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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

IN THE MATTER OF	OSPI CAUSE NO. 2019-SE-0123
	OAH DOCKET NO. 09-2019-OSPI-00873
BELLEVUE SCHOOL DISTRICT	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

A due process hearing in the above matter was held before Administrative Law Judge (ALJ) Jacqueline Becker in Bellevue, Washington on January 16, 17 and 22, and February 10, 2020. The Parents[1] of the Student whose education is at issue appeared and were represented Lara Hruska, attorney at law. The Bellevue School District (District) was represented by Susan Winkelman, attorney at law. Also present for the District was Heather Edlund, Executive Director of Teaching and Learning.

PROCEDURAL HISTORY OF THE CASE

The Parents filed a Due Process Hearing Request (Complaint) with the Office of Superintendent of Public Instruction (OSPI) on September 5, 2019. The Complaint was assigned Cause No. 2019-SE-0123 and was forwarded to the Office of Administrative Hearings (OAH) for the assignment of an ALJ. The Parents filed an amended complaint on December 23, 2019, and the request to amend was granted effective December 31, 2019.

The original ALJ assigned to this matter was Dana Diederich. The matter was reassigned to ALJ Becker on December 17, 2019.

Evidence Relied Upon

Exhibits Admitted:

Joint Exhibits: J1 through J8.

Parents' Exhibits: P1 through P21.

District's Exhibits: D1 through D3.

Exhibits Not Admitted:

Exhibits C1, C2 and C3 were marked at the hearing and offered by the Parents but were not admitted.

[1] To help ensure confidentiality, names of parents and students are not used.

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Witnesses Heard (in order of appearance):

The Student
The Student's Mother
Moira Farrell, special and general education teacher, Eastside Academics School
Dr. Sarah Peregrine Lord, Student's treating psychologist
Dr. Stacie Keirsey, Student's treating psychologist
Ryan Rhodes, Assistant Director, Eastside Academics School
Marie Rose, teacher, Eastside Academics School
Brenda Arroyo, Assistant Principal, Highland Middle School (former District Special Education Director)
John Delport, District staff member
Benjamin Mast, School Psychologist, Interlake High School
Elizabeth Mizrahi, Assistant Principal, Stevenson Elementary School (former Assistant Principal, Highland Middle School)
Derek Gentry, special education teacher, Interlake High School
Michael Fritz, special education teacher, Highland Middle School

Post-Hearing Briefs

The parties' post-hearing briefs were timely filed on March 10, 2019.

Due Date for Written Decision

The due date for a written decision in this case was continued to thirty (30) calendar days after the close of record, at the request of the parties, by Order dated October 8, 2019. The record closed with the receipt of the post-hearing briefs on March 10, 2020, and the due date for the written decision is April 9, 2020.

ISSUES/REMEDIES

The issues to be considered at the due process hearing were amended on the record at the commencement of the hearing by the Parents. The issues for the due process hearing were:

a. Whether the District violated the Individuals with Disabilities Education Act (IDEA) and denied the Student a free appropriate public education (FAPE) from January 9, 2019, to December 31, 2019, by:

i. failing to offer Individualized Education Programs (IEPs) for the Student on June 14, 2019, and November 25, 2019, that are reasonably calculated to deliver FAPE for the 2019-2020 school year;
ii. failing to consider during the IEP team meetings the impacts of the proposed transition of the Student from Eastside Academics School (EAS) to a traditional high school setting; and
iii. predetermining that EAS would not be considered or recommended as a placement option during the June 2019 and November 2019 IEP meetings;

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b. Whether EAS is the appropriate placement at which to provide the Student a FAPE;

c. Whether any of the Parents' claims and/or requested relief are barred by the terms of the settlement agreement entered into by the parties on January 9, 2019; and

d. Whether the Parents are entitled to their requested remedies, which include:

i. Declaratory relief finding that the District violated the IDEA;
ii. Declaratory relief finding that the Student was denied FAPE by the District's actions;
iii. Reimbursement for their being required to obtain private services for the Student at EAS for the 2019-2020 school year because of the District's failure to provide the Student with an IEP reasonably calculated to deliver FAPE;
iv. The implementation of an IEP that corrects the failures of the June 2019 and November 2019 IEPs; and
v. Prospective placement for the Student at EAS.

FINDINGS OF FACT

In making these Findings of Fact, the logical consistency, persuasiveness, and plausibility of the evidence has been considered and weighed. To the extent a Finding of Fact adopts one version of a matter on which the evidence conflicts, the evidence adopted has been determined to be more credible than the conflicting evidence. A more detailed analysis of credibility and weight of the evidence may be set forth below regarding specific facts at issue.

