

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 08486-16

AGENCY DKT. NO. 2016-24375

A.F. AND S.F. ON BEHALF OF N.F.,

Petitioners,

v.

WARREN HILLS REGIONAL HIGH

BOARD OF EDUCATION,

Respondent.

Beth A. Callahan, Esq., for petitioners A.F. and S.F. on behalf of N.F. (Callahan & Fusco, attorneys)

Nathanya G. Simon, Esq., for respondent Warren Hills Regional High Board of Education (Schwartz Simon Edelstein & Ceslo, attorneys)

Record Closed: December 23, 2016

Decided: February 8, 2017

BEFORE **GAIL M. COOKSON**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On or about April 26, 2016, A.F. and S.F. filed this petition on behalf of their fourteen-year-old son N.F. and requested a due process hearing on the issue of whether respondent Warren Hills Regional High Board of Education (District) had failed to provide him a Free Appropriate Public Education (FAPE) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. §§ 1400 to 1419. The petition sought, inter alia, the procurement of a VGo robot by the District as a necessary support for N.F. to receive

FAPE consistent with the IDEA for periods of extended medical leave. Respondent filed an Answer with Affirmative Defenses in opposition to the Petition on or about May 5, 2016. There is no dispute that N.F. is entitled to special education as a child classified under the IDEA as Other Health Impaired.

The Office of Special Education Programs (OSEP) transmitted the petition to the Office of Administrative Law (OAL) on June 8, 2016. After an attempt at resolution at the OAL did not result in a settlement, the matter was assigned to me for determination as a contested matter. During the initial case management conference, I advised counsel of my mandatory protocols as set forth in my Standing Case Management Order for Special Education Cases. In accordance with that Standing Case Management Order, all direct testimonies of witnesses were proffered through pre-filed written submissions and the witnesses were then presented for oral cross-examination and re-direct examination, as needed. Pre-filed direct testimonial certifications were made part of the record herein. Several additional status conferences were held. I also required the parties to meet for an IEP meeting on August 31, 2016 to address the outstanding issues so that N.F. could attend school on the first day.

As a result of an in-person settlement conference before the Honorable Imre Karaszegi, Jr., A.L.J., on June 16, 2016, and multiple telephone conferences with the undersigned on June 23, August 29, September 16 and December 5, 2016, the parties resolved all of the issues raised in the due process petition, with the exception of the provision of a VGo robot to N.F.

The plenary hearings were originally scheduled for October 5, 7, 19 and 21, 2016. Due to the narrowing of the issues, the hearings were actually held on October 7 and 19, 2016.¹ The final post-hearing written briefs were received on December 23, 2016, on which date the record closed.

FINDINGS OF FACT

¹ A motion in limine was filed prior to the hearing to strike certain aspects of petitioners' pre-filed case. For the reasons set forth orally on the record, and incorporated herein, that motion was granted in part and denied in part.

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

N.F.² is a fourteen-year-old boy currently in the ninth grade within the District. At the beginning of this school year, he was attending all general education classes on a reduced day schedule that was mutually agreed upon pursuant to the IEP dated August 31, 2016. N.F. is classified as Other Health Impaired because of his many medical issues. He has been diagnosed with congenital Marfan syndrome with severe heart disease, including aortic root dilatation, mitral/tricuspid valve prolapse, and moderate mitral/tricuspid insufficiency. Marfan syndrome is a disorder that impacts N.F.'s musculoskeletal and cardiovascular systems. A complication of the syndrome that affects N.F. is lens dislocation, which results in vision changes. In addition to his cardiac limitations, N.F. has significant physical limitations that are orthopedic in nature. Furthermore, Marfan syndrome is a genetic disorder that affects N.F.'s connective tissue. Because connective tissue is found throughout the body, Marfan syndrome and related disorders affects many parts of N.F.'s body, including the heart and blood vessels, bones and joints, eyes, skin, and lungs.

N.F. underwent surgery in December 2015 for his heart. It is undisputed that N.F. will need a series of surgeries throughout his high school career. He also had another open-heart surgery on December 5, 2016, subsequent to the hearings in this case, and is currently hospitalized. He will have spinal surgery in the next few months as a result of his scoliosis becoming more severe over the last six months. N.F. has a significant curvature of the spine and Kyphosis (hunched back) which limits him from standing upright. Therefore, standing and walking are difficult. Each time N.F. will be in the hospital, he will be recovering at home for weeks at a time.

N.F. testified that he worked with Mary Knaap who was his home instructor last year, during periods when he could not attend school. Home instruction for N.F. is very boring because he does not get the benefit of the classroom teachers who are

² While N.F. did not testify as the first witness, and in fact, presented his testimony by way of pre-filed certification against which the District waived cross-examination, I summarize it first to set the context for this matter.

specialists in their subjects. N.F. likes the ability to discuss information in class with his teachers and classmates. He also wants the opportunity to get to know his teachers which cannot happen on home instruction. N.F. testified that he wants to attend college at Johns Hopkins University someday. He stated that hopefully he will be able to live at college and participate to the fullest extent. If he cannot physically attend college, however, he would prefer to attend via VGo robot rather than taking an online class. During his recovery from surgery last December, N.F. testified that he had many bouts of sadness and felt isolated from his community. He wants the opportunity to go to school either physically or virtually using the VGo robot whenever he is able be educated.

N.F. also set forth in his pre-filed testimony that because he missed so much school in eighth grade, he is taking algebra again instead of staying on an advanced math track. N.F. testified that the teacher Mr. Cuomo is excellent. Cuomo explains the problems to the class, helps N.F. when he gets stuck, and always tells N.F. that he is doing great work. N.F. testified that he needs the benefit of the classroom time and the practice to truly understand the subject. Although he knows Knaap tried to teach him the subject, he stated he was only able to work short periods of time and missed months of school. N.F. testified that falling behind even though it was only eighth grade gave him significant anxiety.

After working with the home instructor, N.F. testified that he sees now that he learns so much more when he can “be” in school. He needs the actual lessons, not just the worksheets or assignments that he did with the home instructor, but also the interaction with the teacher and the ability to discuss issues with peers and teachers. N.F. stated that he likes working in groups and with partners to do his work like they do in class.

