



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 06380-25

AGENCY DKT. NO. 2025-38855

Y.N. AND A.N. ON BEHALF OF E.N.,

Petitioners,

v.

HOBOKEN CITY BOARD OF EDUCATION,

Respondent.

Michael I. Inzelbuch, Esq., for petitioners (Law Office of Michael I. Inzelbuch, attorneys)

Rita F. Barone, Esq., for respondent (Flanagan, Barone & O'Brien, attorneys)

Record Closed: February 19, 2026

Decided: March 20, 2026

BEFORE **SUSANA E. GUERRERO, ALJ:**

STATEMENT OF THE CASE

Petitioners Y.N. and A.N. filed a due process petition (Petition) on behalf of their daughter, E.N., seeking an IEP with appropriate Goals and Objectives and an appropriate program and placement, specifically placing E.N at the Shefa School, an out-of-district private school. Petitioners assert that the IEPs offered by the District for the 2024–2025

and 2025–2026 school years did not offer a FAPE, and they seek reimbursement for the unilateral placement and continued placement at the Shefa School.

PROCEDURAL HISTORY

The parents filed a request for due process on or around March 27, 2025. The contested case was transmitted to the Office of Administrative Law (OAL), where it was filed on September 29, 2025. An initial prehearing conference was held on October 6, 2025, and a hearing took place on January 15, 2026, January 20, 2026, January 27, 2026, February 2, 2026, with closing arguments on February 19, 2026, at which time the record closed.

FACTUAL DISCUSSION

E.N. currently attends the fourth grade at the Shefa School, a private school in New York City, as a result of a unilateral placement. She resides in Hoboken with her family.

By way of background, in the fall of 2020, while E.N. was attending a private preschool, the parents referred her to the District's child study team (CST). They were concerned with E.N.'s speech. The District evaluated E.N. and found her to be functioning within the overall average range of intellectual ability. An educational evaluation and speech language evaluation were also conducted, and E.N. was found by the District to be eligible for special education and related services under the category of Preschool Child with a Disability. In June and July 2021, the District reevaluated E.N., and she was found eligible for special education under the category of Specific Learning Disability (SLD).

E.N. attended Hoboken schools for kindergarten during the 2021–2022 school year, and the first grade for 2022–2023, where she received special education and related services. She received, in part, speech and language therapy services three times per week for 30 minutes in a group setting.

In May 2023, the District proposed an IEP for the 2023–2024 school year (second grade), which the parents rejected. The parents were concerned about E.N.’s lack of progress during the prior two years, and they unilaterally placed E.N. at the Shefa School for the 2023–2024 school year. The parents filed a Petition for Due Process against the District, and that matter resulted in a settlement for the 2023–2024 school year. E.N. completed the second grade at the Shefa School.

While E.N. attended Shefa, the parents retained Susan K. Caplan, M.Ed. (Caplan) to conduct an educational evaluation. Her findings were documented in a report that was later supplied to the District. (P-40.) Caplan evaluated E.N. on June 30, 2023, and noted that the results of the evaluation are consistent with the reports of other professionals and with E.N.’s diagnosis of dyslexia. In this educational evaluation, E.N. performed at or below the 3rd percentile in all areas of reading and written expression, with phonological processing in the 4th percentile and oral expression in the 8th. Caplan notes in her report that the International Dyslexia Association endorses a structured literacy program for students with dyslexia, and she described structured literacy as explicit, systematic teaching that focuses on phonological awareness, word recognition, phonics and decoding, spelling, and syntax at the sentence and paragraph levels. Caplan recommends in her report that E.N. be placed in a private school for students with language-based learning disabilities, where she would receive a program of structured literacy that is integrated throughout the day. She also opined in her report that E.N. requires a small, highly structured program which teaches skills through mastery. Caplan wrote that E.N.’s “significant language processing delays” require not only pull-out speech services, but a language-rich program that provides and carries through the established speech and language goals and objectives into her classroom setting.

In December 2023, Dr. Cecilia D’Elia (Dr. D’Elia), the District’s Special Education Director, and Melissa Halchak (Halchak), special education teacher, observed the Shefa School for the District and documented their findings. (P-31.) Caplan also observed and documented her observations and opinions. (P-41.) Caplan noted in her report that the observed reading lesson appeared highly structured, featured frequent repetition and chunking of information, and that multi-sensory techniques were used.

In March and April 2024, Caplan observed the District's proposed program, and she documented her findings and opinions. (P-42.) Caplan wrote in her report that the math class observed was not appropriate for E.N.—that there was no differentiated instruction observed, no multi-sensory instruction observed, no manipulatives or number charts and that the “level of noise and chaos in the classroom was alarming.” For the pull-out replacement observation, she notes that the conventional Orton Gillingham (OG) format was not followed, there was no multi-sensory instruction, and the reading and writing programs are not integrated into the general education classroom.

In or around May 2024, the parents requested that Caplan conduct updated academic achievement testing to assess E.N.'s progress while attending the Shefa School. (P-43.) As part of her assessment, Caplan observed E.N.'s reading class at Shefa and reported speaking with her teachers. As part of the educational evaluation, Caplan conducted the Kaufman Test of Educational Achievement 3 (KTEA 3), which assesses academic achievement, specifically in the areas of reading, math, written language, and oral language skills. Caplan noted that E.N.'s performance placed her at high risk for dyslexia. E.N. scored in the fifth percentile (“low”) in the academic skills battery; low (between 4 and 5%) in reading; low in written language composite, and mostly low or below average in all areas with the one exception of math computation. Caplan also compares the results of this assessment to the results obtained on the KTEA 3 eleven months earlier, and notes that E.N. increased a full standard deviation in the areas of spelling, reading comprehension, reading composite, written language composite, and phonological processing. She also notes that, in comparing the scores, E.N. made “statistically significant progress” in a number of areas, including phonological processing, math concepts and applications, letter and word recognition, nonsense word decoding, and others. Caplan notes that while E.N. remains “severely dyslexic,” and reading continues to be a struggle for her, the program offered at Shefa, and the services received there, have positively impacted E.N.'s social skills, confidence, feelings about school, and reading skills. The District accepted the scores obtained by Caplan through her assessment but not her recommendations.

The IEPs at issue here are the proposed IEPs for the 2024–2025 school year (third grade) and the 2025–2026 school year (fourth grade).

IEP for 2024–2025 School Year

A re-evaluation planning meeting took place on July 15, 2024, that consisted of the CST, including Brendan Connelly (Connelly), case manager, and Dr. D’Elia. The parents and Caplan also attended.

The IEP reflects that the IEP team considered the results of several evaluations, including Caplan’s June 2023 Educational Evaluation and her May 27, 2024 Educational Report Update. The June 2023 evaluation notes that E.N.’s academic skills, written expression, spelling, and reading comprehension are all within the “very low” range; math applications are “below average”; letter word recognition is “low”; and math computation is average. The May 2024 evaluation shows a slight increase in some areas—with academic skills, written expression, spelling, and reading comprehension now in the “low” category.

In June 2024, the District conducted a social history evaluation as well as a psychological evaluation. The psychological assessment found her cognitive ability to be within average range, but with low-average verbal comprehension and working memory abilities, and with a significant discrepancy between her verbal abilities and visual-spatial abilities.

A speech and language evaluation conducted by Karen Kimberlin, SLP.D., CCC-SLP on or around September 30, 2023, was considered, which showed a below-average general language ability index and overall scores on the Test of Integrated Language and Literacy Skills (TILLS) as “very poor.” The District accepted the scores obtained as part of this assessment but not the recommendations.