BACKGROUND

1. The Student is fifteen years old and has attended school in the District since kindergarten. He was originally identified as eligible for special education services while a kindergartener. J4 p. 5.[2] The Student was diagnosed with ADHD-Combined Type in March of 2011. J1 p. 5. The Student exhibited anxious behaviors as early as 2011 and underwent therapy at Seattle Children's Hospital. *Id.* He began seeing a therapist, Dr. Sarah Peregrine Lord, in October of 2015 for weekly sessions to address anxiety. J1 p. 10. The Student was diagnosed with Autism Spectrum Disorder by Dr. Stacie Keirsey on April 6, 2018. P4 p. 14; J1 p. 6. He is eligible for special education services under the category of Autism. J1 p. 6; J4 p. 5. As of the fall of 2018, the Student was receiving special education services in the areas of written expression, social/emotional, and study skills. J2 p. 8.

2. The Student attended Highland Middle School (Highland) in the District for sixth and seventh grades. He also attended Highland for the beginning of his eighth grade year. The Student's grades for the 2017-18 school year (seventh grade), and the first quarter of the 2018-19 school year (eighth grade), were As, Bs and Cs. J6.

[2] Exhibits are cited by party ("P" for Parents; "D" for District; "J" for joint exhibits), exhibit number, and page number. For example, a citation to P1 p. 5 is to the Parent's Exhibit 1 at page 5. The hearing transcript is cited as "Tr." with references to the page and the witness who offered the cited testimony. For example, a citation to Tr. at 80 (Mother) is to the Mother's testimony at page 80 of the transcript.

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3. The Student began to experience bullying in sixth grade. Tr. at 85 (Mother). He was called names by other students and was teased. *Id.* His Parents sought help from the District at various points, but did not feel they received adequate responses to the bullying. *Id.*

4. The Student's Mother described the Student's seventh grade (2017-18) year as "absolutely awful." Tr. at 87 (Mother). The Student stopped doing homework and his Mother would find crumpled worksheets in his backpack. The Student was bullied all year by other students who mimicked him and pretended to be his friend. The Student eventually "shut down" and would not talk to his Parents. When he was picked up at school, he would run to the car, hunched over, with a hoodie covering his head. He had consistent trouble sleeping and frequent stomachaches. When asked about the crumpled worksheets in his backpack, the Student would rock his body, cry and curl into a ball. When asked if he needed to complete the worksheets, he would repeatedly say that he did not know. *Id.* at 92.

5. The Student's Mother worked closely with him in seventh grade to assist with his schoolwork. She often emailed his teachers to find out what assignments needed to be done. *See* P13. The Student's language arts teacher advised his Mother, in May of 2018, to have the Student "answer at least one question" about the novel the class was reading so he could get credit for reading the book and completing the required journal entries. P13 p. 4. The teachers often sent work home for the Parents to complete with the Student. In language arts and social studies, a majority of the graded work was sent home to the Parents, and they would do it with the Student. Tr. at 99 (Mother). The Mother's impression was that "these teachers expected that Student and I were doing the work at home… so he got a nice grade, but I got a nice grade in the seventh grade. I went to seventh grade." *Id.* at 96. The Mother does not believe his grades were reflective of what the Student was actually producing in his classes. *Id.* at 99. The Mother told the teachers "over and over again" that the Student was having trouble completing his work. *Id.* at 100.

6. The curriculum was not modified for the Student, but he received accommodations such as a scribe and extra time. The Student's math grade in seventh grade was based solely on in-class tests, not on homework, but students are allowed to retake math tests in order to improve their grade. Tr. at 824 (Fritz).

7. Dr. Stacie Keirsey,[3] Psy.D., is a clinical psychologist and mental health counselor. Dr. Keirsey specializes in autism spectrum disorders and neuropsychology evaluations. She has a background in school psychology. Tr. at 266 (Keirsey). Dr. Keirsey completed a psychological evaluation of the Student on April 6, 2018. P2. Based on that assessment, she diagnosed him with attention deficit/hyperactivity disorder, generalized anxiety disorder, and autism spectrum disorder. During the assessment, the Student indicated a fairly positive attitude toward school and teachers, and denied having social stress, anxiety and depression. P4 p. 10. However, he ranked in the 71st percentile for his level of anxiety, and he revealed a history of negative peer interactions. The Student reported feeling that his peers thought he was "weird," that he had been

[3] Dr. Keirsey holds a Bachelor of Arts degree in psychology and a Bachelor of Science degree in neuroscience. She also holds a Doctorate degree in Clinical Psychology (Psy.D.). She is a licensed clinical psychologist and a licensed mental health counselor. P18.