N.F. knows he will miss a lot of school due to his illness and surgeries. However, the idea that he could “attend” via robot to all or most of his classes, be taught in real time, and not lose six weeks sitting around not learning anything except for what can be handed to him in worksheets, makes him hopeful and motivated. N.F. really likes being in school. He is not concerned about people thinking the robot is weird. He has friends

and teachers who care about him. N.F. knows that whether he is in school with his aide in his wheelchair or rolling through the school as the face of the VGo robot, someone will open the door for him and that he will be treated as just another student in the classroom. N.F. feels that his friends miss him when he is not in school so they would rather he was there as a robot than not there at all. N.F. stated that he thinks his teachers would be happy he was there as a robot because he always participates in class.

The District presented its case on the principle that if N.F. is unable to attend school for medical reasons, the District provides appropriate and adequate home instruction services pending his ability to return to school. The District is prepared to provide these services based on a schedule that is flexible and meets the needs and capability of N.F. at the time home instruction is needed. The District proffered witnesses supporting the appropriateness of home instruction for this student.

As stated, Knaap was N.F.'s home instructor for the remainder of the 2015-2016 school year after his surgery. Knaap admitted that she did not have any understanding what N.F.'s medical issues were and how they impacted him from a physical standpoint. Knaap testified that she has worked as a home instructor for the Warren Hills Regional School District for 26 years. She holds State certifications as a Teacher of the Handicapped K-12, Social Studies, and General Education K-8. I declined to qualify her as an expert in home instruction as such is not in my estimation a field of expertise. Knaap testified that when providing home instruction for the District, each year her caseload has varied, with an average of twenty students per year of general and special education students. She has provided home instruction services for varying lengths, from a few weeks to a few months to an entire school year. Over her 26 years, she has serviced hundreds of students successfully through home instruction services.

In providing home instruction services, Knaap obtains the work for the students from the guidance office. The guidance office obtains the work from the students' teachers. She testified that she regularly communicates with the teachers either in person or by email, usually on a weekly basis. She testified that she utilizes the same curriculum, books, worksheets, and study guides, or obtains alternative, comparable,

appropriate assignments from the teachers due to the specific nature of the work. Whatever modifications and accommodations are in the IEP are provided through home instruction. Knaap testified that she finds home instruction to be very successful for the students unable to attend school for a variety of reasons as it is truly individualized with instruction specific to them in a quiet, non-threatening, non-pressurized one-to-one setting.

She testified that she was N.F.'s home instructor in September 2015 as well as in May and June of 2016. Despite making herself available during the specific times requested by the parent, and moving her schedule around with other families in order to accommodate N.F.'s schedule, the parent would not permit Knaap to provide services during the entire scheduled hours between 11:00 a.m. and 2:00 p.m. for the time period of May and June 2016. In the spring of 2016, the parent consistently indicated that N.F. could not do the home instruction work or that it was not relevant. At the time, she had received work from N.F.'s teachers in the areas of English, Algebra, Civics, Science and Spanish. Whenever she provided home instruction, N.F. asked questions, actively participated, was alert, attentive and able to produce work, and was closely monitored in order to assure understanding. Knaap testified that N.F. was always left with other work to do without her, such as reading and worksheets; however, most of the time she worked together with N.F. She was assigned by the high school to begin home instruction with N.F. in September 2016, but was advised that N.F.'s parents did not want additional home instruction since they did not think N.F. had the stamina to participate in home instruction in addition to the reduced day schedule that was in his IEP.

Knaap believed that home instruction services for N.F., as well as for all those students who are unable to attend school for whatever reason, constitutes FAPE and is a thorough and efficient form of education for those students. She testified that she has personally been involved with many students and their success stories in terms of achieving full credit for courses, their diplomas, and to proceeding successfully post-secondarily.

On cross-examination, Knaap admitted that interaction with a teacher in a classroom and a group of students is a good part of any educational program. She stated that N.F. is a smart and capable student who is doing grade level work. She agreed that any chance N.F. could have to be in the classroom would be beneficial to him. During one-to-one home instruction, it is just herself and N.F. N.F. does not have access to other students or any of the interaction going on in the classroom. She admitted that N.F. would benefit from the ability to be in the classroom. Knaap also admitted that group learning is an important component to education. Knaap agreed that it is important for N.F. to have exposure to peers for several reasons: developmental issues, learning to get along with others, and listening to other people when they are speaking. Any time N.F. could have exposure to peers as compared to home instruction would be beneficial for him.

Annette Walters also testified on behalf of respondent. She is the Director of Special Education, as well as the Affirmative Action Officer and HIB coordinator for the Warren Hills Regional School District. Walters is an Adjunct Professor at Middlesex County College in the areas of Psychology and Social Sciences. She has obtained certifications for the positions of Principal, Administrator, Teacher, Teacher of the Handicapped, and Teacher of Psychology. I qualified her without objection as an expert in Special Education and in the Administration of Special Education. In her capacity as Director of Special Education for District, Walters was fully familiar with and had reviewed all of N.F.'s student's records. She had participated in numerous meetings involving the development of the IEP for N.F. for the 2016-2017 school year.

When N.F. was attending the middle school, N.F. required surgery and was unable to attend school for several months. Numerous efforts were made by the District in order to assure that N.F.'s education continued. Home instruction services were immediately arranged for N.F. as soon as he became medically available. It was related to the District that for several weeks, N.F. was not medically capable of receiving any academic services. Despite the fact that the District wanted to arrange for a minimum of ten hours a week of home instruction, the parents insisted that N.F. only participate in five hours of home instruction each week through the end of the 2015-2016 school year due to his decreased stamina. As a result of the agreement reached

with the parents through the IEP process, as well as in due consideration to N.F.'s academic history, N.F. was promoted into 9th grade for the 2016-2017 school year.

Walters testified that for the 2016-2017 school year, the District made many accommodations and modifications in N.F.'s schedule. A new IEP was developed on August 31, 2016. N.F. is in all general education classes. His program and placement provides for him to return to the high school on a reduced day, together with supplemental home instruction. In the opinion of the child study team and with her support, Walters testified that the current IEP developed for N.F. is appropriate and provides him with meaningful educational and support services.

