



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 02209-23

AGENCY DKT. NO. 2023-35415

K.A. AND P.A. ON BEHALF OF C.A.,

Petitioner,

v.

**BLOOMINGDALE BOROUGH
BOARD OF EDUCATION AND
MORRIS COUNTY VOCATIONAL
SCHOOL DISTRICT BOARD OF
EDUCATION,**

Respondent.

Laura A. Siclari, Esq., for petitioners (Santomassimo Davis, LLP, attorneys)

Carolyn Chaudry, Esq., for respondent Morris County Vocational School District Board of Education (MCVSD) (Chaudry Law, LLC, attorneys)

Jeffrey R. Merlino, Esq., for respondent Bloomingdale Borough Board of Education (Cornell, Merlino, McKeever & Osborne, LLC, attorneys)

Record Closed: December 4, 2023

Decided: February 8, 2024

BEFORE **THOMAS R. BETANCOURT**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioners filed a request for due process hearing with the Office of Special Education (OSE), New Jersey Department of Education (NJDOE).

The Department of Education transmitted the contested matter pursuant to N.J.S.A. 52:14B-1 to 15 and N.J.S.A. 52:14f-1 TO 13, to the Office of Administrative Law (OAL), where they were filed on March 13, 2023.

A prehearing conference was held on July 12, 2023. A prehearing order was entered by the undersigned on July 13, 2023.

The hearing was held on September 1, September 11 and October 3. The record remained open for the parties to obtain transcripts of the hearing and to submit written closing arguments.

Petitioners filed their closing arguments on December 4, 2023. Respondent MCVSD filed its closing arguments on December 4, 2023. Respondent Bloomingdale filed its closing arguments on December 4, 2023, whereupon the record closed.

ISSUE

The only issue presented is whether or not C.A. should have in place a 504 accommodation plan providing for door to door bus transportation. The answer is a clear yes as outlined below.

CREDIBILITY

When witnesses present conflicting testimonies, it is the duty of the trier of fact to weigh each witness's credibility and make a factual finding. In other words, credibility is the value a fact finder assigns to the testimony of a witness, and it incorporates the overall

assessment of the witness's story in light of its rationality, consistency, and how it comports with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); see Polk, supra, 90 N.J. 550. Credibility findings "are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record." State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions of credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837, 93 S. Ct. 2357, 37 L. Ed. 2d 380 (1973).

The finder of fact is not bound to believe the testimony of any witness, and credibility does not automatically rest astride the party with more witnesses. In re Perrone, 5 N.J. 514 (1950). Testimony may be disbelieved, but may not be disregarded at an administrative proceeding. Middletown Twp. v. Murdoch, 73 N.J. Super. 511 (App. Div. 1962). Credible testimony must not only proceed from the mouth of credible witnesses but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

When facts are contested, the trier of fact must assess and weigh the credibility of the witnesses for purposes of making factual findings. Credibility is the value that a finder of fact gives to a witness's testimony. It requires an overall assessment of the witness's story in light of its rationality, its internal consistency, and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (8th Cir. 1963).

Dr. Ashley Ignatiuk, petitioners' expert and C.A.'s surgeon, K.A., petitioner and C.A., the student testified in petitioners' case in chief. They all responded to questions directly and without hesitation. Nothing in their respective demeanors indicated anything but truthfulness. I find them all credible.

Dr. Dean Padavan and Dr. Amir Ahmed testified as respondent's expert witnesses.

Dr. Padavan initially stressed the importance of a wound care plan prior to deciding whether door to door bus transportation was in order. Later in his testimony he conceded

that the wound care plan is a separate issue and the 504 plan accommodation could have been decided separately. This diminishes his credibility as MCVSD used the wound care plan as an issue to slow walk the decision on the door to door bus accommodation.

Dr. Ahmed was credible, notwithstanding his reference to a scooter. I state this as it was clear from his testimony that the scooter was in his report because “the district wanted something a little more specific...” (Tr. 9/11/23, 77:1-25; 78:1-14). He ultimately agreed that a motor vehicle would be the better choice.