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made fun of and called names, that he was lonely, and that he had trouble making friends. P2; P4 p. 10. Dr. Keirsey opined that the Student had "significant anxiety with social interaction." P2.

8. The Parents gave Dr. Keirsey's evaluation to the District; the Student's IEP was not changed to reflect the new information. Tr. at 102 (Mother).

9. Dr. Lord,[4] Psy.D., is a licensed clinical psychologist with a specialty in child and family therapy. She has been the Student's treating psychologist since October of 2015, and she meets with him weekly. The Student has reported harassment, intimidation and bullying (HIB) to Dr. Lord throughout the time she has worked with him. P3 p. 1. In May of 2018, Dr. Lord determined that the Student met diagnostic criteria for a single episode of moderate depression with suicidal ideation. The Student reported his depression was related to increasing incidents of HIB at school, and that he had not eaten lunch at school for the past year in order to avoid contact with the harassing students. He told Dr. Lord that he had "accidentally" watched a video on how to commit suicide on YouTube, and then he watched others. Tr. at 415 (Lord); P3 pp. 2-3. The Student asked Dr. Lord questions about the means of suicide and whether someone could kill themselves using a belt. The Student reported no imminent intent to harm himself and was assessed to be at moderate risk because he had access to a means (belt), was avoiding support, was socially isolated, and had made previous statements about wanting to hurt or kill himself. P3 pp. 2-3.

10. In response to the May 2018 interaction, Dr. Lord and the Student made a safety plan for him that included his Parents. It ensured that the Student did not have access to a belt, was not left alone at home, and had restrictions on the internet and YouTube. P3 p. 3.

11. When he was not in school over the summer of 2018, the Student's mood improved and he enjoyed the "Aspiring Youth" social skills summer program in which he was enrolled. P3 p. 3; tr. at 103 (Mother).

12. During the Student's eighth grade year (2018-19), the Highland building was undergoing a remodel and the school was located at a different building with physically smaller classrooms. The Student found his classes to be overwhelming and "really noisy." He testified at the due process hearing that "a lot of the kids, especially some of the kids who were harassing me, would just mess around and even harass – in eighth grade even harass the teacher." Tr. at 50 (Student). The Student bought a lock that could be rapidly opened by touch for his locker because he was getting bullied in the locker bay area. Tr. at 105 (Mother). He also stopped eating both at home and at school. *Id.*

13. The Parents had requested that a boy who had bullied the Student in seventh grade not be in any of his classes in eighth grade. When the Student attended his first physical education class of eighth grade, the offending boy was in the class. The Student went to the office and reminded the staff they had promised that particular boy would not be in any of the Student's classes, and the boy was moved. Tr. at 876 (Mother).

[4] Dr. Lord holds Bachelor of Arts degrees in psychology and anthropology. She also holds a Doctorate degree in Clinical Psychology. She is a licensed psychologist and is board certified in couples, child and family therapy. She currently serves as a clinical supervising faculty member in the Department of Clinical Psychology at Antioch University. P20 p. 1; tr. at 388 (Lord).

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for 3/5 opportunities to staying engaged (ex: stays with group, listens, asks questions, nods, makes eye contact) in the tasks with a peer or small group of peers for 4/5 opportunities as measured by monthly teacher collected data.

Social-Emotional: Regulation
By 01/06/2020, when given an anxiety inducing task or situation (e.g. writing, group work) Student will recognize his level of anxiety that requires a break and ask his teacher/staff member to take a break that does not involve using his computer or phone improving his ability to accurately self-monitor and cope with an anxiety inducing task or situation from 0% of the time to 50% of the time as measured by monthly teacher observation and data collection.

J3 p. 17.

43. The IEP notes that public/private separate day school was considered for one week of school, June 14-21, 2019, but was rejected because "non-academic benefit cannot be satisfactorily achieved" J3 p. 24. Public/private separate day school is not marked as having been considered for the 2019-20 school year. *Id.* at 25.

44. The June 2019 IEP meeting was attended by the following people:

The Parents
Michael Fritz, District special education teacher
Matthew Perlman, District general education teacher
Liz Mizrahi, Assistant Principal, Highland Middle School
John Delport, District staff member
Brenda Arroyo, District Special Education Director
Lisa McDaniel, District language arts teacher
Moira Farrell, special education and general education teacher, EAS
Ryan Rhodes, Assistant Director, EAS

Mr. Delport and Ms. Arroyo had never met or observed the Student. Tr. at 514 (Arroyo).

