of his ODD diagnosis. Dr. Zeisz likewise testified that a neurotypical child would be expected to grow out of certain negative behaviors, but S.S.'s multiple diagnoses reflect that he is not a neurotypical child. Dr. Zeisz testified that training to learn self-regulation skills can work if the child can stop and think, but there is no question that S.S. has impulse control and executive function issues. Thus, even if S.S. has memorized those skills or steps, he may still struggle to access them or timely implement them. This is corroborated by Prince's testimony that S.S. did indeed have coping skills and anger management skills, yet he still exhibits negative and maladaptive behaviors.

Chapel Hill and Maple Hall were similar in the instruction, assistance and techniques used to foster coping skills and anger management skills. Students receive feedback and guidance from staff at Chapel Hill, and like Maple Hall, if a student has behavioral difficulties the classroom, it is addressed in the moment. Chapel Hill's program included social skills class, individual crisis counseling, and in-class intervention, and Joslin's activity log reflects that coping-skills development and strategies, identifying stressors and anxiety, focusing on feelings, working through stressors, asking for help, interventions when frustrated, conflict resolution, utilizing breaks, and positive behaviors were all discussed and utilized with S.S. throughout the year. These topics and in-class

behavior support and strategies were also discussed and utilized by his teachers and his parents. Chapel Hill practices CPI and every staff member at Chapel Hill is trained, and there are experts on staff to de-escalate situations.

Chapel Hill utilizes the BASE points system and the testimony of petitioners' witnesses suggested that a level system was negative, and petitioners argue that the absence of a level system at Maple Hall allows S.S. to establish relationships with staff. However, it is noted that Maple Hall does have All Stars, which does not appear entirely dissimilar in that it provided incentives and needed to be earned, and failure to earn it likewise sometimes resulted in negative behaviors. Further, the record does not reflect that the existence of a points system at Chapel Hill prevented S.S. from establishing relationships.

Chapel Hill and Maple Hall obviously differ in that one is a day school with instruction limited to school hours and the other is a residential school with instruction throughout the whole day. Pierce acknowledged that prior to July 2021, the District had not offered any home-programming to the parents but testified that she had talked with the parents about parent training and behavioral intervention techniques at length over the course of the three years, but the parents sought private therapies and Dad made it clear that they were taking care of home therapy. The parents had near-constant communication with Chapel Hill staff daily and the home therapist was also in communication with Chapel Hill staff. Chapel Hill worked very collaboratively with the parents and with S.S.'s home therapist and often made requested adjustments at the parents' and home therapist's request. While there was testimony that S.S. was receiving DBT therapy at home, his home therapist did not testify and no home therapy records were presented, so the training and techniques and methods utilized at home or their effectiveness cannot be established. Per the record and the testimony of the District's witnesses, the District's staff was at times frustrated by the home therapist's requests that were inconsistent with Chapel Hill's program, especially being that consistency is important for S.S. It is also noted that S.S.'s medications and dosages were changed multiple times during his time at Chapel Hill, and there were further changes during his time at Maple Hall.

Dr. Zeisz did not observe Chapel Hill's program and did not compare his documented Chapel Hill behaviors with his documented Maple Hall behaviors. Dr. Ziesz also did not opine that Maple Hall had improved S.S.'s behaviors, but instead opined that it was more likely than not that Maple Hall would improve his behaviors. She testified that at a residential placement there is very small class size and teachers are aware of the student's clinical goals and functioning throughout the day and collaborative with therapists and staff. This is true of Chapel Hill Academy. His academic and social/emotional/behavioral goals were included in his IEP, and included, inter alia, identifying his strengths, weaknesses and behavioral triggers, identifying and complying with rules, identify and appropriate use coping skills such as perspective taking, assertive communication, deep breathing, problem solving and planned positive activities. Dr. Zeisz testified that a residential setting has "structure and predictability on a 24/7 basis" that would be impossible to create at home. Dr. Zeisz testified that Maple Hall Academy has highly trained staff to work with children like S.S., but Chapel Hill Academy likewise has highly trained staff. Dr. Zeisz testified that throughout the day Maple Hill staff stops and slows down interactions, doing emotional co-regulation and teaching concrete skills. This also happens at Chapel Hill Academy and her specific example of coregulation was one also utilized at Chapel Hill. Dr. Zeisz testified that consistency, predictability, safety and structure allow the child to learn experientially in the moment how to manage emotions and conflicts. Certainly, outside of a residential placement, this is difficult, if not impossible to achieve on a 24/7 basis. However, Chapel Hill Academy provided consistency, predictability, safety and structure, though this was impacted by COVID in 2020 and 2021, and his ninth-grade IEP provided for a behaviorist and consultations to try to continue that at home. Prior thereto, Chapel Hill had collaborated extensively with his parents and home therapist.