Athena Borzeka, the director of student services at MCVSD was not credible at all. Her testimony was contradictory. She appears to have arrived at the decision to deny the request for door to door bus transportation on her own, and then sought to justify that decision. She did not refer the matter to the school physician until November 29, 2022. The request was made prior to the start of the school year. This, to me, is inexplicable. Further, she came up with the idea of a knee scooter, then a motorized scooter or Segway, on her own. She did not seek any medical advice prior to making this recommendation. She then had Dr. Ahmed refer to it in his report. She then directed the school nurse, Ms. Maffei to question Dr. Ignatiuk about it. She drove the bus (pun intended) on the decision to not offer door to door bus transportation.

Carol Maffei, the school nurse, was also not credible. Her testimony seemed designed to support the use of a scooter, and not door to door bus transportation. She was evasive on cross examination. She was directed by Ms. Borzeka to question Dr. Ignatiuk about the knee scooter.

FINDINGS OF FACT

C.A. is a fifteen-year-old student residing in Bloomingdale, New Jersey. As a three-year-old child C.A. suffered an accident resulting in the partial amputation of his right foot. He has undergone several surgeries over the years regarding his injury.

C.A. attended school in the Bloomingdale school district through the eighth grade. While in seventh grade C.A. developed ulcers and sores on his right heel. Previously he had not experienced ulcers and sores. Dr. Ashley Ignatiuk performed fat graft surgery on C.A.'s right heel.

After the surgery, at the request of petitioners, C.A. was provided with a Section 504 accommodation plan (J-1) which provided door to door bus service. The plan type was "temporary" and stated "door to door bus accommodations until cleared by physician."¹

C.A. applied to MCVSD and was accepted to their high school and currently attends the same.

Contrary to the assertion of MCVSD, no physician cleared C.A. MCVSD relies upon a form Health History Update Questionnaire (J-2), signed by C.A.'s primary care physician, which cleared him to participate in sports. That form was amended by a letter from the primary care physician (J-7), which expressly referred to Dr. Ignatiuk for physical limitations. Dr. Ignatiuk has always maintained that door to door transportation is needed.

Prior to the start of the new school year at MCVSD petitioners requested that the 504 plan from Bloomingdale be continued. Dr. Ignatiuk submitted a letter to the same effect. (J-3)

MCVSD offered a 504 plan accommodation, dated September 22, 2022, which provided a knee scooter for C.A. to use on his bus route. (J-8)

The offer of the knee scooter to navigate the bus stop drop off up the hill to C.A.'s house was not done in consultation with any medial provider. The school physician, Dr.

¹ Bloomingdale in their post hearing submission argues that the claims against it in the due process petition should be dismissed as they are not legally required to continue door to door bus service. Bloomingdale remains the financially responsible party for such service, notwithstanding they do not make any 504 plan decisions. Accordingly, I decline to dismiss the due process petition as it relates to Bloomingdale.

Padavan, did not receive notice of any proposed 504 plan for C.A. until November 22, 2022. (Tr. 9/1/22, 248:1-23)

Dr. Padavan did not get involved in the 504 determination until November 22, 2022. He never examined C.A. In his testimony he indicated any concerns about a wound treatment plan could have been addressed separately from the 504 plan regarding door to door busing. (Tr. 9/1/22, 289:14-25; 290:1-25)

The hill from the bus stop to C.A.'s house is steep. (P-5) Transversing it with a knee scooter is not a feasible option. Transversing the hill with a motorized scooter of some sort is likewise not a feasible option. No testimony provided stated that it was a feasible option. Applying common sense to the matter, providing a teenager with a motorized scooter seems nonsensical. There are a myriad of problems one can see: weather, getting the scooter onto and off the bus, to name a few. I did not give these options any serious consideration. I find them unworkable. The use of a knee scooter or motorized scooter is not a reasonable accommodation.