45. Ms. Arroyo[7] is currently an assistant principal at Highland. She was District Director of Special Education from 2016 to June of 2019. Tr. at 489 (Arroyo). Ms. Arroyo became involved in the Student's educational program after she was made aware that his Parents were considering out of District placement for him. *Id.* at 491-92. Ms. Arroyo's understanding of the Student was that he did not experience anxiety or somatic complaints while at Highland. *Id.* at 510. She does not recall if she knew of his sensitivity to noise. *Id.* at 570. Her understanding from the information presented to her as a member of the IEP team was that any anxiety the Student was experiencing had not been impacting his ability to participate in classes at Highland or to work along with his peers. *Id.* at 521. She thought the Student had received social-emotional support in his seventh

[7] Ms. Arroyo holds bachelor's degrees in psychology and family consumer science. She also holds a master's degree in education with an emphasis in special education, and an educational administrator certificate. Tr. at 489 (Arroyo).

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a District school while remaining at EAS. The District did not agree to this and did not agree to develop a transition plan. Tr. at 234-235, 880 (Mother).

50. Mr. Delport[9] did not know the Student's case very well at the time of the June 2019 IEP meeting. He had "been pulled into the meeting" and had "skimmed the notes." He did not voice objection to the District's offer of Interlake. Tr. at 681-62, 718 (Delport).

51. The IEP team decided to reevaluate the Student, partly because of the input from Dr. Lord. Tr. at 525 (Arroyo). According to Ms. Arroyo, a reevaluation was also warranted due to concerns about how the Student may adjust to the public school setting after having been at a private school. Ms. Arroyo opined that consideration of a transition plan would be called for by the IEP team in order to address the concern. *Id.* at 533. After the meeting, Ms. Arroyo had questions about the Student's progress at EAS that she normally would have followed up on, but she did not do so because she was transitioning to a new job. *Id.* at 537-38.

52. The "Prior Written Notice (Amendment)" (PWNA), issued after the June 2019 IEP meeting, notes the District proposed that the Student be placed at Interlake, and that he undergo a reevaluation. J3 p. 26. The PWNA also states that the Student's Parents "received reimbursement by the Bellevue School District for a private day school from December 2018 - June 2019 under the agreement that if the Student returns to the BSD it will activate the IEP that was developed on 12/22/2018." *Id.*

53. The PWNA further states, as reasons EAS was rejected:

> The most recent reevaluation does not support this placement as Student's least restrictive environment. The team has considered parent and outside provider's input and determined that his developed goals, as a result of his more recent evaluation, dated 12/10/2018, are aligned to his social/emotional needs and support his participation in general education classes alongside his peers from his neighborhood school. The district can implement his IEP at Interlake High School. In addition, the team has increased specially designed instruction in the area of social/emotional to accelerate his progress on goals. While at Highland Middle School, Student made progress on goals and had passing grades.

J3 p. 26.

54. The Student completed the 2018-19 school year at EAS. He returned to EAS in the fall of 2019, at the Parents' expense, and has continued to attend EAS for the 2019-20 school year.

55. The ALJ finds the testimony from various witnesses who attended the June 2019 IEP meeting to be generally consistent. Consequently, it is found that the District offered placement at Interlake and was unwilling to discuss or consider other alternatives. It is found that the District

[9] Mr. Delport holds the equivalent of a bachelor's of education degree (obtained in South Africa). He also holds a Ph.D. from the University of Washington in education with a focus on educational programming. Tr. at 701-03 (Delport).

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special education teacher who drafted the June 2019 IEP had made up his mind, prior to the meeting, that EAS was not an appropriate placement for the Student. It is found that the District refused to consider interim placement of the Student at EAS pending an evaluation and offered no reason for this refusal.

THE NOVEMBER 2019 REEVALUATION AND THE NOVEMBER 25, 2019 IEP

56. The reevaluation proposed at the June 2019 IEP meeting (reevaluation) was conducted by Dr. Benjamin Mast, Psy.D., in the fall of 2019.[10] As part of the reevaluation, Dr. Mast observed the Student at EAS. Tr. at 610 (Mast).

57. The Student expressed in multiple ways during the reevaluation that loud noises trigger his stress. The reevaluation report notes the Student appreciates how much quieter it is at EAS compared with Highland, and finds himself socializing more there and having more friends. J4 p. 38. When asked about the time he spent at Interlake for this reevaluation, the Student described the environment at Interlake as "really loud." Tr. at 68 (Student). He also specifically told Dr. Mast during the reevaluation that he is worried about going to a public high school. *Id*. at 639 (Mast).