There was extensive testimony that a significant trigger for S.S. is asking him to do something he does not want to do—like homework—and while he is away at Maple Hall, I would concur with Dr. Zeisz that there are far fewer "random events" for him to contend with. Prince testified that Maple Hall's academic classes are taught in teacher-directed style, with experiential methodologies—going through a process of learning a task or an activity that is not focused on listening, reading, or writing solely, but is more about movement and interacting with others. Prince also testified that S.S. had zero

homework at Maple Hall, and Dr. Zeisz testified that if S.S. did not have homework, the behaviors triggered by homework demands would no longer be an issue. S.S. additionally received various equine, clay and cooking therapies. Thus, while there may not have been significant instances of aggression or property destruction in his academic classes at Maple Hall, I do not find this to prove that Chapel Hill was an inappropriate placement. It would not be surprising if there were in fact fewer instances of negative behaviors, as Dr. Zeisz testified that a residential school “puts the child in a relatively protective bubble where we don’t have random events triggering behaviors” and emotional dysregulation can be addressed 24/7. However, when asked if she would expect—with intervention and teaching that worked—a change for the better in S.S.’s behavioral presentation, her answer was that there should be change, but it varies and there are a “ton of factors” with that. It is evident from the record that the parents proactively had S.S. evaluated by countless doctors and other professionals to diagnose and treat his symptoms, but due to his various diagnoses many of the symptoms persist.

I accept Dad’s and Dr. Zeisz’s testimony, and the parents’ emails, about S.S.’s negative and maladaptive behaviors at home, and there is no doubt that homework was a particularly contentious issue. Given Dr. Zeisz’s testimony that a higher level of care would give S.S. his very best chance to address, inter alia, the level of exhaustion and overwhelm in managing S.S. and keeping him safe at home, and Prince’s inclusion of “parent-child relational disorder” as one of S.S.’s diagnoses on the Master Treatment Plan, it appears that his family struggles played not an insignificant part in opting for a reset at a residential placement. There is no question that the parents have made every effort to remediate his behaviors and maximize S.S.’s success. While I do not doubt that his time at Maple Hall has been beneficial, and has positively impacted his relationship with his parents, the law requires that S.S. be educated in least restrictive environment that will provide him with a “meaningful educational benefit,” and where will make appropriate progress in light of his circumstances. The District’s witnesses all consistently and credibly testified that S.S.’s IEPs were appropriate, including the common core academic goals and objectives/benchmarks and the social/emotional/behavioral goals and objectives/benchmarks. Despite not having “mastered” his social/emotional/behavioral goals and objectives/benchmarks, S.S. was still making meaningful progress—academically, socially and emotionally, as evidenced by his

grades, his interactions with peers, and their observations of his conduct. They all agreed remote instruction had negatively impacted S.S., but that he rebounded once there was a consistent routine in school, where he had access to teachers and counselors. The District's witnesses testified that they were surprised by the residential placement, and that the parents had not expressed at the April 2021 IEP meeting that Chapel Hill was not an appropriate placement.

Based upon the extensive testimony and documentary evidence, I **CONCLUDE** that S.S. made meaningful educational progress in spite of the challenges posed by his diagnoses. I further **CONCLUDE** that the District's IEPs were appropriate to meet S.S.'s educational needs and provided him with a FAPE in the least restrictive environment.