An auditory processing evaluation, dated September 2023, notes that E.N has an auditory processing disorder, with deficits in the skill areas of binaural integration, phonemic synthesis, temporal processing, auditory short-term memory, and other areas.

The Present Level of Academic Achievement and Functional Performance (PLAAFP) references a report from E.N.'s teacher from the 2022–2023 school year, dated May 2023, and one from her math teacher for that year. The IEP references report cards and records from Shefa concerning E.N.'s progress, which were supplied to the District in June 2024.

The IEP contains several modifications in the general education and special education classrooms, and it provides for assistive technology services in the form of a trial “c-pen” device and FM system. The IEP notes that E.N. will have a shared paraprofessional available to support her needs in science and social studies.

The IEP places E.N. in a general education classroom with pull-out resource support in language arts and math. Pull-out resource support is offered twice per day (for 45 minutes duration) for both language arts and math. The IEP provides speech therapy, thirty-minutes twice per week in a group setting; and counseling twice per month. ESY is offered with group speech therapy once per week for thirty minutes.

Goals and Objectives were included in the IEP. There was one goal/objective for counseling. There were three goals for reading: one requiring E.N. to orally retell a story after having it read aloud; one to increase her phonemic awareness by blending sounds together to read words; and one to increase her phonemic awareness by segmenting words into their individual sounds. There were two goals and objectives for speech: one aimed at increasing narrative re-telling and sequencing skills to demonstrate increased comprehension of grade-level narratives and stories; and one to improve auditory comprehension of verbal information. There was one goal for writing whereby E.N. would “spell untaught words phonetically, drawing on phonemic awareness and spelling conventions.” Mastery for reading goals were set to either 75% or 80%; mastery for the speech goals were set for either 70 or 80%; and criteria for writing was “7 out of 10 trials.”

The District reports in the IEP that it has rejected the unilateral placement here because the program proposed by the District is appropriate and the least restrictive environment. It notes that the District teachers providing instruction in math, language arts, and social studies have OG training and some teachers have additional certification

in OG reading instruction. It notes that E.N.'s program includes pull-out reading instruction provided by a certified teacher, and that the teacher will be utilizing OG reading techniques as part of the program. It also notes that instruction in other academic areas, including the Individualized Learning Pathway period (ILP), will be provided by an OG-trained or certified staff. The proposed IEP notes that "if necessary," a paraprofessional would be made available to help her to access content and instruction. It notes that the team would review the IEP after 30 days to make any necessary adjustments.

The IEP also notes that the end-of-year report card from Shefa indicates that E.N., according to the District, was making little to no progress and that the services required by E.N. are accessible in the pull-out program. The District also proposed specialized OG reading instruction during the language arts block, and notes that the services she requested are accessible in the pull-out program.

Petitioners verbally rejected the proposed 2024–2025 IEP.

Post-IEP Meeting Reports and Observations

Caplan drafted a report following the July 15, 2024 IEP meeting. (P-44.) She confirmed that the District recommended a program of pull-out replacement reading, math, and language arts, while placing E.N. with a general education teacher who was OG-trained and a pull-out replacement language arts teacher with OG certification. They were informed that there would not be a special education teacher in the classroom and that if the teacher recommends it, they can add a paraprofessional to help with executive functioning skills.

Dr. D'Elia and Connelly observed the Shefa School on January 9, 2025, and wrote a report. (J-8.) They observed E.N. working on structured literacy activities, and actively participate throughout the lesson. They noted in a report that she appeared to require support when working independently, and she appeared to benefit from 1:1 check-ins from the instructor.

Caplan observed the District's proposed program on February 18, 2025, and drafted a report with her findings. (P-45.) She noted in her report that the third-grade pullout replacement resource lesson was taught at a much higher skill level than E.N.'s current level, and she noted that E.N. requires a slower rate of input and more repetition than was observed. Caplan wrote that, at that point in time, E.N. was not up to marking and coding words. Caplan also noted that the general education ILP program only had two children receiving individualized instruction from the teacher while the rest of the class worked independently on computers for the entirety of the period. Because there was no interaction between the students and the teacher during this period, with the exception of the two students receiving OG instruction, she opined that, based on the information provided by E.N.'s teachers, it would be very difficult for E.N. to sit on a computer and work independently for an extended period of time without a break.

Speech/Language Evaluation and Psychological Evaluation obtained by Petitioners

Petitioners obtained a Speech and Language Evaluation from Amy Bernstein, a speech language pathologist, who evaluated E.N. in May and June 2025. She reviewed records, interviewed the parent and student, observed a District school and Shefa, and administered a number of assessments, including the CTOPP-2, OPUS, TOLD, and TOWL-4. E.N. demonstrated below-average performance on nearly all subtests of the CTOPP-2, which measures phonological processing abilities related to reading. She scored in the 5th percentile rank ("poor") in phonological awareness, and her composite scores in this area fell within the poor range, "indicating global deficits in phonological processing." On the OPUS, which measures listening comprehension, she scored in a percentile rank of 4, and a test equivalent of a six-year-old. On the TOLD, which assesses oral language skills, she generally scored in the average range. On the TOWL-4, which assesses written language, her performance was poor in the subtests, with percentile ranks between <1 and 5.

Dr. Tina H. Snider (Dr. Snider), psychologist, conducted a comprehensive psychological evaluation of E.N. at the parents' request. She obtained information from the parents in February; assessed E.N. between March and May 2025; and observed Shefa in May 2025. She prepared a report with her findings and recommendations. (P-

51.) Dr. Snider participated in the August 2025 IEP meeting, and prepared a subsequent report with her opinions concerning the proposed IEP and opinions concerning an appropriate placement for E.N.

IEP for 2025–2026 School Year

An IEP meeting for the 2025–2026 school year was held on August 29, 2025. Dr. D’Elia attended the meeting with other District administrators, including Christy Gaudio (Gaudio), the District’s K-12 supervisor of English Language Arts Programming. Caplan, Dr. Tina Snider, and Amy Bernstein also attended with the parents.

The special education and related services offered are comparable to what was offered in the 2024–2025 IEP with the following changes: speech therapy would be provided at the same rate but with one of the two weekly sessions now being individual, rather than group; and increased pull-out resources in language arts and math.

This IEP notes consideration of Bernstein’s Speech/Language Evaluation dated July 8, 2025. She conducted a comprehensive evaluation, administering the CTOPP-2, OPUS, TOLD-1.5, and TOWL-4. E.N. demonstrated below-average performance on nearly all subtests of the CTOPP-2, which measures phonological processing abilities related to reading. On the OPUS, which measures auditory comprehension, E.N. scored in the percentile rank of 4, which has a test-age equivalent of a six-year-old. The TOLD-1:5 is used to identify students who are significantly below their peers in oral language proficiency, to determine a student’s specific strengths and weaknesses in oral language skills, and to document progress. E.N. demonstrated variable performance across all subtests—she earned average scores in certain areas but below-average in areas reflecting difficulty with syntactic structure and understanding relationships between words, skills that are crucial for complex sentence formulation and academic discourse. On the TOWL-4, a comprehensive assessment of written language, E.N.’s performance was poor across all measured domains, indicating “profound difficulties with written expression.” Two subtests, Contextual Conventions and Story Composition, could not be scored because E.N. did not produce the minimum amount of writing required for a

standard score. She was noted to appear overwhelmed and frustrated during this assessment.