58. The reevaluation report notes, under Summary of Qualifications and Functioning:

> Both Student and adults around him observed difficulties with emotional responses to stressful or otherwise triggering situations. When anxious or stressed, he can "shut down" and become unresponsive to redirection or encouragement. Sensitivity to loud noises and crowds are identified as environmental triggers for panic or stress.

J4 p. 6. The reevaluation also notes:

> Care should be taken to balance the reduction of stressful or anxiety-provoking situations with structured exposure to these situations. Some amount of distress must be experienced in order for stress tolerance to be developed. For instance, while avoiding large crowds or noises may temporarily provide relief of stress, Student should also receive scaffolded exposure to these situations so he can develop the ability to cope, as he will not be able to avoid these situations for his entire life.

Id. Dr. Mast explained this assertion at the due process hearing. According to Dr. Mast, the treatment for anxiety is not to remove the anxiety-provoking stimuli altogether, but rather to allow exposure to the stimuli in order to develop the skills to cope with them. Tr. at 623 (Mast).

59. "Scaffolded exposure" requires working with a therapist and using a particular technique. Tr. at 625 (Mast). The technique works as follows: in a therapeutic setting, a "fear ladder" with steps is developed. The ladder is filled in with increasing amounts of exposure to the anxiety-provoking stimuli. Then, a setting of exposure is chosen that is far enough up the ladder to

[10] Dr. Mast holds undergraduate degrees in communication and psychology, a master's of education degree in child psychology, and a doctorate of psychology in school psychology. Tr. at 603, 630 (Mast).

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generate an anxiety response, but not so much anxiety as to be overwhelming. The therapy helps the anxious person slowly work their way up the ladder. *Id.* at 624-25. Dr. Mast opined that scaffolded exposure therapy for noise and crowds is one of the Student's needs. *Id.* at 632. There are professionals within the District who are capable of providing the therapy. Dr. Mast was unable to point to any research establishing that scaffolded exposure works for noise sensitivity. *Id.* at 632, 636.

60. Both Dr. Lord and Dr. Keirsey opined that sensory sensitivities, such as noise sensitivity, do not improve with exposure, and there is no method by which to "treat" or reduce the sensitivity. Tr. at 405 (Lord); 315-16 (Keirsey). Rather, the sensitive individual needs to learn coping skills and techniques, while avoiding isolation and separation from others. Tr. at 405 (Lord).

61. Sensory sensitivity is a major factor to consider for children like the Student who are on the autism spectrum. Such students may be overwhelmed by large, chaotic-type areas. Noise and light can bother them. The environment can be stressful and overwhelming and can trigger an anxiety response. Children such as the Student may require a long time to recover from even a small amount of sensory stimulation. Constant over-stimulation can cause them to dysregulate and be less able to engage in academics. Tr. at 279-80 (Keirsey).

62. During the reevaluation, the Behavior Assessment System for Children - Third Edition (BASC-3) was administered to the Student, as was the Screen for Child Anxiety Related Disorders (SCARED). J4 pp. 13-14. The results show the Student has difficulty with social cues and understanding what to do in social situations. He is easily stressed and worries about things both in and out of his control. The results were "significant" for hyperactivity, and were "at risk" for anxiety, depression, attention problems, and withdrawal. The Student's self-assessment on the SCARED showed that he was not experiencing significant levels of anxiety that impact his daily functioning, and that he is no longer "shy" and no longer gets headaches and stomach aches at school. *Id.* at 14.

63. As part of the reevaluation, the Student was also administered the Wechsler Individual Achievement Test - Third Edition (WIAT-III). He achieved a mathematics composite score in the below average range, which represents his overall math ability. His performance on both the calculation and math problem-solving tests also fell within the below average range. J4 pp. 25-26. The Student's overall rank in mathematics was in the fifth percentile, problem solving was in the ninth percentile, and numerical operations was in the fourth percentile. J4 p. 27. Classroom observation by Dr. Mast suggested that the Student relies heavily on use of a calculator. *Id.*

64. The reevaluation recommends the Student receive SDI in math, social emotional, study skills, and writing. J4 p. 8.

65. A meeting was held on November 4, 2019 to discuss the reevaluation. J4 p.1. Ms. Farrell,[11] special and general education teacher at EAS, attended the meeting. She perceived there to be consensus among the evaluation team that the Student's placement at EAS was working well and he was thriving. Tr. at 155 (Farrell).