MCVSD's request for a wound treatment plan was merely a method of delaying or obstructing door to door bus service. There was no viable reason why this was stressed over the door to door bus service.

C.A. had further surgery on December 19, 2022, consisting of fat grafting to his right heel. Currently he is receiving door to door bus transportation based on the most recent surgery.

Presented in this matter is a teenage boy with a serious injury to his right foot which resulted in a partial amputation. He has had several surgeries in an attempt to provide as much use of the foot as possible. He began experiencing ulcers and sores on the foot in seventh grade. That resulted in a 504 plan which provided door to door bus service. The purpose of the 504 plan was to lessen the use of the foot so as to avoid the creation of new ulcers or sores. The 504 plan was preventative in nature. It lasted the entirety of eighth grade. Upon acceptance to MCVSD petitioners requested that this plan continue

at MCVSD. This was prior to the start of the school year. As a routine occurrence, C.A. was required to submit a standard form regarding physical activity. That form was signed by his primary care physician. Said form had no restrictions on activity. MCVSD used this form as a pretense to claim he was cleared and no longer required a 504 plan for door to door bus service. This notwithstanding that the primary care physician supplemented his opinion by deferring to Dr. Ignatiuk when it came to physical limitations. MSCVD based their decision on the fact that C.A. tried out for the soccer team (something Dr. Ignatiuk felt he should not have done), and that he participates in physical education class and an after-school fitness club. MSCVD gave no consideration to the preventative nature of the recommendation for door to door bus service. The intent of the door to door service is to allow C.A. to interact with his peers, and engage in as much activity as possible, while at the same time limiting the possibility of future ulcers or sores. This is a reasonable 504 accommodation.

LEGAL ANALYSIS AND CONCLUSION

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits the exclusion of disabled individuals from participating or obtaining benefits under programs receiving federal funding:

No otherwise qualified individual with a disability in the United States, as defined in . . . [29 U.S.C. §705(20)] 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).]

Similarly, the Americans With Disabilities Act (ADA), 42 U.S.C. §§12101 to 12213, prohibits discrimination against all persons with disabilities, including school-aged children, and it applies to public agencies and schools. Title II of the ADA prohibits public entities from denying a disabled individual the benefits of services, programs or activities offered by the public entity. 42 U.S.C. §12132.

Under Section 504, “‘disability’ means . . . (A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.” 42 U.S.C. §12102(1). Notably, Section 504 applies to “all of the operations of” a local school district. 29 U.S.C. §794(b). This definition is broader than the definition of a disabled child under the Individuals with Disabilities Education Act [IDEA], 20 U.S.C. §§1400 to 1482, which is limited to children having impairments specified in the statute and regulation who, because of those impairments, need special education and related services. See 20 U.S.C. 1401(3).

Essentially, Section 504 prohibits federally funded programs from discriminating against an otherwise qualified individual solely based on their disability. 29 U.S.C. §794(a). While “the IDEA governs the affirmative duty to provide a public education to disabled students, [Rehabilitation Act] embod[ies] the negative prohibition against depriving disabled students of public education.” C.G. v. Pennsylvania Dept. of Educ., 734 F.3d 229, 234 (3d Cir. 2009) (citing W.B. v. Matula, 67 F.3d 484, 492-93 (3d Cir. 1995). As such, “the IDEA provides a remedy for inappropriate educational placement decisions, regardless of discrimination, while the [Rehabilitation Act] prohibit[s] and provide[s] a remedy for discrimination.” Ibid, (citing Hornstine v. Twp. of Moorestown, 263 F. Supp. 2d 887, 901 (D.N.J. 2003).