The IEP also references consideration of information obtained from E.N.'s teachers who completed teacher rating forms (BASC-3). Dr. Tina Snider reviewed these and reported that the results show E.N. has many strengths, with an average intellectual ability; her nonverbal reasoning skills are developing on target; her overall receptive language skills are age appropriate; she struggles with expressive language and higher order verbal tasks of vocabulary and verbal reasoning. Her language weaknesses impact her ability to respond to questions, recall stories and experiences, and retrieve verbal information. The findings were consistent with her history of expressive language delays, and it was reported that E.N. meets criteria for a Language Disorder diagnosis.

The proposed IEP also notes that the present levels of E.N.'s functioning were based on end-of-year progress reports from Shefa, and that they also considered Dr. Snider's psychological assessment.

The IEP contains Goals and Objectives in the areas of counseling, language arts, math, reading, social/emotional/behavioral, and speech. The reading goals and objectives were like those in the 2024-2025 IEP but with a lowered mastery objective of 70%. The speech goals target improving her ability to comprehend, organize, and respond to spoken language; improve her phonological awareness, memory, and rapid naming skills to support decoding and word retrieval; and improving her written language skills, while the mastery objective for each goal was set to 70%. The language arts goals target phonics and word recognition; reading informational text; and writing, while the mastery of each goal/objective was set to 70% mastery.

The IEP contains several modifications, a personal FM system and support of a shared paraprofessional to support her needs in science and social studies. In the section of the IEP where the District explains that it rejected the unilateral placement, it notes that in the District, general and special education teachers providing instruction in math, language arts, science, and social studies have OG training and selected teachers have

OG certification in reading instruction, and that OG reading techniques will be utilized as part of the program. It also references ILP instruction by an OG trained or certified staff.

Caplan's Post-IEP Report

Caplan prepared another report following the August 29, 2025 IEP meeting, which she attended. (P-46.) She notes that at the IEP meeting, the District discussed ILP (45 minutes per day), their OG-trained staff, and their ability to ensure E.N. be placed with an OG-certified teacher. They were informed that pullout replacement resource center classes have eight students in the 4th grade reading class and nine students in the pullout math class. Caplan wrote that an instructional group of nine or ten is too large a group for E.N., and that the degree of individualization, with regard to content and pace that E.N. requires in reading and written language, could not be accommodated in a group that size. In her report, Caplan also notes that the academic goals for reading, writing, and math have “mastery for this objective is 70%,” and notes that this is not considered mastery. She also wrote that when comparing goals and objectives with the PLAAFP written by her teachers at Shefa, there is a significant mismatch—the goals are written for fourth grade achievement for a student who is reading at about a first/second grade level. She notes that the only special education program provided for E.N. is pullout replacement reading and math for 90 minutes per day, each, and notes that E.N. would be spending the majority of her day in programs for which she does not have the language or prerequisite skills to be successful, and that she is not even provided with any special education teachers to modify and accommodate her work for her. She opines that 90 minutes of instruction per day is insufficient to meet her needs as a severely dyslexic student, and that the IEP does not offer a program where the skills learned in reading and writing can be integrated into the instruction in other subject areas.

Shefa Report Cards and Progress Records

E.N.'s report card for the 2024–2025 school year shows her documented skills at the end of the first semester and the conclusion of the second semester in each subject. In reading, the teacher described what was covered in the class and his impressions of E.N.'s performance. For reading, and specifically in the section covering “decoding –

Phonetically regular words (Level of Support scale),” it indicates that E.N. had a 2 (indicating “occasionally”) in short vowels in January, which increased to a 3 (indicating “frequently”) in June; consonant blends were NYI (“not yet introduced”) in January but then they were introduced and she obtained a 2 in June; common suffixes went from a 2 in January to a 3 in June; and two syllables/short and long vowels were NYI in January but a 2 in June. The following ten areas/levels under decoding were NYI that year. Under “Decoding– Connected text,” she obtained 2s that year, but went from a 1 (“infrequently”) to a 2 in reading fluency. In “Reading Comprehension,” she improved from a 2 to a 3 or a 1 to a 2 in five out of the ten areas, and remained the same in the others. The teacher noted in the report card that E.N. was a motivated student who benefited from the small class size, daily repetition, and spiralized review built into the Preventing Academic Failure (PAF) program. She required frequent reminders to stay on task and benefited from prompting. The teacher reported that E.N. continued to make progress accurately reading more words and longer sentences, and in other areas. E.N. did not score a 4 (indicating “consistently”) in any of the decoding or reading comprehension sections.

In Math, under “Concepts and Skills,” E.N.’s scores increased in 21 out of the 32 areas, and remained at the same level for the other 11. The report card also covers writing, science, and language. (J-9; J-10.)

The Student Data Report, which reflects PAF testing conducted at the end of each school year, contains E.N.’s results from the Spring of 2024 and those obtained in Spring 2025. The PAF Test of Single Word Reading (PAF TOSWR) is a reading test that follows the sequence of Shefa’s curriculum. It measures decoding. It contains 12 sections with 20 words in each, although E.N. was only scored in two of the twelve sections in Spring 2024 and three of the twelve in Spring 2025, indicating that she was unable to spell any of the other, more complex, words in the sequence. For “short vowels in CVC Words,” she automatically recognized 50% of the words in 2024 and 55% in 2025; while reading correctly 80% of those words in 2024 and 75% in 2025. For “Short vowels with Diagraphs & Final Blends,” E.N. recognized 5% of those words in 2024 and read 40% of them correctly; while in 2025, she was able to recognize 20% of them automatically and read 85% of them correctly. With “One Syllable Root Words with suffixes, two syllable root words,” she was unable to recognize or read any of these words in 2024; but in Spring

2025, E.N. was able to recognize 0% of them automatically but read 50% of them correctly. Therefore, in sum, E.N. was able to recognize automatically 5% of the words in 2024, and 8% in 2025; and was able to read 10% correctly in 2024 and 18% in 2025. Of note, when E.N. arrived at Shefa in the fall of 2023, she was unable to recognize any words automatically and could read only 1% of words correctly. (P-73.)

On the Shefa Spelling Assessment, E.N. was able to spell 9% of the words presented to her in Spring 2024, and 21% in Spring 2025. In the Math Computation section, E.N. obtained a standard score of 103 in 2024 and 96 in 2025 (90-110 are considered in the average range), and dropped from the 58th percentile to the 39th, with a stanine of 5 to 4 (stanines of 4 to 6 are considered average).

Testimony

Christy Gaudio

The District's K-12 supervisor of English Language Arts Programming, Gaudio, testified about Hoboken's District-wide OG program, which she has overseen over the past five years. She was qualified as an expert in the areas of literacy, reading, writing and structured literacy, including dyslexia.

Gaudio testified about the structured literacy program and multi-sensory education that has recently been implemented by the District over the past few years. Since around 2022, the District provided some District general education and special education teachers with 30-hour literacy training, and additional teachers throughout the District received this training in subsequent years. During the 2024–2025 school year, the District partnered with the OG Academy, which allowed for training and coaching to obtain OG certification for participating teachers. According to information provided by the District, this training was ultimately completed by about 53 teachers in the District, and they ultimately had 44 educators certified in OG, and additional teachers were to be trained and certified during the 2025–2026 school year. (R-8.)

Gaudio testified about the different benchmark assessments conducted by the District in grades 3 and 4, and how data obtained from this testing informs the individualized learning pathway period interventions. She testified that the District has a 90-minute literacy block structure for all grades K-12 which includes phonological awareness, phonics, fluency, vocabulary and comprehension. She testified that in the ELA pull-out resource classroom they emphasize their knowledge in OG and structured literacy.