[11] Ms. Farrell holds a bachelor's degree in education, and a dual certification in general education K-8 and special education K-12. Tr. at 121, 218 (Farrell). She is a certificated special education teacher. *Id*. at 122.

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119. Dr. Lord is familiar with EAS because she has another patient who attends the school. Tr. at 395 (Lord). She thinks it is a good fit for the Student's needs. *Id.* The Student became much more engaged in and enthusiastic about school once he moved to EAS. Dr. Lord had not seen him that excited about school since she had been treating him. *Id.* at 398. Dr. Lord is not concerned that there is no psychologist, counselor or social worker on site at EAS, and she was able to work collaboratively with Mr. Rhodes when the Student moved to EAS to design interventions when he felt overwhelmed or needed tailored support. *Id.* at 408.

120. Dr. Lord visited EAS for the same amount of time she was permitted to visit Olympic. She observed the school to be quiet. Classes consisted of one to six students. She noted that the classmates of the Student appeared to be higher functioning than the Student. She did not observe any of the EAS students to be nonverbal or to have significant functional impairment. P19 pp. 5-7.

121. Ms. Farrell disputes the November 2019 IEP's assertion that EAS does not provide SDI in social-emotional and study skills. In her opinion, EAS can provide more beneficial instruction in those skills than can a public school. Tr. at 164 (Farrell).

122. The Parents have incurred and paid $16,875 in tuition expenses to EAS for the 2019-20 academic year. They seek reimbursement of that expense as relief in this action. Tr. at 252 (Mother); P16.

CONCLUSIONS OF LAW

Jurisdiction and Burden of Proof

1. The Office of Administrative Hearings has jurisdiction over the parties and subject matter of this action for the Superintendent of Public Instruction as authorized by 20 United States Code (USC) §1400 *et seq*., the Individuals with Disabilities Education Act (IDEA); Chapter 28A.155 Revised Code of Washington (RCW); Chapter 34.05 RCW; Chapter 34.12 RCW; and the regulations promulgated pursuant to these statutes, including 34 Code of Federal Regulations (CFR) Part 300, and Chapter 392-172A Washington Administrative Code (WAC).

2. The burden of proof in an administrative hearing under the IDEA is on the party seeking relief. *See Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528 (2005). Since the Parents are the party seeking relief in this case, they have the burden of proof. Neither the IDEA nor OSPI regulations specify the standard of proof required to meet a party's burden of proof in special education hearings before OAH. Unless otherwise mandated by statute or due process of law, the U.S. Supreme Court and Washington courts have generally held that the burden of proof to resolve a dispute in an administrative proceeding is a preponderance of the evidence. *Steadman v. SEC*, 450 U.S. 91, 98-102, 101 S. Ct. 999 (1981); *Thompson v. Department of Licensing*, 138 Wn.2d 783, 797, 982 P.2d 601 (1999); *Hardee v. Department of Social & Health Services*, 172 Wn.2d 1, 256 P.3d 339 (2011*).* Therefore, the Parents' burden of proof in this matter is preponderance of the evidence.

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The IDEA and FAPE

3. The IDEA and its implementing regulations provide federal funds to assist state and local agencies in educating children with disabilities, and condition such funding upon a state's compliance with extensive goals and procedures. In *Bd. of Educ. of Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176, 102 S. Ct. 3034 (1982) (*Rowley*), the Supreme Court established both a procedural and a substantive test to evaluate a state's compliance with the IDEA, as follows:

> First, has the state complied with the procedures set forth in the Act? And second, is the individualized educational program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? If these requirements are met, the State has complied with the obligations imposed by Congress and the courts can require no more.

Rowley, 458 U.S. at 206-207 (footnotes omitted).

4. A "free appropriate public education" consists of both the procedural and substantive requirements of the IDEA. The *Rowley* court articulated the following standard for determining the appropriateness of special education services:

> [A] "free appropriate public education" consists of educational instruction 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. Almost as a checklist for adequacy under the Act, the definition also requires that such instruction and services be provided at public expense and under public supervision, meet the State's educational standards, approximate the grade levels used in the State's regular education, and comport with the child's IEP. Thus, if personalized instruction is being provided with sufficient supportive services to permit the child to benefit from the instruction, and the other items on the definitional checklist are satisfied, the child is receiving a "free appropriate public education" [FAPE] as defined by the Act.

Id. at 188-189. In order for a school district to provide a FAPE, it is not required to provide a "potential-maximizing" education, but rather a "basic floor of opportunity." *Id.* at 458 U.S. at 200-201.

5. The Supreme Court recently clarified the substantive portion of the *Rowley* test quoted above:

> To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. . . [H]is educational program must be appropriately ambitious in light of his circumstances . . .