Federal regulations implementing Section 504 mandate that schools provide a “free appropriate public education [FAPE]” to students with disabilities. 34 CFR 104.33(a) (2018). To meet the [FAPE] requirement under Section 504, schools must provide, at no cost, regular or special education and related aids and services designed to meet the needs of the student. §§ 104.33(b), (c). Yet, the [FAPE] requirement slightly differs from the IDEA in that the measure of whether the education conferred under Section 504 is sufficient is that it must meet the student's needs “as adequately” as the needs of a non-disabled student [.] §§ 104.33(b), (c). Educational programming must also meet the procedural obligations provided in the regulations. § 104.33(b)(1)(ii). Here, petitioner does not offer a procedural challenge but rather contests the provision of FAPE.

Moreover, qualified disabled students must receive the same educational opportunities as other students within the district's jurisdiction. Every school district is obligated to provide a FAPE to qualified disabled students in the regular education environment. 34 CFR 104.34 (a). A school district must place a student with a disability in the regular education environment with other non-handicapped students unless that student's education cannot be achieved satisfactorily, even with support aids and services. ibid. In determining the appropriate accommodations necessary to address a student's disability, a school district must consider multiple sources of information, including the student's academic "aptitude or achievement level." 34 CFR 104.35 (b).

To prevail on a Section 504 claim alleging the denial of a FAPE, a claimant must show that: (1) they are handicapped or disabled as defined under the statutes; (2) they are otherwise qualified to participate in the program at issue; and (3) they were precluded from participating in a program or receiving a service or benefit because of their disability. Chambers v. Sch. Dist. of Phila. Bd. of Educ., 587 F.3d 176, 189 (3d Cir. 2009).

School districts must provide qualifying students with an "educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances" and abilities. Andrew F. v. Douglas County School District, 137 S. Ct. 988, 1001 197 L. Ed. 2d 335 (2017); K.D. by & through Dunn v. Downingtown Area Sch. Dist., 904 F.3d 248, 254 (3d Cir. 2018). In evaluating whether a school district furnishes FAPE, courts must inquire into individual students' potential and educational needs. Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238 (3d Cir. 1999).

However, a school district is not required "to maximize the potential of handicapped children" or to provide every level of special services. Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley, 458 U.S. 176, 199 (1982); T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577 (3d Cir. 2000). Still, "the provision of merely 'more than a trivial educational benefit'" does not equate to the "meaningful benefit requirement." Ridgewood, 172 F.3d at 247.

The Court in Ridley Sch. Dist. v. M.R., 680 F.3d 260, 280-81 (3d Cir. 2012), explains what appropriate means in terms of Section 504 accommodations:

To offer an "appropriate" education under the Rehabilitation Act, a school district must reasonably accommodate the needs of the handicapped child so as to ensure meaningful participation in educational activities and meaningful access to educational benefits. However, § 504 does not mandate "substantial" changes to the school's programs, and courts "should be mindful of the need to strike a balance between the rights of the student and h[er] parents and the legitimate financial and administrative concerns of the [s]chool [d]istrict." (internal marks and citations omitted).
[Ibid.]

The issue of "preventive" door to door transportation was addressed in D.A. v. Penn Hills Pub. Sch. Dist., 2021 U.S. Dist. LEXIS 91149 (LCvR May 13, 2021). In Penn Hills, the respondent school district denied an asthmatic high school student's request for continuation of door to door transportation to and from school. D.A. v. Penn Hills Pub. Sch. Dist., 2021 U.S. Dist. LEXIS 91149 (LCvR May 13, 2021). The accommodation was originally put into place to avoid an asthma attack, since the student was unable to walk to the bus stop without a flare up. Id. Thus, without the accommodation, the student was unable to use the school's transportation at all. Id. The court determined that ending the 504-plan that provided door to door bussing resulted in the student not having equal access to the transportation services as every other student. Id.

Under ADA and Section 504, the school district "must afford disabled and nondisabled students an equal opportunity to receive transportation for nonacademic purposes." Id. at 15. The school district knew that the student could not participate in the transportation program because of the lack of accommodation but refused to make a reasonable modification. The school district was therefore discriminating against that student under Section 504 on the basis of disability. Further, the court ruled that the school district:

"must provide equal access to its public services, separate and apart from providing a FAPE. When viewed through that lens, [the student] is treated differently than his non-disabled

peers...they can all ride the district's bus to school, while [the student] is left out because of his various disabling conditions.”
Id. at 19.