Walters testified that the District has a policy regarding home instruction and other related policies for students with health conditions. Walters testifies that this policy has been adopted by the Board of Education and is implemented and utilized for all of its students. The District houses approximately 1,875 students in its two buildings: Middle School for grades 7 and 8, which for the 2016-2017 school year currently lists 640 students, and Warren Hills Regional High School, for grades 9 through 12, (and beyond for special education students) which for the 2016-2017 school year includes 1,235 students. In a review conducted for this matter, she testified that on a yearly basis, the District arranges for approximately forty (40) students to access home instruction each year for terms of varying length.³ As of September 28, 2016, Walters testified that the District has already arranged for a total of ten students district-wide to be on home instruction. All of these students receive services in a similar fashion in accordance with State law and Board policy, as well as based on their individual circumstances, which necessitates the home instruction (medical, psychiatric, disciplinary, criminal, pregnancy, etc.).

As of the October 7, 2016 hearing date, N.F. was attending school and classes in accordance with the schedule mutually developed and in accordance with his IEP. She testified that he is engaged and participatory when in class. As requested by petitioners, N.F. has been provided with a one-to-one male paraprofessional throughout

³ I note that forty (40) students on some length of home instruction per school year equates to a 2% utilization rate in this District.

his time in school. Whenever N.F. is absent, the paraprofessional attends the classes, takes notes, and gathers all of the necessary information to go home for the student. Additionally, N.F. is made aware of information daily on the online school bulletin in order to stay updated on extracurricular activities and any other school happenings. N.F. has been supplied with an iPad and a laptop. Additionally, while N.F. continues to attend high school on a reduced day schedule, supplemental home instruction remains available, but is not currently being provided by mutual agreement with the parent. Walters testified that in the event that N.F., like any other student in the District, were to be medically unable to attend school, home instruction services would be made available. The teachers that have been retained for N.F. for home instruction are certified and qualified for the provision of home instruction services. The current home instructor was selected because of her ongoing availability and flexibility in scheduling to meet the needs of N.F.

Walters also advised that there is ongoing communication between the home instructor and N.F.'s classroom teachers through the guidance department and the case manager. The home instructor uses the same books, worksheets and study guides, and curriculum. The home instructor administers the same quizzes and tests, in accordance with any modifications in a student's IEP. If the student is medically unavailable on one day, the home instructor picks up where the student left off at the next session. The lessons can be individualized to the student's work style. Grades are recorded in the same way as if the student were in school, and all information is shared with the teachers to ensure the student returns back to school in a smooth transition.

Walters testified that in her professional opinion, home instruction constitutes a free appropriate public education in the least restrictive environment for N.F. and for other similarly situated students who are unable to attend the public school. She testified that it has worked extremely well for all students who have been on home instruction. The students have been academically successful in terms of acquisition of credits for the classes being taken at the high school level. Their transcript is developed in the same style as all other students. Walters also opined that home instruction has worked for N.F.⁴

⁴ During cross-examination, Walters stated that the cost of home instruction is forty-one dollars per hour.

Walters further testified that while this case is about one student, N.F., the District must consider the impact of the requested relief for all of its students. As indicated above, this high school is a large facility in which classes change every period with over one thousand two hundred (1,200) students moving through the halls and through the various classes, numerous times per day. Walters expressed concern about the use of a VGo robot for several reasons: (1) safety concerns for the students in that the robot may not have peripheral vision, and would interfere with students who are in wheelchairs, or have limited mobility and sight; (2) confidentiality concerns involved with the other students participating in the classes and the inability of the District to control who would or could be seeing what is going on in the classroom every day; (3) if the student is medically or otherwise unavailable to participate on a particular day, that class would be missed but the next day, the teacher is moving forward while that student may have missed an underlying needed piece of information; and (4) as with any technology, there could be breakdowns. In the event of a breakdown, even though no one's fault, repairs may take days, during which time the student would be unable to access his classes.

Walters also testified that in her experience, a motivating factor for students to return to school is to have the daily face-to-face contact with teachers and peers. That motivation could be detrimentally affected if there is over-reliance and dependence upon technology such as the robot. Walters had additional concerns based on the fact that the robot would require someone to open doors so that it could get around to different classrooms and maneuver through the hallways. She also testified that when a student is out for a medical reason, home instruction is beneficial because it provides one-to-one teaching to the student. It was her professional opinion that the use of a robot is not warranted and is not necessary in order to provide N.F. with a FAPE.

On cross-examination, Walters admitted that she did not speak to the teachers who are currently working with N.F. as to whether they had any objections to a robot being in the classroom when N.F. was unable to attend school. There is also a technology department for the high school, with which she consulted. However, she admitted that she did not instruct that department to contact the VGo company. Thus,

the technology department never spoke with any representative from VGo. Walters admitted that the other districts she spoke with that are using the VGo robot stated to her that it was working fine for them. Her concerns seemed to be more akin to a “slippery slope” argument that if N.F. received one, then all students (and parents of those students) would be insisting that they should have one as well. Nevertheless, Walters acknowledged that she is not obligated to give every student with a disability or classification the exact same form of assistive technology.

Walters agreed that daily face-to-face contact with teachers and peers is important as part of the whole school experience. Interactions between students and teachers and amongst students are recognized to be critical pieces of education. Walters testified that N.F. is an awesome young man and a very good student. She stated there has been no issues with him wanting to be a part of the school district. She testified that if that opportunity could happen via robot, that would be a good thing for him because it is always beneficial for the student to be a part of the school. Walters remarked that it is her understanding that the robot needs helpers, but then conceded that N.F. has a full-time aide assigned to him. If N.F. was out on home instruction, the aide would still be in the classroom able to help the VGo robot. She admitted that the aide could be utilized as the person that aids the robot through the halls. Walters also acknowledged that N.F. is not compromised mentally and all his brain functions are intact. He is physically compromised.