The parents seek reimbursement for all costs associated with S.S.'s placement at Maple Hall. Pursuant to 20 U.S.C. § 1412(a)(10)(C)(i), and subject to 20 U.S.C. § 1412(a)(10)(A), a local educational agency (LEA) is not required to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in such private school or facility. See also N.J.A.C. 6A:14-2.10(a). When an LEA fails to provide a FAPE, it must reimburse parents for resulting private-school costs. See T.R., 205 F.3d at 577 (citing Sch. Comm. of Burlington v. Dep't of Educ., 471 U.S. 359, 370 (1985)). Since the District made a FAPE available to S.S., I **CONCLUDE** that reimbursement for the out-of-pocket costs for Maple Hall and compensatory education should be denied.

ORDER

It is hereby **ORDERED** that the relief sought by petitioners is **DENIED** and the due process petition is **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2022) 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 (2022).



June 27, 2022

Date

KELLY J. KIRK, ALJ

Date Received at Agency

Date Mailed to Parties:
db

APPENDIX

List of Witnesses

For Petitioners:

Diane Pierce
Timothy Walker
Michele Medina
Joshua Joslin

For Respondent:

R.S. (Dad)
Jennifer Zeisz
Josh Princeprogre

List of Exhibits

For Petitioners:

P-1 Consent for Additional Evaluation (FBA)
P-2 (Not in evidence)
P-3 Educational Evaluation
P-4 Psychological Evaluation
P-5 (Not in evidence)
P-6 (Not in evidence)
P-7 Email, dated March 25, 2013
P-8 Psychiatric Evaluation
P-9 Child Study Team Psychiatric Evaluation
P-10 Initial Eligibility

- P-11 Behavior Intervention Plan
- P-12 Evaluation Plan
- P-13 October 30, 2013 IEP
- P-14 (Not in evidence)
- P-15 Behavior Intervention Plan, dated October 9, 2014
- P-16 October 27, 2014 IEP
- P-17 November 10, 2014 IEP
- P-18 (Not in evidence)
- P-19 (Not in evidence)
- P-20 December 15, 2014 IEP
- P-21 (Not in evidence)
- P-22 (Not in evidence)
- P-23 June 13, 2016 letter from WLC
- P-24 (Not in evidence)
- P-25 Psychological Evaluation
- P-26 (Not in evidence)
- P-27 (Not in evidence)
- P-28 (Not in evidence)
- P-29 (Not in evidence)
- P-30 November 9, 2016 Progress Report
- P-31 (Not in evidence)
- P-32 (Not in evidence)
- P-33 (Not in evidence)
- P-34 (Not in evidence)
- P-35 November 8, 2017 Progress Report
- P-36 (Not in evidence)
- P-37 January 1, 2018 Progress Report
- P-38 (Not in evidence)
- P-39 June 28, 2018 Progress Report
- P-40 Incident Report, dated October 10, 2018
- P-41 Incident Report, dated October 31, 2018
- P-42 (Not in evidence)
- P-43 November 7, 2018 Progress Report

- P-44 (Not in evidence)
- P-45 Incident Report, dated December 20, 2018
- P-46 January 29, 2019 Progress Report
- P-47 Incident Report, dated February 4, 2019
- P-48 Score Report
- P-49 April 12, 2019 Progress Report
- P-50 May 9, 2019 letter from WLC
- P-51 Incident Report, dated May 15, 2019
- P-52 (Not in evidence)
- P-53 May 17, 2019 letter from WLC
- P-54 (Not in evidence)
- P-55 (Not in evidence)
- P-56 (Not in evidence)
- P-57 (Not in evidence)
- P-58 (Not in evidence)
- P-59 Reevaluation Planning
- P-60 (Not in evidence)
- P-61 Request for Mental Health Clearance
- P-62 (Not in evidence)
- P-63 (Not in evidence)
- P-64 December 13, 2019 letter from WLC
- P-65 (Not in evidence)
- P-66 Emails
- P-67 Report to Schools of Assessment for Psychiatric Hospitalization
- P-68 (Not in evidence)
- P-69 (Not in evidence)
- P-70 (Not in evidence)
- P-71 February 26, 2020 letter from Chapel Hill
- P-72 (Not in evidence)
- P-73 (Not in evidence)
- P-74 Email
- P-75 (Not in evidence)
- P-76 (Not in evidence)