In this matter, just as the student in Penn Hills was denied bussing, a service that was provided to every other student in the district, C.A. is also being denied bussing that is available to every other student. While MCVSD is not denying him bussing entirely on its face, denying C.A. the door to door accommodation effectively makes it so that he cannot participate in the bussing program at all. C.A., according to his parents and doctors, cannot and should not be walking up and down a hill just to get to the bus every day. Doing so could severely harm his foot and preclude him from participating in any other physical activity, including walking. Just as the court in Penn Hills ruled that the student who could not get to his bus stop was deprived of equal access to transportation, Your Honor should decide that C.A. is also being deprived of equal access to transportation in the same way.

Further, the student in Penn Hills required this accommodation of door to door bussing for a similar reason as C.A. requires it; a preventive measure to ensure the student stays safe. In Penn Hills, the student had asthma, and was unable to walk to the bus stop without a flareup. The accommodation was put into place to avoid an asthma attack. Here, C.A. has a physical foot disability that runs the risk of getting worse with prolonged walking and climbing up hills. The accommodation was put into place in order to avoid a flareup of ulcers or pressure sores on C.A.'s foot. Just as the accommodation was preventive in Penn Hills and deemed necessary for the student in order to use the bus, C.A.'s accommodation is preventive and should be deemed necessary for C.A. in order for him to use the bus.

The Office of Administrative Law has also agreed that preventive measures can be the subject of a 504-plan when it comes to episodic, intermittent conditions See L.S. obo K.S. v. Watchung Hills Regional Board of Education, OAL Dkt. No. EDS 15355-13, Final Decision (March 28th, 2014). In this case, the student had severe food allergies that would send him into anaphylaxis if he came into contact with certain food. Id. at 3. The

District denied a 504-plan to the student, reasoning that since he has never had an allergic reaction at school, doesn't have other limitations in physical activities, and was doing well academically, a 504-plan was not necessary. Id. at 5. The judge found that it doesn't matter if he never had an allergic reaction at school and doesn't matter that he is cleared to play sports and physical education. Id. at 9. The issue then became whether the student has a disability under the ADA, even though the disability was not active all the time. Under the ADAAA, mitigating measures are not to be considered in determining whether someone is disabled, and the disability is to be considered *when active*. When his food allergies were active, the student's ability to breathe was detrimentally impacted, which is a major life activity under the ADA. Id. Further, that he had never had an allergic reaction at school did not render him ineligible. "Pursuant to the ADAAA, [the student] does not lose his eligibility simply because the impairment is episodic as it is recognized that he is not in a constant state of allergic reaction, just as a child with seizures is not always seizing." Id. at 9.

The judge found that the student was eligible for a 504-plan despite the episodic nature of the condition, because the ADA definition of disability was met when the condition is active. The judge reasoned

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"if the accommodations he has received are removed, it is undeniable that the student would face a high risk of an allergic reaction that could substantially limit major life activity of breathing. Thus, the fact that K.S. has fortunately avoided an allergic reaction due to the proactive efforts of the District cannot be used against him to determine that he does not have a disability under the ADA and Rehabilitation Act." Id. at 11.

The most compelling reason to the undersigned, in granting the due process petition requested relief, is that none of the medical professionals that testified thought the door to door bus accommodation was not needed. Dr. Ignatiuk strongly recommended it. The school physician, Dr. Padavan, did not dispute it would be helpful. The independent medical expert, Dr. Ahmed, also did not dispute it would be helpful. In fact, he agreed vehicle transport would be better than walking up the hill to C.A.'s house. There was no medical testimony or evidence provided that would counter

the clear conclusion that door to door transportation must be part of C.A.'s 504 plan. None. Petitioners have more than met their burden of proof. The evidence greatly preponderates that the 504 plan should have the accommodation of door to door bus transportation. Failure to provide such a reasonable accommodation could very well lead to ulcers and sores, which would directly and adversely affect C.A.'s education. He could require additional surgery; he would miss school. He would not be able to participate in school activities.