Deborah Archer-Cole testified that she is a certified Learning Disabilities Teacher Consultant and a case manager. Archer-Cole has worked for the District for sixteen years. She was qualified as an expert in Learning Consultant and Special Education Case Management. As N.F.’s case manager, Archer-Cole reviewed N.F.’s records and participated in the IEP meeting developed in August 2016. She was also involved in numerous conversations with N.F.’s parents regarding N.F.’s program, and assured them that all aspects of N.F.’s IEP are being implemented. She felt that he smoothly transitioned into ninth grade.

Archer-Cole testified that at the start of this school year, N.F. had been attending school in accordance with the reduced day schedule planned in the IEP. However,

modifications have been made by agreement with respect to the supplemental home instruction for the subjects of Spanish, Microsoft Office Specialist, and Creative Writing. The Microsoft Office Specialist course was dropped. Further, since N.F. has the same teacher for both English and Creative Writing, the teacher is including the Creative Writing portion during the English class since it is primarily independent writing, which N.F. loves to do. With regard to his Spanish class, the current plan is for N.F. to come in early periodically and meet directly with the Spanish teacher to go over the work. Additionally, his one-to-one paraprofessional is actively working with N.F. when he is able to do additional makeups or supplemental work. They work together in the library.

It is Archer-Cole's professional opinion that home instruction services for students who are unable to attend school for whatever reason has constituted and continues to constitute FAPE. She further testified that she has personally been involved with many students and their success stories in terms of achieving full credit for courses at the high school level and diplomas, and their ability to proceed successfully post-secondarily whether it be into the workforce or a college institution. Home instruction is student-centered and personalized. Archer-Cole noted that there are some opportunities for group learning even when a student is on home instruction. She testified about the use of the online classroom board that allows students to ask questions of and get responses from their teachers. Office 360 permits a student to be on a "team" and to message other students on his team as well as the teacher. Archer-Cole remarked that there is a real-time component to Office 360 which can be used when a student is receiving home instruction.

Addressing her concerns about the use of the robot, Archer-Cole testified that she was unable to find anything that would suggest that the use of the robot would be more beneficial than the provision of home instruction with other technology. She also felt that people who reviewed the robot were not definitive about its efficiency for students. Based on these facts, Archer-Cole did not believe that the robot was necessary to provide FAPE while N.F. is receiving home instruction.

On cross-examination, Archer-Cole stated that she did not contact any of the schools in New Jersey using the VGo robot. Nor did she test drive the VGo robot from

any computer at the school. It would seem that Archer-Cole was not aware that the topic of the VGo robot would be part of the August IEP meeting. Archer-Cole testified that being in a classroom is physically less restrictive than being on home instruction. She agreed that if N.F. was able to have interaction with the teacher or was able to participate in group learning, that such would be a less restrictive environment than being on home instruction. A student's interaction with the teachers is important in the learning process. N.F.'s current teachers as well have expertise in their areas that they teach. Archer-Cole acknowledged that Knaap was a special education teacher. Archer-Cole never observed N.F.'s home instruction and never talked to his parents about what they thought of the home instruction. Archer-Cole also never spoke with N.F. about his own feelings on the possibility of remoting into the classroom through the VGo robot.

Petitioners presented several witnesses on their affirmative case. In addition to the certified statement of N.F. summarized above, A.F. also testified in favor of the relief she and her husband are seeking on behalf of N.F. A.F. explained some of the medical history and facts surrounding her son's condition and availability for instruction. On April 24, 2014, N.F. underwent orthopedic surgery with Dr. Sponseller. The doctor performed a bilateral repair of N.F.'s lower extremities to facilitate improvements with N.F.'s ability to wear shoes and braces. Due to the impact of this disease and surgery, N.F. has been rendered wheelchair bound since August 2014. He still fatigues easily and has never fully recovered his endurance. N.F.'s Scoliosis became more severe in the last six months and he will undergo surgery in 2017. He is also very prone to dislocation of any joints due to weakness and fragility.

A.F. described N.F.'s cardiac issues, including the fact that he has an enlarged heart. N.F. had a dilated ascending aortic root. N.F.'s underwent emergency heart surgery in December of 2015. He also had a mitral valve prolapse repaired at the same time. It was touch-and-go as to whether he would survive this surgery. It is obvious that N.F. gets sick more than the average student. In addition, this school year N.F. will be out of school, living in Columbia Presbyterian Hospital in New York, during the spinal surgery and recovering, and then likely at home for an extended period of time. It is an unknown factor what will be the full extent of the recovery from this surgery. A.F. stated

that N.F. could sit in bed and rest while using the VGo robot. N.F. will be in a halo for several weeks but will be able to speak, use his computer, and participate in class. A.F. testified that N.F. wants to be in school via the VGo robot as much as he is able. N.F. has the laptop from school and she stated that the family will abide by any reasonable rules that the District would have in place to preserve confidentiality.⁵

A.F. noted that N.F. is an excellent student and has maintained excellent relationships with his teachers this year. He is also very conscientious about making up missed work. N.F. spends his lunchtime working with the Spanish Teacher as well as his English teacher, who is also his writing teacher. A.F. worked with the case manager who agreed that N.F. engaging with the teachers directly is more beneficial than home instruction in these two subjects. Accordingly, he has been able to avoid home instruction this year in those subjects. There were limitations put on N.F.'s time with his home instructor last school year during the spring of 2016, due to his fatigue and medical condition. She stated that he certainly would have used the five or ten hours could he do so.

A.F. testified that when N.F. has had home instruction he does not have the benefit of teachers with expertise in the given subject. He does not have the benefit of thinking through an issue or discussing it with his peers and teachers. A.F. testified that Knaap was a nice person and tried to help N.F. during his absences last year. Yet, on more than one occasion, A.F. raised issues with assignments she gave N.F. because he did not have the context of the assignment. This is the nature of home instruction: it is primarily review of where his class is then at and completing sheets of paper work. The mother did not dispute that if N.F. was unavailable medically for learning that he would have to make up the work as he does now.