Gaudio participated in a meeting with the parents' experts in August 2024 where they discussed structured literacy and Hoboken's framework for instruction, including differentiation. She opined that because they have a prescriptive and diagnostic approach to teaching reading, the District would be able to meet any student who comes to Hoboken exactly where they are.

Gaudio testified about the 45-minute ILP period that could be used as an extension of the literacy instruction—where students receive differentiated instruction in a small group setting. She testified that the homeroom/social science teacher is also OG-certified.

Brendan Connelly

Connelly is a Learning Disabilities Teacher-Consultant (LDTC) and the case manager with the District. He was qualified as an expert LDTC and in case managing students with specific learning disabilities. He began working with the District over the summer of 2024, while E.N. was attending Shefa. He was assigned to E.N. as part of his case management responsibilities upon his arrival at the District, and helped draft the 2024–2025 and 2025–2026 IEPs.

Connelly reviewed the evaluations referenced in the IEP, including the educational evaluations from June 2023 and May 2024, and the District accepted those scores. He wanted to do a reading fluency test because he felt that the tests conducted lacked qualitative information; however, he never obtained consent from the parents for this testing. He later agreed, however, that that parents were cooperative. Through his

review, Connelly learned that E.N. had a 90 FSIQ, which indicates very good cognitive scores, but recognized that she lacked in the working memory index.

Connelly testified that in preparing the 2024–2025 IEP, he saw that while E.N. appeared to be a very compliant student, the progress reporting from Shefa did not seem to show that she was making gains, specifically in reading. He testified that he considered the reports to be very subjective, and he also noted some attendance issues at Shefa.

Connelly noted that E.N.'s disabling conditions included dyslexia, primarily; ADHD; central auditory processing; dysgraphia; and executive functioning weaknesses. He agreed that E.N. has specific learning disability (SLD) in reading and writing, and auditory processing issues.

Connelly testified that he did not agree with the unilateral placement. He testified that Caplan's report contained quantitative but not qualitative information. He agreed that she requires a structured program which teaches skills through mastery but believed that Hoboken could service E.N. in District with one of its own literacy programs and pull-out resource for language arts and math. Connelly testified that the resource room has a heavily guided OG approach, where they have several teachers who are either certified or training in OG to provide instruction. He testified that there are up to nine students in a resource room, while the science and social studies classes would have between sixteen and twenty-two students. He testified that the program proposed is in Wallace elementary, although he could not testify whether there were certain qualifications of an OG teacher that they were looking for for E.N. He was concerned about her transitioning from the smaller environment of Shefa, and he believed that a shared paraprofessional would be necessary for E.N.

Connelly observed Shefa on January 9, 2025 and agreed that the report of that observation was positive. The classroom he observed at Shefa had four students.

Connelly testified that he had an issue with the Shefa progress report because it contains a lot of "not yet introduced" goals. He testified that he had a hard time understanding Shefa's progress reports based on a numerical quantitative grade without

any specific evidence. He never asked Shefa for clarification as to how their number system or reporting works, nor did he ever ask Shefa about questions or concerns that he had, including the “not yet introduced” goals.

Prior to preparing the 2025–2026 IEP, Connelly reviewed Bernstein’s report and the results of her assessment. The District accepted those scores, but the report did not alter his opinions. He also reviewed Dr. Snider’s report, where the results comport with an ADHD diagnosis, and because of this report, a goal was added into the IEP for self-advocacy and counseling.

Connelly testified that E.N. can be serviced in District with the District’s language-based program and pull-out support because the teachers are trained in OG methodology.

Connelly did not contact Shefa before the first IEP meeting that took place only two weeks after starting with the District. He agreed it would have made sense to get present levels from Shefa, but he did not.

Connelly agreed that the only special education E.N. would be receiving per the 2024–2025 and 2025–2026 IEPs was in language arts and math. He agreed that there needed to be math goals and objectives in the 2024–2025 IEP, but there were none. He also agreed that a shared aide was recommended for the 2025–2026 school year and that while the IEP only provides it for science and social studies in both IEPs, he testified that he believed she would have a shared paraprofessional throughout the day.

Melissa Halchak

Halchak is a special education teacher with the District who was qualified as an expert in instructing students with reading disabilities. She has a dyslexia specialist graduate certificate and is OG-certified. She taught in a pull-out resource setting in reading and writing in 2024–2025, and did not know whether she would have taught E.N.

Halchak testified generally concerning how she conducts assessments at the start of the school year, and about the coordination between general education teachers and the homeroom teacher. She testified about the ILP period and how the homeroom teachers work with the students to provide additional support in areas of weakness during the ILP period. She testified that she believes the majority of general education teachers have at least OG training, which consisted of a weeklong training.

In December 2023, Halchak observed E.N. at Shefa together with Dr. D'Elia. (P-31.) She testified that there were six students and two adults in the class. She testified that, in her experience, when there are more than six students in a resource room, there is usually also a paraprofessional.

Halchak testified that she was not familiar with the PAF program used at Shefa, and could not say whether the PAF program was appropriate for E.N.

Dr. Cecilia D'Elia

Dr. D'Elia is the director of special services at the District and was qualified as an expert in supervising special education programs in public schools. She first became involved in E.N.'s IEP at the end of her first-grade year when she learned that the parents had concerns about E.N.'s progress and decided to unilaterally place her at Shefa.

Dr. D'Elia attended the observation of Shefa with Halchak, who informed D'Elia that the District was able to provide a program comparable to Shefa's. She testified that the child study team felt that the class size in the resource room was appropriate for E.N. Dr. D'Elia testified that they considered reports provided by the petitioners and that the child study team agreed that E.N. needed a multisensory approach to learning to read and to address her central auditory processing needs and attentional needs. She was aware of the parents' concerns concerning class size and testified that they were going to provide E.N. with the smallest class size that they could in District for reading and math. She testified that for her general education classes, E.N. would have a teacher that has undergone multisensory reading instruction training. Science and social studies classes have between sixteen and twenty-two students. Dr. D'Elia testified that a

paraprofessional was provided for science and social studies and noted that a paraprofessional was also listed under the general education and special education sections in the IEP, but then also recognized that the IEP indicates a paraprofessional would be provided “if necessary.”

Dr. D’Elia testified that writing the 2024–2025 IEP was a “group effort,” and that no attorneys were present at the IEP meeting. She opined that the IEPs offered here, where E.N. would be in the general education setting with pull-out resource support, were appropriate to meet E.N.’s needs. She testified that the District teachers are trained and would monitor E.N.’s levels of progress by regularly assessing and tailoring the instruction to meet her needs.

Dr. D’Elia later conceded that the 2024–2025 IEP should have math goals and objectives, but does not. On cross-examination, she also agreed that out-of-district school representatives are typically invited to IEP meetings to address the appropriate program and plan, but they were not here despite having concerns about her progress. She also conceded that the present levels did not have the current information on E.N. as they never sought this information from Shefa. They did not obtain information from Shefa beyond the progress report that was supplied at the end of the year.

Dr. D’Elia testified that the parents rejected the IEP either at the end of the meeting or the following day, and they expressed concerns about the size of the classes and the Wallace school. Much later, they informed the District that they were unilaterally placing E.N. at Shefa again.

Dr. D’Elia observed E.N. a second time in January 2025. Prior to the 2025–2026 IEP meeting she had conversations with the child study team, and she asked the learning consultant and reading instruction teacher to consider the Shefa progress reports. Concerning the reports provided by the parents, Dr. D’Elia testified that the learning consultant, Connelly, indicated that he would have wanted more qualitative information about the reading.