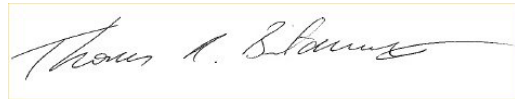
ORDER

It is hereby **ORDERED** that the relief requested in petitioners' due process petition is granted, as follows:

Door to door bus transportation shall be part of C.A.'s 504 plan until graduation;
and,

C.A.'s treating physician for his foot shall annually before the start of each school years submit a letter stating that the accommodation shall continue, or, in the alternative, that C.A. no longer requires said accommodation, in which case it shall end.

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). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.



February 8, 2024
DATE

THOMAS R. BETANCOURT, ALJ

Date Received at Agency

Date Mailed to Parties:

db

APPENDIX

List of Witnesses

For Petitioner:

Ashley Ignatiuk, surgeon

K.A., petitioner

C.A., student

For Respondent MCVSD:

Dr. Dean Padavan

Dr. Amir Ahmed

Athena Borzeka, Director of Student Services at MCVSD

Carol Maffei, School Nurse

For Respondent Bloomingdale:

None

List of Exhibits

Joint Exhibits:

Exhibit J1 Bloomingdale 504 plan signed 9.13.21 and 504 revision (unsigned and undated)

Exhibit J2 MCVSD Physical Examination Clearance Form signed 4.21.22 Health History Update Questionnaire, Preparticipation Physical Examination Form, Health History Appraisal and Athlete with Special Needs Supplemental History Forms signed 7.21.23 and Health History Appraisal (undated)

Exhibit J3 Letter from Ashley Ignatiuk MD re. 504 recommendations dated 8.23.22

Exhibit J4 C.A. MCVSD Student Schedule 2022-2023 School Year

Exhibit J5 CVSD 504 Plan dated 9.7.22

Exhibit J6 Letter from Michael Nicosia, Ed.D Superintendent Bloomingdale to Scott Moffit, Superintendent MCVSD re. walking route dated 9.8.22

- Exhibit J7 Letter from Jacquelyn Amodeo, APN, FNP-C re. C.A. dated 9.12.22
- Exhibit J8 MCVSD 504 Plan dated 9.22.22
- Exhibit J9 Emails between Parents and Athena Borzeka, Director of Student Services and Special Education, dated 10.12.22 through 9.22.22
- Exhibit J10 Email from Dr. Ignatiuk to Athena Borzeka, Director of Student Services and Special Education, dated 10.12.22
- Exhibit J11 Email from Dr. Ignatiuk to Athena Borzeka, Director of Student Services and Special Education, dated 11.14.22
- Exhibit J12 Emails between Parent and Carolyn Chaudry Esq. 11.28.23 through 11.16.23
- Exhibit J13 Section 504 Team Meeting Notice dated 11.22.22
- Exhibit J14 Correspondence from Dr. Ignatiuk to Carol Maffei, School Nurse, dated 11.27.22 with attached 504 input
- Exhibit J15 Letter from Dr. Padavan, School Physician, dated 11.30.22
- Exhibit J16 PE teacher 504 input (undated)
- Exhibit J17 Assistant Principal, Mark Menadier, 504 input dated 12.1.22
- Exhibit J18 Letter from Dr. Deingeniis-DePasquale, High Mountain Health dated 12.01.22
- Exhibit J19 Emails between Athena Borzeka, Director of Student Services and Special Education, and Dr. Ignatiuk dated 12.2.22 and 12.6.22
- Exhibit J20 MCVSD 504 Plan dated 12.2.22
- Exhibit J21 Letter from Dr. Ignatiuk re. return to school and restrictions dated 12.19.22
- Exhibit J22 Emails between Carol Maffei, School Nurse and Parent dated 12.23.22 through 1.3.23
- Exhibit J23 Letter from Carolyn Chaudry Esq. to Laura Siclari Esq. dated 1.5.23
- Exhibit J24 Letter from Dr. Ignatiuk dated 1.11.23 re. further clearance to participate
- Exhibit J25 Emails between Parent and Athena Borzeka, Director of Student Services and Special Education, dated 12.19.22 to 1.18.23
- Exhibit J26 Email from Parent to Carol Maffei, School Nurse re. Temporary Health Plan for C.A. dated 1.16.23