Dr. Zvi Marans received medical training at University of Pennsylvania, Albert Einstein College of Medicine, and Columbia University. As part of his education and

⁵ The mother emphasized that the District has an open-door policy and parents can sit in on classes. She stated that she has sat in on classes of her other children. She has two other children: one who graduated and one who is in the same high school as N.F. A.F. has never been asked about confidentiality when other parents have observed her children in class. A.F. testified that she would agree that N.F. would not record any classes if that is a concern. Although the VGo robot does not have the capacity to do so, they would ensure that no video or sound recording was ever done.

training he not only took courses regarding medicine but was educated in the area of child development, the impact of serious medical issues on the emotions of children, and all related developmental issues when dealing with seriously ill patients. Dr. Marans is an Associate Professor of Pediatrics at Columbia University Medical Center and has been practicing medicine for thirty-two years. He has seen first-hand not just the physical but emotional toll serious illness can take on a patient. He was qualified herein as an expert in Pediatrics and Pediatric Cardiology.

Dr. Marans testified that N.F. has been his patient since he was two years old. N.F. has a very serious form of Marfan Syndrome referred to as either Congenital or Infant Marfan Syndrome. Dr. Maran's testified that N.F. has an enlarged aorta and he had planned to surgically repair this in 2016. In December of 2015, however, N.F. went into severe, acute heart failure. As a result, he was admitted to Columbia Presbyterian Hospital on December 14, 2015, and underwent emergency open heart surgery the next day. N.F. was in grave condition and was at risk of death more than once during this period. Dr. Marans testified that N.F. is still recovering and fatigue is a factor. N.F. was only recommended for five hours of home instruction in the spring of 2016 due to the seriousness of his condition. N.F. has worked very hard in physical therapy to be able to attend school part-time. The fatigue is still a factor.

Dr. Marans stated there was a very high likelihood that N.F. will need additional cardiac surgeries. Often, his serious cardiac pediatric patients are medically compromised for long periods of time. As a result, many patients cannot attend school for extended periods. Dr. Marans stated he has seen many patients struggle not only with their medical conditions but also with isolation, depression, and anxiety about missing their education. He stated that he firmly believes that a crucial element of recovery is keeping the patient positive, hopeful, and connected to their school community whenever possible.

Dr. Marans has gotten to know N.F. quite well in the years since he first became a patient in 2004. Considering the significant medical and physical challenges he faces, he described N.F. as very well adjusted. He stated that he understands that N.F. is a very good student. It is critical that he be educated with his peer group and with peers

of equal intelligence. It is Dr. Marans' recommendation from a medical and social emotional standpoint that N.F. be given full access to a VGo robot. Complicating matters is the fact that N.F.'s spine curvature, also a result of Marfan Syndrome, has worsened. As a result, his breathing and lung capacity has become compromised and it has become necessary for N.F. to have spinal surgery. According to the Orthopedic Surgeon with whom Dr. Marans consulted, Dr. Michael Vitale, N.F. will be hospitalized for a minimum of four to five weeks, initially for halo traction of his spine and then for spinal surgery. Following the halo placement, N.F. will, for all intents and purposes, be fine, but he must live in the hospital. If he had access to the VGo, he could attend school, interact with his friends, classmates and teachers, and not lose any educational time. Dr. Marans stated that N.F. is a smart, sensitive, wonderful kid who needs the stimulation of a classroom and peer and teacher interaction. N.F.'s physical limitations render him unable to participate in many activities typical teenagers enjoy, such as participating in sporting events, attending school events, being able to eventually drive, go to restaurants with his peers, parties etc. The one place where N.F. is on a level playing field with his peer group is in the classroom. His intelligence and personality give him the opportunity to be on the same level and potentially superior to his peers.

On cross-examination, Dr. Marans acknowledged that he was not qualified to give an opinion on any of the educational issues in this matter – including the use of a robot. He also was unable to predict with certainty N.F.'s future medical needs.

Bern Terry was the last witness presented for the petitioners. He is currently the Vice President of Sales for VGo Communications. Terry is a salaried officer and does not work on commission. He has been with VGo since 2012, and has had a career in sales for over thirty years. He has been involved in the sale of VGo to many schools across the country. Terry testified that VGo is a robotic telepresence device. In fact, he testified remotely and demonstrated the VGo for the undersigned and counsel through a laptop connection in the hearing room. VGo is a combination of real-time audio/video and robotics that enables a person to replicate their presence in a distant location and to move around that location. Currently, there are over three hundred VGo robots in use in schools in the United States. This includes fifteen schools in New Jersey that are using it, five of which are high schools. Goryeb Hospital in Morristown, New Jersey,

itself has fifteen VGo robots that are loaned to students or schools for various cases of serious illnesses. He testified that the VGo is used by the student from either the hospital or home. VGo is deployed in small and large schools. Nationally, it has been chosen by administrators for homebound students in all grades K through 12th, plus a few pre-K students.

Terry was also asked to discuss the privacy and logistical concerns expressed by the District. He stated that privacy issues raised by the school are dealt with in the sense that VGo media is encrypted and both audio and video are secure. Information is not stored on the cloud, the laptop or desktop from which it is controlled, or on the VGo. Whenever VGo is on and enabled, there are clear visual indicators. The VGo does not record video and taking snapshots is a feature that can be turned off by the school if needed, but most schools leave that feature on.

Bern Terry testified that for a school to have a VGo they would need to provide Wi-Fi or 4G wireless network. In most schools, the VGo is driven from class to class by the remote “user” student. It is true that doors need to be opened for VGo, but in many cases, the student is speaking with a friend moving through the hallway. Terry stated that the VGo is extremely safe and poses no danger to students. It weighs only eighteen pounds and is manufactured in the United States to Underwriters Laboratories safety standards with flame retardant materials. The VGo can only travel at a maximum speed of 3.7 feet per second, which is the average walking speed of an able-bodied person. Terry reported that VGo has been used in hundreds of locations (schools, offices, hospitals, factories) with no problems.

On cross-examination, Terry acknowledged that he has no education credentials and is not qualified to opine on FAPE. As far as he knows, any private school using VGo presently would be obtaining the units from Goryeb Children’s Hospital. As for the security concerns, the robot cannot be hacked or used by any unauthorized person. It could have more than one authorized user but only one at a time could be using it. The views from the robot’s perspective are not significantly different from how students interact with each other in a classroom, such as looking over shoulders or across the room. A teacher could exercise some control over the unit, including directing it to face

forward only or terminating the remote visit but that has not happened often in his experience.