Dr. D'Elia testified that the District provided a structured literacy program; executive functioning support; an FM system to address auditory processing issues; supports for attention deficits; and counseling, in response to Dr. Snider's reported social issues.

Dr. D'Elia agreed that E.N. made some progress at Shefa. She also agreed that the parents were cooperative.

In comparing the 2024–2025 and 2025–2026 IEPs, Dr. D'Elia testified that there was increased teacher-training and a better prepared and trained teacher in structured reading with the latter.

Susan Caplan

Caplan was qualified as an expert LDTC and an expert in special education and case management, including the preparation of IEPs and in the administration of educational testing and interpretation of CST testing. She first met E.N. on June 30, 2023, and conducted an evaluation. (P-40.) She conducted evaluations in the areas of reading, written language, and math at the end of first grade in the District. At that time, E.N. did not know all letters of the alphabet, could not read them nor write all of them, and did not know the sounds that the letters made. This also applied to numbers and their value.

Caplan observed E.N. at Shefa on December 13, 2023. (P-41.) She found the lesson to be appropriate and noted the class size of six, with two teachers. She testified that class size was vital for E.N because she needs a “continually diagnostic teaching approach and you need a very small group to continually monitor her progress, what she gets, what she does not get, and what she needs to go back and review.” Caplan also noted that E.N. has documented significant auditory processing weaknesses which would also overwhelm her in a larger group.

Caplan went to the District four times. She observed a self-contained multiple disabilities classroom, which was shown to her in error by the District, and then saw the resource center. Caplan testified that none were appropriate for E.N. She testified that

the level of skills in the District's program was much higher than where E.N. was, and instruction was provided in a group setting, with nothing individualized, as everyone did the same thing. The ILP observed consisted of all general education students while two of the children were getting 1:1 instruction in OG while the other students were on their computers with no attention by the teacher for the entire 45 minutes. She opined that E.N. would not be able to sustain her attention for 45 minutes working independently. (P-41.)

Caplan observed the pull-out replacement resource center by zoom. She found it not to be appropriate due to the level of instruction, the fact that it was whole-group instruction, and because the size of the group was too big. She testified that they were working on digraphs, which E.N. would not be able to do, and she testified that instruction did not follow the routine of most OG lessons that she has seen before.

Caplan conducted a reevaluation in May 2024 (P-43) and found that E.N. made progress at Shefa. In her report, Caplan included graphs and results of testing, including the Kaufman. She compared the results to those obtained on June 30, 2023, and testified about the statistically significant improvement in E.N.'s scores after a year at Shefa. She testified that the Shefa program is highly integrated and provides for highly structured small-group instruction in a comprehensive program. It covers every aspect of reading and every teacher in the school is trained in PAF, and applies those skills in all subjects. Caplan testified that the testing concludes that E.N. made significant progress, except in listening comprehension. She has significant auditory processing disability with very significant language delays, and listening comprehension is a big challenge for her. She testified about the progress E.N. has made in Shefa and how her skills are increasing.

Caplan testified that, at the 2024–2025 IEP meeting, there was no mention of OG instruction and that when she asked about the reading program used in the resource room, she was told that it was “Wonders.” Caplan testified about the importance of discussing with the parents how the child would be taught, how she would be getting anything different than a general education class, and how it would benefit the child. She was critical that the District was providing the same pull-out resource support that she had in the first grade and was not successful.

Caplan disputes that her report did not contain qualitative data, as Connelly appeared to suggest, and she pointed to references in her report about her classroom observation, and the information provided by the teacher. She testified that her report and recommendations were not discussed at the IEP meeting.

Caplan explained that OG is an approach, not a program, while PAF is a program. She testified how a general education teacher in the District, such as a social studies teacher, who has about 20 students in a class, is not there to teach reading but to deliver curriculum, even if she is highly skilled and trained to deliver OG. She testified that Shefa is different because it is a much smaller group, all instruction is multisensory, and all is broken down into smaller units that the students are able to understand.

Caplan testified that her issues with the IEPs include group size. Regarding the 2024–2025 IEP, she agreed E.N. requires special education in math, but needs goals and objectives as all special education programs require them. She testified that it was an inappropriate goal that E.N. will “orally retell the story including specific story elements” because she has severe auditory processing issues and has severe expressive and receptive language deficits. She testified that you have to say things to her in small units and repeat or she will not process it. She was also critical of the fact that the IEP for third grade contained a first grade PLAAFP, which is out-of-date and inappropriate.

Caplan testified that it is inappropriate to have mastery at 70%, 75% or 80%, as reflected in the IEPs, especially for foundational skills of reading. She testified that without 95% mastery of skills for a child with E.N.’s profile, you cannot move on because you will not have the foundation from which to build on. She testified that these mastery levels are not “mastery,” and are inappropriate for a student with dyslexia, and that foundational skills should be at 99%. Caplan also opined that the goals and objectives for the fourth grade did not match with what she was doing at Shefa, and were “extremely unrealistic.”

Caplan also testified that while E.N. is severely dyslexic, has a severe language disability, and needs special education all day, the IEPs only provide for special education three out of seven hours a day.

In reviewing the Student Data Reports, Caplan agreed that the difference in some of her scores from 2024 compared to 2025 may not be dramatic, but she testified that they still show progress. Regarding math scores, Caplan testified that while E.N.'s rate of learning compared to peers nationally slowed, her content was still in the average range. Caplan reevaluated E.N. in May 2024 and compared her results to those obtained eleven months earlier. She reported that, according to her Growth Scale Value scores, E.N. demonstrated "statistically significant" growth in a number of areas, including phonological processing, math concepts and applications, letter and word recognition, math computation, nonsense word decoding, reading comprehension, written expression, spelling, and word recognition fluency.

Caplan opined that the District's IEPs also fail to provide a FAPE because social studies and science, in general education, without a special education teacher modifying and changing content, denies E.N. access to success. She also opined that ninety minutes in the resource center is not enough time per day for reading and language arts for a severely dyslexic child like E.N.

On cross-examination, she recognized that E.N. started instruction in short vowels in December 2023 and had been working on that one skill for seventeen months without having mastered it. She testified that even though her progress has been slow, she is very dyslexic and very challenged, and this alone does not mean that Shefa is not appropriate.

Caplan testified that E.N. should be placed out of district because her dyslexia and language levels are such that it is a challenge for her to learn at the rate that is delivered in a general education class, even with a second teacher in the classroom who would just be modifying something that is too hard for her to learn at this point in her development.

Elizabeth Hannah Rauner

Rauner is a lead teacher at Shefa, where she is responsible for teaching reading, writing, math, and social studies, and social/emotional learning. She is a special

education teacher and a reading specialist trained in PAF and was qualified as an expert in these areas. Rauner is E.N.'s writing and social studies teacher this year.

Rauner testified about PAF, which targets decoding and phonological awareness, and Shefa's progress reports. She testified that E.N.'s 2024–2025 report card (J-10) shows that she progressed—pointing to decoding – short vowels, where she went from 2 to 3 (3 being “nearly independent,” which is close to mastery). She testified that going from 2 to 3 shows meaningful progress and that going from a NYI to a 2 also shows meaningful progress because that skill is only introduced when E.N. is ready. That report also contains paragraphs about E.N., her performance, and recommendations, which she described as qualitative.

Rauner testified about the PAF test of single word reading, which she uses (J-11), and testified that E.N. showed improvement from Spring 2024 to Spring 2025. She testified that E.N. showed meaningful progress in words automatically recognized where she went from 10% to 18%. She testified that this shows meaningful progress for someone with E.N.'s profile. She also pointed to Spelling Assessment, where E.N. increased from 9% to 21% between Spring 2024 and Spring 2025.