Endrew F. v. Douglas County Sch. Dist. RE-1, 580 U.S. ___, 137 S. Ct. 988, 999-1000 (2017).

6. Procedural violations of the IDEA amount to a denial of FAPE only if they:

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(I) impeded the child's right to a free appropriate public education;
(II) significantly impeded the parents' opportunity to participate in the decisionmaking process regarding the provision of a free appropriate public education to the parents' child; or
(III) caused a deprivation of educational benefits.

20 USC §1415(f)(3)(E)(ii); WAC 392-172A-05105(2); and 34 CFR §300.513.

7. Thus, not every procedural violation of the IDEA is sufficient to support a finding that the child in question was denied FAPE. *Ms. S. v. Vashon Island Sch. Dist.,* 337 F.3d 1115, 1129 (9th Cir. 2003)(quoting *Amanda J. v. Clark County Sch. Dist*., 267 F.3d 887, 892 (9th Cir. 2001)). "A procedural violation denies a free appropriate public education if it results in the loss of an educational opportunity, seriously infringes the parents' opportunity to participate in the IEP formulation process or causes a deprivation of educational benefits." *J.L. v. Mercer Island Sch. Dist.,* 592 F.3d 938, 953 (9th Cir. 2010)(citations omitted).

8. The determination as to whether an IEP is reasonably calculated to offer a student FAPE is a fact-specific inquiry that must focus on the unique needs of the student at issue. As the U.S. Supreme Court has made clear, "A focus on the particular child is at the core of the IDEA," and an IEP must meet a child's "*unique* needs." *Endrew F.,* 137 S.Ct. at 999 (emphasis in original). "An IEP is not a form document." and the "essential function of an IEP is to set out a plan for pursuing academic and functional advancement." *Id.* "Above all, an IEP team is charged with developing a 'comprehensive plan' that is 'tailored to the unique needs of a particular child.'" *L.C. on behalf of A.S. v. Issaquah Sch. Dist,* 2019 WL 2023567 at *21, 119 LRP 18751 (W.D. Wash. 2019)(quoting *Endrew F*., 137 S.Ct. at 994).

Whether the District predetermined that EAS would not be considered or recommended as a placement option during the June 2019 and November 2019 IEP meetings

9. The Parents contend the District committed procedural violations of the IDEA by predetermining that EAS would not be considered or recommended as a placement option during the June 2019 and November 2019 IEP meetings. "[P]redetermination occurs when an educational agency has made its determination prior to the IEP meeting, including when it presents one placement option at the meeting and is unwilling to consider other alternatives." *H.B. v. Las Virgenes Unified Sch. Dist.*, 239 F. App'x 342, 344 (9th Cir. 2002). Predetermination of a student's placement is a procedural violation that can deprive a student of FAPE. According to the Ninth Circuit, a school district violates IDEA procedures "if it independently develops an IEP, without *meaningful* parental participation, and then simply presents the IEP to the parent for ratification." *Ms. S. v. Vashon Island Sch. Dist.,* 337 F.3d at 1131 (emphasis added). A school district may not enter an IEP meeting with a "take it or leave it" position, and if it does so, then even the parents' decision not to cooperate thereafter may not excuse the district's error." *Id.*

10. "Denying parental access to the IEP process is a serious procedural violation of the IDEA." *Ms. S. v. Vashon Island Sch. Dist.* at 1131. "Parents not only represent the best interests of their child in the IEP development process, they also provide information about the child critical to developing a comprehensive IEP and which only they are in a position to know." *Id.* (*quoting Amanda J. v. Clark County,* 267 F.3d at 882).

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11. In the present case, at the June 2019 IEP meeting, no substantive discussion regarding the possibility of placing the Student at EAS occurred due to the District's "take it or leave it" approach. The District offered placement at Interlake and was unwilling to discuss or consider other alternatives. The District refused to consider interim placement of the Student at EAS when the Parents inquired about that possibility, and offered no reason for the refusal. Public/private separate day school is not marked in the IEP as having been considered for the 2019-20 school year. Dr. Lord's input and other material provided by the Parents for the June meeting were given little consideration by the District with respect to the Student's placement. Notably, one District IEP team member saw fit to distribute the materials to other District personnel as "reading entertainment." Moreover, the District staff member who drafted the June 2019 IEP did not think the Student should have been placed at EAS in the first place. He was very resistant to reconsidering the impressions he had formed regarding the Student's needs, and had made up his mind prior to the meeting that EAS was not an appropriate placement for the Student.