Terry testified that maintenance is built into the VGo subscription and averages \$500 per year. A VGo subscription is needed for the VGo to operate. This subscription covers the robot's operating system, periodic updates, user licenses, unlimited VGo App downloads, VGo net Manager administrative software, customer service for the robot and the users, technical support, warranty, repairs, and access to the VGo server.

Reviewing this totality of evidence, I **FIND** that Walters was predisposed to be against the inclusion of or even consideration of the VGo robot for N.F. The District staff did little to make inquiries, conduct its own due diligence, or generally explore how to make it work. Rather, it took an a priori approach that it was not required and would not work. Furthermore, I **FIND** that the opinion of petitioner's expert and fact witnesses did establish that N.F. has a great desire to be in school and is suffering from some depression as a result of his long absences from his peers. Even the District's witnesses admitted that group learning, social opportunities, and human interaction of being in school is educationally important for N.F.'s development, and I so **FIND**.

LEGAL ANALYSIS AND CONCLUSIONS

State and federal laws require local public school districts to identify, classify and provide a free and appropriate public education (FAPE) to children with disabilities. 20 U.S.C.A. Section 1412; N.J.S.A. 18A:46-8, -9. As a recipient of federal funds under the IDEA, the State of New Jersey has a policy that assures all children with disabilities the right to FAPE. 20 U.S.C.A. § 1412. The responsibility to provide FAPE, including special education and related services, rests with the local public school district. 20 U.S.C.A. § 1401(9); N.J.A.C. 6A:14-1.1(d). In accordance with N.J.S.A. 18A:46-1.1, the burden of proving that FAPE has been offered likewise rests with school personnel. FAPE is an education that is "specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child to benefit from the instruction. G.B. v. Bridgewater-Raritan Reg'l Bd. of Educ., 2009 U.S. Dist. LEXIS 15671, *5 (D.N.J. Feb. 27, 2009) (citing Hendrick Hudson Cent. Sch. Dist.

Bd. of Educ. v. Rowley, 458 U.S. 176, 189, 102 S. Ct. 3034, 3042, 73 L. Ed. 2d 690, 701 (1982)). FAPE includes special education and related services that are provided at public expense under public supervision and direction and without charge; that meet the standards of the State Educational Agency; that include an appropriate preschool, elementary and secondary school education; and that are provided in conformity with an IEP as required under 20 U.S.C.A. Section 1414(d).

Federal law is complied with when a local school board provides a handicapped child with a personalized education program and sufficient support services to confer some educational benefits on the child. Rowley, supra. In Rowley, the Court determined that although the Act mandates that states provide a certain level of education, it does not require states to provide services that necessarily maximize a disabled child's potential. Instead, the IDEA requires a school district to provide a basic floor of opportunity. Carlisle Area Sch. v. Scott P., 62 F.3d 520, 533-34 (3d Cir. 1995). While our courts have consistently held that the IDEA does not mandate an optimal level of services, an IEP must provide meaningful access to education, and confer some educational benefit upon the child. Rowley, supra, 458 U.S. at 192. That is to say, in order to be appropriate, the educational benefit conferred must be more than trivial. Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238 (3d Cir. 1999).

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

In determining where to deliver instruction, the district must be guided by the strong statutory preference for educating children in the "least restrictive environment" (sometimes "LRE"), 20 U.S.C.A. § 1412(a)(5) mandates that:

[t]o the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The law describes a continuum of placement options, ranging from mainstreaming in a regular public school as least restrictive to enrollment in a non-approved residential private school as most restrictive. 34 C.F.R. § 300.115 (2009); N.J.A.C. 6A:14-4.3. Federal regulations further require that placement must be “as close as possible to the child’s home.” 34 C.F.R. § 300.116(b)(3) (2009); see also N.J.A.C. 6A:14-4.2.

In Oberti v. Board of Education, 995 F.2d 1204 (3d Cir. 1993), the Third Circuit established a two-pronged test for determining whether a school district has complied with the IDEA’s mainstreaming mandate: first, whether education in the regular classroom, with use of supplementary aids and services, can be achieved satisfactorily; and second, if placement outside of the regular classroom is necessary for the child’s educational benefit, whether the district has included the child in school programs with non-disabled children to the maximum extent appropriate. Id. at 1215. Before placing a child outside the district, “the school must consider the whole range of supplemental aids and services, including resource room and itinerant instruction, speech and language therapy, special education training for the regular teacher, behavior modification programs, or any other available aids or services appropriate to the child’s particular disabilities.” Id. at 1216; N.J.A.C. 6A:14-4.2. As the Oberti court astutely noted:

In passing the Act, Congress recognized “the importance of teaching skills that would foster personal independence . . . [and] dignity for handicapped children” . . . Learning to associate, communicate and cooperate with nondisabled persons is essential to the personal independence of children with disabilities. The Act’s mainstreaming directive stems from Congress’s concern that the states, through public education, work to develop such independence for disabled children.

[Oberti, supra, 995 F.2d at 1217.]

Here, the issues in dispute are clear even if their resolution is in dispute:

1. Did the District offer FAPE when it proposed home instruction for the current school year for extended periods of time when N.F. is medically unable to attend school in person?

2. If the District failed to offer FAPE through the sole use of home instruction, is a VGo Robot necessary in order to meet the IDEA requirements?

Obviously, the parties assert diametrically opposing positions on this central issue. The District submitted that a robot is not necessary or required in order for N.F. to access his education and receive FAPE and that N.F. was provided with an IEP that meets all Federal and State standards. It argues that home instruction meets the IDEA requirement for a floor or minimum of educational benefit for N.F. Petitioners argue that his IEP must confer a meaningful educational opportunity based on his unique circumstances and potential. In this case, that meaningful educational opportunity requires delivery through use of the VGo robot.

The IDEA sets forth, in pertinent part --

(3) Development of IEP.

(A) In general. In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider--

(i) the strengths of the child;

(ii) the concerns of the parents for enhancing the education of their child;

(iii) the results of the initial evaluation or most recent evaluation of the child; and

(iv) the academic, developmental, and functional needs of the child.