Rauner testified that social studies is a special education course at Shefa, where the methods in the classroom target students with language-based learning disabilities and their ability to comprehend material. She testified that the class is very interactive and she regularly diagnostically assesses E.N.'s progress and her understanding.

Rauner testified that, for the 2024–2025 school year, E.N. received speech and language therapy five times a week, and 80 minutes of reading a day; writing 45 minutes twice a week and 30 minutes once a week. She testified about E.N.'s schedule for the 2025–2026 school year. She provided testimony concerning E.N.'s schedule at Shefa, including the writing instruction (where there are only six students), reading, speech and language therapy, and social studies class (with eleven students but two teachers). She confirmed that all teachers at Shefa, except for the art and gym teachers, are trained in PAF.

Rauner testified that E.N. is progressing at Shefa based on both the quantitative and qualitative data—she is making progress in some of her discrete skills, especially pertaining to reading and math, and as her teacher this year, she observed her become more independent in class. She testified that earlier parts of the sequence are usually slower because they provide the foundation, while many of the units that follow do not take as long as the earlier ones. She explained that the next skill is not introduced until there is either 90% or 95% mastery in the prior.

When questioned on cross-examination about the time E.N. has spent at Shefa over the past two years decoding short vowels, common suffixes, consonant blends, and 2-syllable short and long vowels, as reflected in the report cards, Rauner testified that E.N. is not just dyslexic but also has both expressive and receptive language impairment, and is therefore more complex and requires more time to solidify many skills. She testified that E.N.'s progress is not atypical for students with dyslexia and language-based learning disabilities.

Amy Bernstein

Bernstein is a speech and language pathologist who has practiced for over twenty-five years. She was qualified as an expert in speech and language pathology, and the testing of reading and writing and the development of goals and objectives in these areas, as well as in development of IEPs as a case manager.

She testified about the result of her assessment and her report. (P-48.) She described E.N. as “very, very, very, very handicapped in terms of reading and writing.” When referring to the poor composite scores in phonological skills, Bernstein testified that she has not seen scores this low in many years. E.N. scored below average, 4%, in the OPUS (Oral Passage Understanding Scale), which Bernstein described as showing E.N.'s ability to comprehend if she were listening in a general education class. The TOLD (Test of Language Development) results indicate that E.N. has the capacity, as she was below-average in word ordering but average in sentence combining and picture vocabulary. While E.N. is cognitively intact, she has a developmental language disability. On the TOWL (Test of Written Language), E.N.'s performance was poor to very poor and

the results indicate profound difficulties with written expression. Bernstein explained that two subtests could not be scored at all because E.N. did not produce the minimum amount of writing required for a standard score. Bernstein testified that E.N. was also unable to read the little that she wrote, and that on the composite for contrived writing, she scored in the first percentile, “very poor,” and other composite scores could not be obtained because she did not provide sufficient output on the assessment.

In her report, Bernstein also opines on the 2024–2025 IEP. She notes that they removed her phonological skills/goals from her speech goals in 2024, despite having a speech pathologist’s report at the time. After Bernstein issued her report, the District seemed to add that goal back in to the 2025 IEP. She was critical of the District not having phonological skills for speech on an IEP for this severely dyslexic child.

Bernstein was also critical of the 2024–2025 IEP’s evaluation procedures with 25 new grade level vocabulary words, and she testified about how some of these make no sense. She was also critical of the 70% mastery criteria in the goals and objectives, which is not appropriate for someone with dyslexia who needs automaticity. Bernstein also noted that the present levels were from a prior year and were improperly included in the IEP and testified that you cannot have goals based on old data. She also pointed out that the IEP notes that E.N. has no communication needs despite having “magnanimous” communication needs. She testified that E.N.’s communication needs are more than significant, and more than those of 95% of the children with dyslexia that she has evaluated over twenty-five years.

Bernstein testified that the FM system is not enough to support E.N. and that an aide would not matter—she needs differentiated instruction. She also opined that the IEPs do not provide enough speech therapy and do not allow for enough individualized time.

Bernstein observed a social studies class in the District and opined that it was inappropriate for E.N. as it was “so language heavy” and moved quickly. When she observed the District’s social studies class in June 2025, she noted a class size of 19, with one teacher, and opined that this environment was not appropriate for E.N. She

opined that the language-based demand of oral presentations exceeds her capabilities and that E.N. would not be able to produce comparable written content. She noted that E.N. was receiving an intensively supported and individualized instructional environment with highly specialized language and literacy support to make effective progress.

Bernstein wrote another report in September 2025 with her review of the proposed 2025–2026 IEP and opinion that the proposed IEP does not and cannot meet E.N.'s needs at this time. (P-49.) She opined that the goals were too broad, there was insufficient intensity of literacy instruction, limited speech services, and that placement in larger groups fails to provide the specialized, immersive, and language-based environment required for meaningful progress. She also testified that a 70% mastery level is not appropriate mastery for someone with dyslexia; the IEP does not offer enough speech; and the proposed IEP does not provide the intensity, the continuity, the expertise for her to make meaningful progress, much less access any of the curriculum her peers are accessing.

In response to the District's concern about E.N.'s progress at Shefa, she notes that that E.N is one of the most severely dyslexic children she has ever evaluated, and that for a student with such profound needs, any gains she has made at Shefa are meaningful. She testified that the Shefa environment allows her to remain engaged and supported and move forward at her own pace.

Dr. Tina Snider

Dr. Snider is a licensed psychologist. She conducted a comprehensive psychological evaluation of E.N. and wrote a report dated June 4, 2025. (P-51.) She was qualified as an expert witness in psychology, and in the review and development of IEPs.

When she assessed E.N., Dr. Snider administered a traditional cognitive assessment (WISC-V), and a non-verbal intelligence measure. On the WISC-V, E.N. had an average FSIQ, and she testified that E.N. is cognitively capable of learning. She also assessed E.N. using the WIAT-4, an academic test, and compared her results to those

obtained in 2022, and every area assessed showed an increase in scores between 7 to 28 points. Dr. Snider notes that E.N. made “very profound gains” over time.

Dr. Snider observed E.N. at Shefa. She diagnosed her with ADHD, executive functioning disorder, and an SLD in reading and written expression. She described E.N. as severely learning disabled, but one who has progressed quantitatively and in other ways, which she opined could not be achieved in a larger classroom environment with basic pull-out support.

Dr. Snider attended the IEP meeting in August 2025. She testified that, despite the District’s representations, E.N. would not be receiving structured literacy all day in the District’s proposed program. Dr. Snider expressed concern with class size and that E.N.’s program be appropriately paced and at the appropriate level. She testified that E.N. is “an incredibly learning disabled” student who requires a highly individualized education program. When she observed Shefa’s program, she testified that the structured literacy program there was delivered at a pace, and with the repetition, that was appropriate for E.N. She testified that when she observed the District pull-out ELA program, the class was doing things above E.N.’s ability.

Dr. Snider testified that, at Shefa, E.N. has a social, emotional learning component to her program. She opined that the counseling goals in the proposed IEP are not appropriate nor measurable. She testified that 70% in the goals and objectives is not mastery, and inappropriate for E.N., and that having an aid is not enough because it would not assist her to access content instruction. Dr. Snider opined that Shefa is appropriately leveled and paced for E.N., and that her teachers have reported great progress and interest this year. She also notes that Shefa is also supporting E.N.’s mental health and wellness as she is happy and enjoying her successes.