- Exhibit J27 Letter from Carolyn Chaudry Esq. to Laura Siclari Esq. dated 1.19.23 re. District evaluation request
- Exhibit J28 Email from Parent to Carol Maffei, school nurse re. C.A. Wound Care Management Plan received on 1.23.23 dated 1.1.23
- Exhibit J29 C.A. School Based Wound Care Plan dated 1.24.23
- Exhibit J30 Letter from Dr. Ignatiuk dated 1.30.23 re. further clearance
- Exhibit J31 Letter from Dr. Padavan, School Physician, dated 2.1.23
- Exhibit J32 MCVSD Permission Slip for participation in after school weight training/cardio vascular fitness/ HIIT/ metabolic conditioning (undated)
- Exhibit J33 C.A. MCVSD Student Nurse Visits Record Grade 9 2022-2023 school year
- Exhibit J34 Evaluation Report dated 4.26.23 and Clarification Letter dated 6.6.23 by Dr. Aamir Ahmed, D.P.M.

For Petitioner:

- P-1 10/7/22 email from parent to Ms. Borzeka with photo attachments
- P-2 Video attachment to 10/7/22 email from parent to Ms. Borzeka
- P-3 Dr. Ashley Ignatiuk C.V.
- P-4 Dr. Ashley Ignatiuk physician notes
- P-5 12/4/22 video of parent using scooter on bus route
- P-6 8/17/22 emails from parent to Bloomingdale Transportation D. Costa
- P-7 8/17/22 – 9/19/22 emails with Bloomingdale Superintendent M. Nicosia
- P-8 8/23/22 – 9/19/22 emails from parent to Ms. Borzeka
- P-9 color photos from joint exhibits J12, J14 and J26
- P-10 Color photos of ulcers on C.A. foot – various dates
- P-11 current photos of C.A. foot taken on 8/15/23 and 8/22/23
- P-12 school district emails produced by MCVSD in discovery

For Respondent:

- | | |
|-------------|---|
| Exhibit R1 | Bloomingtondale 504 planning emails, 504 plan signed 9.13.21, 504 plan revisions unsigned and undated, and Affidavit by Rachel Millward, School Counselor dated 7.24.23 |
| Exhibit R2 | Bloomingtondale Nursing Records and Affidavit by Janine Citer, Bloomingtondale School Nurse dated 7.27.23 |
| Exhibit R3 | Bloomingtondale Transportation Records and emails and Affidavit by Donna Costa, Transportation Coordinator, dated 7.24.23 |
| Exhibit R4 | Bloomingtondale Police Department, Affidavit by Sergeant Sami Zeidan re. walking route |
| Exhibit R5 | Email from K. Grawehr to Athena Borzeka dated 2.14.23 |
| Exhibit R6 | Google Maps Route from bus stop to home with elevation |
| Exhibit R7 | Electric Mobility Scooters considered by Athena Borzeka for C.A. |
| Exhibit R8 | Dr. Dean Padavan, Assistant Medical Director, Atlantic Health System and School Physician for Morris County Vocational School District, Resume |
| Exhibit R9 | Athena Borzeka, Director of Student Services and Special Education, Morris County Vocational School District, Resume |
| Exhibit R10 | Videos of CA at school
Video of walking route to and from bus stops |
| Exhibit R11 | Professional Articles |