(B) Consideration of special factors. The IEP Team shall--

* * *

(v) consider whether the child needs assistive technology devices and services.

[20 U.S.C.A. § 1414]

The District presented testimony that primarily went to the logistical and privacy considerations of allowing the VGo robot to be used by N.F. from his hospital or home setting, none of which are insurmountable. Yet, no one from the District made any real attempt to obtain information from other districts within or without the State of New Jersey who have successfully deployed this technology. To say that home instruction works generically for so many students over so many years is not the same as evaluating for this individual student whether a VGo robot is an essential form of assistive technology that would allow him to be in the least restrictive environment.

We have adopted a two-part test for determining whether a School District complies with the LRE requirement. The first step is for the court to determine whether the school can educate the child in a regular classroom with the use of supplementary aids and services. If, as here, the child cannot be educated in a regular classroom, the next step is to decide whether the school is mainstreaming the child to the maximum extent possible. Oberti, 995 F.2d at 1215. Before we reach this two-part test though, we note that the child must be educated in the LRE that will provide a meaningful educational benefit. See T.R., 205 F.3d at 578.

[S.H. v. State-Operated Sch. Dist., 336 F.3d 260, 272 (3rd Cir. 2003)]

Plainly, this case is not about the typical IDEA placement determination, and a “myriad” of other factors predominate. N.F. has no intellectual or learning disability. Rather, he is compromised by his Marfan Syndrome and its numerous medical complications. N.F. has college aspirations and it seems undisputed that he has the intellectual ability to achieve that goal. In addition, he has now entered high school where studies are more specialized than grade or middle school. Yet, his home instruction is presented by a one-size-fits-all special education teacher without expertise in the higher level subjects being presented. In this instant case, we are dealing with

long periods of hospitalizations or being bedridden throughout his high school career; not short-term or occasional bouts of illness or incapacitation. N.F. already attends school with a wheelchair and a male aide who assists him in getting from class to class, down hallways, and into bathrooms, etc.⁶ Moreover, in this case at least, the student wants to be physically in school and is depressed about not being there. In this instance, the VGo robot would not be used as an emotional “crutch” by a special education student who has anxiety about attending school.

In these specific and particular circumstances, I **CONCLUDE** that the District has not provided FAPE by just providing up to ten hours of home instruction to N.F. The IDEA may set the bar low but an IEP still must provide a meaningful educational benefit. While I researched extensively for legal guidance or precedence on this issue and found none⁷, petitioners presented a case on point, Southern York County School Dist., 55 IDELR 242 (SEA Pa. 2010). In that decision, a medically fragile fourteen-year-old challenged an IEP that did not provide him with remote access to the classroom.

The weight of the record, however, clearly supports a finding that at any one time, the student falls markedly into one of three categories -- non-episodic where the student requires no remote modifications, acutely episodic where the student is not instructional, or episodically recovering where the webcam room has proven ineffective; the District webcam room is inappropriate for any of these three categories. (FF 14, 15, 16, 26, 28).

And the homebound tutoring has also proven to be ineffective. The student's absences lead to large amounts of incomplete work and overwhelming amounts of makeup work. (FF 17, 18, 19, 20, 21, 22). This is due almost exclusively to the fact that the student misses extensive periods of direct instruction and the tutoring cannot and does not provide it. (FF 21).

⁶ While I note that the record fully supports that the privacy concerns can be addressed through reasonable use policy, and that the costs are not prohibitive (in fact, less than home instruction), those factors are not the basis of my determination herein.

⁷ Some assistive aids are so common now that the original “cutting edge” determinations cannot be located. See, e.g., Matanuska-Susitna Borough Sch. Dist. v. D.Y., 2010 U.S. Dist. LEXIS 17174 (D. Alaska Feb. 23, 2010) (court finds that preponderance of evidence supports hearing officer's determination of compensatory education award in the amount of \$ 50,000 is appropriate to remedy the deficits caused by the District's LRE and Dynavox violations.)

* * *

By way of dicta, there is certainly an intersection here of the tides of LRE as a physical location with a technological decoupling of place due to the virtualization of teaching and learning through technology. Those tides, though, swirl around educational policy and practice, technological capabilities and advances. This decision, however, is grounded in a simple question: has the District provided FAPE in the LRE by utilizing (or at least considering) available technological modifications to allow the student to access direct instruction as it is delivered in the regular education setting? The weight of the record supports an answer in the negative.

I concur with the analysis in Southern York as applied to the facts herein. It must be acknowledged, “As the laws, rules and societal norms evolve and change with each new advance in technology, so too will the decisions of our courts.” People v Harris, 36 Misc. 3d 868, 878, 949 N.Y.S.2d 590, 2012 N.Y. Misc. LEXIS 3076 (N.Y. City Crim. Ct. 2012). In many areas of society, technological advances move at a pace that is often faster than the law can recognize and incorporate, but this is not always the case.

Equally important are the numerous advancements that have been made in medicine, science, and research as the result of the disability movement. Today, there are state of the art prosthetic devices that allow amputees to accomplish physical movements and activities that were once impossible to achieve. Advances in technology now allow those with spinal cord injuries, traumatic brain injuries, and hearing and visual impairments to perform activities of daily living that many of us take for granted. Housing alterations and adaptive equipment are allowing the disabled to drive automobiles and live independently without assistance from family members, health workers, or local agencies.

[West Virginia Statewide Independent Living Council,
<http://www.wvsilc.org/essay.htm>]

In applying the facts found above to the case law in this highly individualized inquiry, I **CONCLUDE** that the sum of the factors unique to N.F. required the District to incorporate the VGo robot into his IEP as assistive technology for periods of medical leave from school, when N.F. is available for instruction from any remote setting (home,

hospital, etc.). In sum, I **CONCLUDE** that the IEP proposed by the District for the 2016-2017 school year was not designed to confer a meaningful educational benefit on N.F. in the least restrictive environment. I further **CONCLUDE** that the District program was not appropriate to meet N.F.'s assistive technology needs and thus did not provide FAPE.

ORDER

For the reasons set forth above, it is **ORDERED** that the relief sought in petitioners' due process petition is **GRANTED**. It is further **ORDERED** that the Warren Hills Regional High Board of Education shall implement an IEP for N.F. for the 2016-2017 school year that incorporates a VGo robot for periods of medical leave from school, when N.F. is available for instruction from any remote setting (home, hospital, etc.).