Brittany Zucker

Zucker is certified in OG and was qualified as an expert in speech and language pathology, and in the teaching of reading to children with dyslexia. Zucker is Shefa’s lower school reading coordinator and also teaches reading. She first met E.N. in June

2023 and testified that when she arrived at Shefa, going into second grade, she was at a pre-K reading level. Zucker testified that E.N. was only able to decode three words, and had difficulty identifying all the letters of the alphabet and really struggled to write. Zucker testified that E.N. could not write any words and struggled to write letters and identify their sounds. She testified that now, in the fourth grade, E.N. is reading at an end-of-first-grade or beginning-of-second-grade reading level, and opined that E.N. made meaningful progress.

Zucker explained that Shefa groups their students by level, not by grade. She worked with E.N. from September to December in her one-to-one reading intervention while the small group instructor was on maternity leave, and testified that she progressed during that time, specifically as they worked on glued sounds.

Zucker testified that reading instruction is at the same time for all students in the lower school, for an hour and 15 minutes four days a week and for one hour on Fridays (total of 6 hours). On Tuesdays, E.N. also receives extra, one-to-one, reading support for 30 minutes to help solidify the skills that she is learning and ensure that there is carryover. She receives this same support once a week for math, twice for speech and language, and twice for language support. She also receives writing instruction twice a week for 45 minutes and once a week for 30 minutes (120 minutes a week). E.N. also gets two language group sessions, and speech four times a week, in addition to the two one-on-one support periods.

She testified that every new lead teacher, or classroom teacher, small group teacher, and any speech and language pathologist is trained in PAF prior to starting at Shefa, with the exception of gym and art teachers. She described PAF as an OG-based program.

Zucker testified that E.N. is reading more words, learning the skills taught to her in the program, and increasing her ability to read more text. She is also increasing her stamina and overall confidence as a reader, and is making progress overall. When asked whether E.N. will be at an end-of-third-grade level by the end of fifth grade if she continues at the same rate of progress that she has been demonstrating, Zucker could not answer.

She did testify that the foundational reading levels take longer to master than the harder ones, and that she does not know how E.N. will progress.

ASSESSMENT OF TESTIMONY AND FINDINGS OF FACT

I found Caplan's expert testimony concerning E.N.'s abilities and educational needs reliable and compelling. Since June 2023, she has conducted four observations at the District; observed E.N. at Shefa; and conducted a comprehensive evaluation in June 2023 and a reevaluation in May 2024, and she testified credibly concerning E.N.'s progress while at the Shefa School. She is also a seasoned LDTC, with over 30 years of experience, and I have no basis to question the results of her testing. While I also found Connelly to be a credible witness, I afford more weight to Caplan's opinions concerning E.N. and the proposed IEPs. Connelly was very new to the District when he was assigned to case manage E.N. and to help formulate the 2024–2025 IEP; he did not reach out to Shefa about the questions he had, nor did he obtain E.N.'s present levels, before issuing the IEP; and he appeared confused about whether E.N. would be provided a paraprofessional throughout the day or for only part of the day.

While Gaudio testified concerning Hoboken's new District-wide OG program, her testimony was not particularly useful in understanding how this program, which is not a special education program but an approach to reading aimed at supporting all students in the District, would work for E.N. The IEPs do not indicate that E.N. would receive OG instruction throughout the day, nor does it indicate that she would receive differentiated instruction in her classrooms. Rather, it only references that her pull-out reading instruction is provided by a certified teacher who will utilize OG reading techniques, and it references that general and special education teachers for some subjects are either trained or certified in OG. It was unclear from the IEP and the testimony whether the programs proposed by the District would provide E.N. with a sufficiently rigorous literacy program that could meet E.N.'s significant needs. I also found the testimony of Bernstein and Dr. Snider both credible and reliable with regard to their respective areas of expertise and assessments of E.N., and their testimony was un rebutted.

Finally, Rauner and Zucker testified credibly concerning the Shefa School, PAF, the Report Cards and Student Data reports, and their interactions with, and opinions concerning, E.N.'s progress at Shefa.

Given my assessment of the credibility and reliability of the witnesses' testimony, together with the documents in evidence, I **FIND** the following additional **FACTS**:

The IEP offered for the 2024–2025 school year is inappropriate because: it fails to include any goals and objectives for math, a subject for which E.N. was to receive special education services; the goals and objectives for reading, speech, and math contain a mastery criteria between 75% and 80%, which is too low and not appropriate for E.N. given her profile; the present levels section does not include present levels from E.N.'s current teachers at Shefa but rather outdated information from when she attended the District program. The IEP offered for the 2025–2026 school year inappropriately sets the mastery criteria in language arts, reading, math, and speech to 70%, which is too low given E.N.'s profile. Most importantly, however, with regard to both IEPs, the District failed to demonstrate by a preponderance of the evidence that the program it proposed for E.N. in District was adequately rigorous, or that it provides the appropriate level of support, to allow her to make meaningful progress in light of her disabilities.

E.N. not only has SLD in reading and writing, but profound and severe dyslexia, ADHD, auditory processing issues, dysgraphia, and executive functioning weakness, all of which significantly impact her ability to function in the general education classroom. In the District's proposed program, E.N. would only be receiving special education in language arts and math through basic pull-out support for 90 minutes a day, each. In all other areas, such as social studies and science, she would be receiving instruction in a large general education classroom. The petitioner's experts testified credibly that a large class, such as those in the District's general education classrooms, would be inappropriate for her as she requires structured literacy in a small environment throughout the day.

Given the level of her disability, E.N. requires more than simply special education in language arts and math, even with the modifications and accommodations listed in the

IEP. E.N. requires an intensively supported structured literacy program throughout the day, in a small group environment, with executive functioning support, to make effective progress. She requires a program where the skills learned in reading and writing are reinforced and integrated into the instruction in other subject areas, such as science and social studies. While most teachers in the District may have training or even certification in OG, and there is a District-wide literacy program, the District failed to demonstrate that E.N. would receive integrated OG instruction throughout the day, or that the instruction and support that would be provided to E.N. would be sufficiently rigorous or individualized to meet her needs. The District fell short in demonstrating, by a preponderance of the evidence, that the proposed IEPs for 2024–2025 and 2025–2026 offered E.N. an appropriate education that would allow her to make meaningful progress.

Shefa uses the PAF program, and the District witnesses expressed no concern regarding this program or the instruction provided at Shefa. At Shefa, E.N. receives a structured literacy program that provides for consistent reinforcement and integration of skills taught across the curriculum. The District was justified, however, in questioning E.N.'s progress at Shefa given the number of "NYI" skills reflected in the report cards, and the fact E.N. has not mastered with automaticity short vowels and CVC words in 17 months. While this was concerning, the petitioners' expert witnesses adequately explained how E.N.'s progress, while slow, is still appropriate given her severe and profound disabilities, particularly given the fact that it typically takes longer to master the initial foundation skills. They also testified credibly that it is not atypical for a student with E.N.'s level of disability to progress at the rate reflected in the progress reports, and that the reports do show slow but meaningful progress—not only quantitatively, but qualitatively as she has become a more independent, motivated, and active learner. Progress is also evident in Caplan's report of May 2024, which showed statistically significant progress in several areas over the previous eleven months.