- P-77 (Not in evidence)
- P-78 (Not in evidence)
- P-79 (Not in evidence)
- P-80 June 15, 2021 letter from petitioners' attorney
- P-81 June 23, 2021 letter from respondent's attorney
- P-82 (Not in evidence)
- P-83 July 8, 2021 letter from petitioners' attorney
- P-84 July 21, 2021 letter from Rathna Mallela, M.D.
- P-85 (Not in evidence)
- P-86 (Not in evidence)
- P-87 (Not in evidence)
- P-88 (Not in evidence)
- P-89 (Not in evidence)
- P-90 (Not in evidence)
- P-91 October 19, 2021 letter from Jennifer Zeisz, Ph.D., PA
- P-92 Resume of Jennifer Zeisz, Ph.D., PA
- P-93 (Not in evidence)
- P-94 (Not in evidence)
- P-95 Chapel Hill Records
- P-96 Maple Hall Website
- P-97 Maple Hall Records
- P-98 Resume of Josh Prince
- P-99 Treatment Notes of Josh Prince

For Respondent:

- R-1 (Not in evidence)
- R-2 (Not in evidence)
- R-3 November 15, 2017 IEP
- R-4 October 31, 2018 IEP
- R-5 Comprehensive Psychological Evaluation
- R-6 May 16, 2019 letter from Chapel Hill
- R-7 May 31, 2019 IEP

- R-8 October 1, 2019 IEP
- R-9 Report Card, dated December 5, 2019
- R-10 Student Behavior Contract
- R-11 Interim Academic Progress Report, dated January 23, 2020
- R-12 Report Card, dated March 12, 2020
- R-13 May 29, 2020 letter from Chapel Hill
- R-14 Report Card, dated June 19, 2020
- R-15 Interim Academic Progress Report, dated August 14, 2020
- R-16 OT Report, dated August 11, 2020
- R-17 September 2, 2020 IEP
- R-18 Progress Report, dated October 15, 2020
- R-19 October 16, 2020 letter from Chapel Hill
- R-20 Report Card, dated December 3, 2020
- R-21 December 18, 2020 letter from Chapel Hill
- R-22 (Not in evidence)
- R-23 Daily Report Emails
- R-24 Daily Report Emails
- R-25 Progress Report, dated January 21, 2021
- R-26 Daily Report Emails
- R-27 Daily Report Emails
- R-28 Daily Report Emails
- R-29 Daily Report Emails
- R-30 Emails
- R-31 Daily Report Emails
- R-32 Report Card, dated March 11, 2021
- R-33 Daily Report Emails
- R-34 Emails
- R-35 Daily Report Emails
- R-36 Daily Report Emails
- R-37 Daily Report Emails
- R-38 Daily Report Emails
- R-39 Daily Report Emails
- R-40 April 1, 2021 letter from Chapel Hill

- R-41 Daily Report Emails
- R-42 Daily Report Emails
- R-43 Daily Report Emails
- R-44 Daily Report Emails
- R-45 Daily Report Emails
- R-46 April 13, 2021 IEP
- R-47 Daily Report Emails
- R-48 Email
- R-49 Emails
- R-50 Report Card, dated May 6, 2021
- R-51 Emails
- R-52 Daily Report Emails
- R-53 Daily Report Emails
- R-54 Daily Report Emails
- R-55 Daily Report Emails
- R-56 Report of Psycho-Educational Evaluation
- R-57 July 7, 2021 IEP Meeting CD-R
- R-58 July 7, 2020 IEP
- R-59 Daily Log
- R-60 FYIs
- R-61 (Not in evidence)
- R-62 July 27, 2021 letter from petitioners' attorney
- R-63 August 5, 2021 letter from petitioners' attorney
- R-64 August 6, 2021 email from respondent's attorney
- R-65 August 11, 2021 letter from petitioners' attorney
- R-66 (Not in evidence)
- R-67 (Not in evidence)
- R-68 (Not in evidence)
- R-69 (Not in evidence)
- R-70 (Not in evidence)
- R-71 (Not in evidence)
- R-72 Resume of Diane Pierce, M.A., LDT-C
- R-73 Resume of Timothy Walker

R-74 November 17, 2020 IEP

R-75 Notes from IEP Meeting

R-76 Email, dated November 23, 2020