All rights and all defenses on the issue of an award of attorney's fees and costs to which petitioners may be entitled as the prevailing parties are specifically reserved to a court of competent jurisdiction.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2016) 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.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2016). 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 Programs.

February 8, 2017

DATE

GAIL M. COOKSON, ALJ

Date Received at Agency

2/8/17

Date Mailed to Parties:

id

APPENDIX

LIST OF WITNESSES

For Petitioners:

A.F.
N.F.
Dr. Zvi Marans
Bern Terry

For Respondent:

Annette Walters
Mary Knaap
Deborah Archer-Cole

LIST OF EXHIBITS IN EVIDENCE

Joint⁸

- J-1 Decision Approving Settlement dated December 29, 2015, with Attached Stipulation of Settlement and Extract of Board Minutes
- J-2 Email Correspondence between Nathanya G. Simon, Esq. and Beth A. Callahan, Esq. dated January 6, 2016
- J-3 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated January 6, 2016
- J-4 Letter from Beth A. Callahan, Esq. to Nathanya G. Simon, Esq., dated March 9, 2016
- J-5 Email Correspondence from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq. dated March 10, 2016
- J-6 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated March 14, 2016
- J-7 Annual Review IEP – Draft, dated April 5, 2016
- J-8 Annual Review IEP dated April 5, 2016

⁸ The District numbered exhibits but only later put on the designation of “J,” “R,” or “P.” As a result, there are gaps but hopefully no overlapping designations.

- J-9 Letter from Beth A. Callahan, Esq. to Nathanya G. Simon, Esq., dated May 4, 2016
- J-10 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated May 4, 2016
- J-11 Letter from Beth A. Callahan, Esq. to Nathanya G. Simon, Esq., dated May 6, 2016, enclosing Note from Zvi Marans, M.D., dated May 4, 2016
- J-12 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated May 9, 2016
- J-13 Occupational Therapy Re-evaluation by Rebecca Kriege, MA OTR/L, dated June 22, 2016
- J-14 Letter from Nathanya G. Simon, Esq. to Hon. Gail M. Cookson, A.L.J., dated June 23, 2016
- J-15 Grade 9 Course Selections for 2016-17 School Year
- J-16 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated August 1, 2016
- J-17 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated August 22, 2016
- J-18 Email from A.F. to Annette Walters and Others, dated August 26, 2016, with Illegible Attachment
- J-19 Email Correspondence Between A.F. and Earl Clymer, Superintendent, dated August 29, 2016
- J-20 Letter from Beth A. Callahan, Esq. to Hon. Gail M. Cookson, A.L.J., dated August 29, 2016
- J-21 Letter from Nathanya G. Simon, Esq. to Hon. Gail M. Cookson, A.L.J., dated August 29, 2016, with attachments
- J-22 Note from Amy Rothkopf, MPH, MSN, CPNP, Nurse Practitioner, and Linda J. Addonizio, MD, dated August 19, 2016 and faxed to the District August 29, 2016
- J-23 Email from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq. and others, dated August 29, 2016
- J-24 Individualized Education Program with Handwritten Notes, dated August 31, 2016
- J-25 Email Correspondence between Nathanya G. Simon, Esq. and Beth A. Callahan, Esq., dated August 31, 2016

- J-26 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated September 1, 2016, enclosing 2016-17 School Schedule and Evacuation Plan
- J-27 Letter from Nathanya G. Simon, Esq. to Beth A. Callahan, Esq., dated September 2, 2016, enclosing Individualized Education Program from meeting held on August 31, 2016
- J-28 [R-28 in evidence]
- J-29 Academic Record, transcript of courses for N.F. for grade 9, 2016-2017 school year
- J-30 Home Instruction Timesheets from Mary Knaap for N.F. for dates 9/10/15 to 9/28/15 and 5/16/16 to 6/7/16
- J-31 Emails from Mary Knaap to teachers of N.F in September 2015
- J-32 Warren Hills Regional Board of Education District Policy 2412 – Home Instruction Due to Health Conditions; District Regulation 2412 – Home Instruction Due to Health Conditions
- J-33 Warren Hills Regional Board of Education District Policy 2416 – Programs for Pregnant Pupils
- J-34 [R-34 in evidence]
- J-35 Fall 2015 Instructions from teachers for N.F. to Home Instructor
- J-36 Fall 2015 work completed with Home Instructor by N.F.
- J-37 Spring 2016 work completed with Home Instructor by N.F.
- J-38 – J-40 [see Respondent’s exhibits]
- J-41 – J-49 [see Petitioner’s exhibits]
- J-50 Map of blueprint of Warren Hills Regional High School
- J-51 – J-52 [see Petitioner’s exhibits]
- J-53 Board Policies and Regulations

For Petitioner:

- P-1 Curriculum Vitae for Zvi S. Marans, M.D.
- P-2 Letter dated October 6, 2016, from Michael Vitale, M.D.,
- P-3 Letter dated September 29, 2016, from Zvi S. Marans, M.D.
- P-4 [not in evidence]
- P-5 Letter dated June 2015, from Zvi S. Marans, M.D.

- P-6 Letter dated October 22, 2014, from Zvi S. Marans, M.D.
- P-7 [not in evidence]
- P-8 VGo Information
- P-9 VGo Information
- P-10 VGo Quote
- P-11 Prefiled Testimony of Zvi Marans, M.D.
- P-12 Prefiled Testimony of Bern Terry
- P-13 Prefiled Testimony of N.F.
- P-14 Prefiled Testimony of A.F.

For Respondent:

- R-1 – R-27 [see other exhibits]
- R-28 Resume of Annette Walters, Director of Special Education for Warren Hills
- R-34 Curriculum Vitae of Deborah Archer-Cole, Case Manager
- R-38 Prefiled Testimony of Annette Walters, Director of Special Education
- R-39 Prefiled Testimony of Mary Knaap, Home Instructor
- R-40 Prefiled Testimony of Deborah Archer-Cole, Case Manager