LEGAL ANALYSIS AND CONCLUSIONS

This case arises under the Individual with Disabilities Education Act (IDEA), 20 U.S.C. § 1401 et seq., which makes available federal funds to assist states in providing an education for children with disabilities. Receipt of those funds is contingent upon a

state's compliance with the goals and requirements of the IDEA. Lascari v. Bd. of Educ. of Ramapo-Indian Hills Reg'l High Sch. Dist., 116 N.J. 30, 33 (1989). As a recipient of Federal funds under the IDEA, the State of New Jersey must have a policy that assures that all children with disabilities will receive FAPE. 20 U.S.C. § 1412. FAPE includes Special Education and Related Services. 20 U.S.C. § 1401(9); N.J.A.C. 6A:14-1.1 et seq. The responsibility to deliver these services rests with the local public school district. N.J.A.C. 6A:14-1.1(d). To meet its obligation to deliver FAPE, the school district must offer an IEP reasonably calculated to enable E.N. to make progress appropriate in light of her circumstances. Andrew F. v. Douglas Cnty. Sch. Dist. RE-1, 580 U.S. 386 (2017). In New Jersey, the burden of proof and the burden of production in special education matters rests with the school district.

Do the 2024–2025 and 2025–2026 IEPs offer E.N. a FAPE?

The District asserts that it met its burden of offering FAPE through both IEPs, and that E.N. would receive meaningful educational benefits in the District's program.

After considering the expert testimony and documentary evidence presented at the hearing, and in light of my findings of fact, I **CONCLUDE** that the District has not met its burden of showing by a preponderance of the credible evidence that the IEPs proposed for the 2024–2025 and 2025–2026 school years offer E.N. an appropriate program and placement reasonably calculated to enable her to make meaningful progress in light of her disability. As I found above, the IEPs contain inappropriate goals and objectives; present levels were not included in the 2024–2025 IEP; and both IEPs fail to offer an intensively supported structured literacy program throughout the day, and in a small group environment, that can adequately address E.N.'s profound and significant dyslexia and other disabilities and challenges.

Accordingly, I **CONCLUDE** that the IEPs proposed did not offer E.N. a FAPE.

Was Placement at the Shefa School appropriate and are E.N.'s Parents Entitled to Tuition Reimbursement for the 2024–2025 and/or 2025–2026 School Years?

The private placement must be appropriate. N.J.A.C. 6A:14-2.10(b). However, the private school need not meet the IDEA's § 1401 definition of a "free appropriate public education" applicable to a public school, meeting standards of the State educational agency or be a State-approved school. Florence Cnty. Sch. Dist. Four v. Carter ex rel. Carter, 510 U.S. 7, 13–14 (1993). Instead, the private school placement need only be "reasonably calculated to enable the child to receive educational benefits." Id. at 11. Here, I found that E.N. made progress at Shefa, a program that provides E.N. with structured language-based support integrated throughout the day. Thus, I **CONCLUDE** that a preponderance of the evidence exists to demonstrate that the Shefa School was an appropriate placement for E.N. during the 2024–2025 and 2025–2026 school years.

Consequently, given that the District's proposed IEPs for the 2024–2025 and 2025–2026 school years did not offer a FAPE, and that petitioners' unilateral placement of E.N. at the Shefa School was appropriate, I **CONCLUDE** that petitioners are entitled to reimbursement for E.N.'s non-sectarian expenses at the Shefa School for these two school years.

The cost of reimbursement for a unilateral placement may be reduced or denied upon a judicial finding of unreasonableness with respect to actions taken by the parents. N.J.A.C. 6A:14-2.10(c). During closing arguments, the District argued that the parents acted unreasonably by not consenting to speech and language evaluation, wanting a specific school in the District, and by filing for due process when they had just entered into a settlement agreement with the District for the prior school year. Connelly testified that there was a request for consent for a speech and language evaluation and that he did not obtain consent from the parents, but he also agreed that the parents were cooperative. The record is unclear why the parents did not provide consent, nor whether this had any impact whatsoever on this matter. The evidence is also inconclusive as to whether the parents rejected the IEPs because E.N. would not be in the school of their choice. Because the District's witnesses agreed that the parents were cooperative, and as there is insufficient evidence of any intentional non-cooperation or unreasonable behavior, I **CANNOT FIND** that the parents acted unreasonably. Consequently, I **CANNOT CONCLUDE** that their actions warrant any reduction in tuition reimbursement.

ORDER

Based on the foregoing, it is **ORDERED** that the relief requested by petitioners, specifically reimbursement for the non-sectarian portion of the tuition to attend the Shefa School for the 2024–2025 and 2025–2026 school years, including transportation, be and hereby is **GRANTED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2026) 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 (2025). 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.

March 20, 2026
DATE


SUSANA E. GUERRERO, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

jb

APPENDIX

LIST OF WITNESSES

For Petitioner:

Susan Caplan
Elizabeth Hannah Rauner
Amy Bernstein
Dr. Tina Snider
Brittany Zucker
Lori Cinar

For Respondent:

Christy Gaudio
Brendan Connelly
Melissa Halchak
Dr. Cecilia D'Elia

LIST OF EXHIBITS IN EVIDENCE

Joint:

J-1	IEP dated July 15, 2024
J-2	IEP dated August 18, 2025
J-3	Not in evidence
J-4	Not in evidence
J-5	Connelly's review of Susan Caplan's Reports, July 2024
J-6	District's review of Dr. Karen Kimberlin's Report, July 15, 2024
J-7	Not in evidence
J-8	District Observation of Shefa by Connelly and D'Elia, January 9, 2025
J-9	Shefa progress report
J-10	Shefa Report Card -Semester 2, 2024–2025
J-11	Shefa Student Data Report

For Petitioner:

P-1 to P-30	Not in Evidence
P-31	District Observation -Shefa by Halchak and D'Elia
P-32 to P-39	Not in Evidence
P-40	Caplan's Report from 6/30/23 evaluation
P-41	Caplan's Report from 12/13/23 observation
P-42	Caplan's Report of observations at Hoboken Public Schools
P-43	Caplan's updated evaluation, May 2024
P-44	Caplan's Report from July 15, 2024 IEP meeting
P-45	Caplan's Report of Observation on 2/18/25
P-46	Caplan's Report of review of proposed IEP, 8/29/25
P-47	Caplan's CV
P-48	Bernstein's Speech and Language Evaluation, June and July 2025
P-49	Bernstein's Review of proposed IEP
P-50	Bernstein's CV
P-51	Snider's report following evaluations through May 2025
P-52	Snider's updated report, signed August 30, 2025
P-53	Snider's addendum, signed November 5, 2025
P-54	Snider's report following 12/18/25 observation of District school
P-55	Snider's CV
P-56 to P-64	Not in Evidence
P-65	Shefa class schedule 2024–2025
P-66	Shefa class schedule 2025–2026
P-67 to P-72	Not in Evidence
P-73	Shefa Student Data Report 2023–2024
P-74	Shefa Student Data Report 2024–2025
P-75 to P-94	Not in Evidence
P-95	Zucker CV (only BS1777, 1778)
P-96 to P-100	Not in Evidence
P-101	Zucker CV
P-102	Not in evidence
P-103	Schedule 2025

For Respondent:

R-1	Grade 4 ELA Curriculum
R-2	Literary Legends
R-3	Curriculum Newsletter
R-4	Curriculum Newsletter
R-5	Curriculum Newsletter
R-6	Dyslexia Screening Notification Letters
R-7	Not in evidence
R-8	Orton Gillingham Retrospective
R-9	Not in evidence
R-10	CV of Melissa Halchak
R-11	CV of Ashley Regan
R-12	CV of Brendan Connelly
R-13	CV of Dr. Cecilia D'Elia
R-14	CV of Christy Gaudio
R-15 to R-17	Not in evidence
R-18	Student Data Report 2024–2025 (<u>see</u> J-11)