12. At times in the due process hearing, the District pointed to the Agreement as the reason it decided to place the Student at Interlake without further inquiry. This does not reflect an accurate interpretation of the wording of the Agreement. The Agreement provides that, if the Student returns to the District, the most recent placement offer will be implemented *unless otherwise directed by the Student's IEP team* (emphasis added.) Clearly, the Student's IEP team has the ability to override the most recent placement offer; any other reading of the Agreement would render the clause "unless otherwise directed by the Student's IEP team" to be superfluous and meaningless. Therefore, to the extent the District argues that the Agreement prevented the IEP team from considering EAS as a potential placement, that argument is not persuasive.

13. It is concluded that the District predetermined, prior to the June 2019 IEP meeting, that EAS would not be considered or recommended as a placement for the Student. This is a serious procedural violation of the IDEA. This predetermination by the District significantly impeded the Parents' opportunity to participate in the decision-making process regarding the provision of FAPE to their child, and therefore constitutes a denial of FAPE.

14. The Parents also contend the District predetermined EAS would not be considered or recommended as a placement for the Student in relation to the November 2019 IEP meeting. The evidence does not support this assertion. The District staff member who developed the IEP, Mr. Gentry, understood that he was to develop an IEP placing the Student at Interlake. The draft IEP, and the PWN issued afterward, both indicate that EAS was not considered as a placement. However, the District did not exhibit the same unwillingness to reconsider its placement recommendation as it did at the June 2019 IEP meeting. Rather, placement was substantively discussed by the team at the meeting, and the team ultimately determined that Interlake would not meet the Student's needs. The District changed its placement recommendation to Olympic after getting input from the Parents.

15. The fact that the District may have come to the meeting with pre-formed opinions regarding placement is not dispositive of the issue, so long as they were willing to listen to the Parents and the Parents had the opportunity to make objections and suggestions regarding the IEP. *L.C. on behalf of A.S. v. Issaquah Sch. Dist,* 2019 WL 2023567 at *21.

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16. It is concluded that the District did not predetermine that EAS would not be considered or recommended as a placement for the Student prior to the November 2019 IEP meeting. As such, no procedural violation or denial of FAPE occurred due to predetermination at the November 2019 IEP meeting.

Whether the District violated the IDEA and denied the Student FAPE from January 9, 2019, to December 31, 2019, by failing to consider during the June and November IEP team meetings the impacts of the proposed transition of the Student from EAS to a traditional high school setting

17. The Parents contend that the District denied the Student FAPE by failing to consider the impacts of his proposed transition from EAS to a District high school. The District correctly argues that the IDEA does not *require* a transition plan in an IEP when a student transitions from a private school to a public school. However, this is not the same inquiry as whether the impacts of the proposed transition from a small private school to a very large public school should be *considered* by the IEP team.

18. The evidence is overwhelming that the Student suffers from anxiety. His ability to adjust to change is limited, and transitions are very difficult for him. The mere thought of changing schools causes the Student to experience traumatic intrusive memories. The June 2019 IEP itself notes that the Student is able to cope with anxiety-inducing situations only 0-25% of the time. At the June 2019 IEP meeting, the District did not agree to allow the Student to "ease back into the District" and did not agree to develop a transition plan. However, this does not mean the District was unwilling to consider the impacts of the transition on the Student. It was not given the opportunity to do so because the meeting was cut short by the Parents. There is no evidence that, had the meeting continued, the District would have been unwilling to consider the impacts of the transition on the Student. The evidence points to the contrary in that the District agreed to reevaluate the Student after concerns were raised by the Parents. The fact that the District was unwilling to consider EAS as a placement does not lead to a conclusion that the District was unwilling to consider the impacts of the transition to Interlake. Therefore, it is concluded that the District did not fail to offer the Student FAPE by failing to consider the impacts of the transition from EAS to public school at the June 2019 IEP meeting.

19. The November 2019 IEP meeting presents a different scenario. At that point, the District had considerably more recent information about the Student. It also had ample time at the IEP meeting to demonstrate willingness to consider the impacts of the proposed transition on the Student. The District knew that noise and crowds were triggers for the student to panic. Dr. Lord had opined that the Student's functioning might be significantly reduced if he were to return to a large public school. The transition to the District school was to occur almost immediately according to the terms of the IEP, but no transition plan was offered or even discussed by the District. The Parents' expert, Dr. Keirsey, opined persuasively at the due process hearing that the Student's ability to cope with such a transition would be very concerning, and a successful transition could take months or even years. No one from the District spoke with Dr. Keirsey, or Dr. Lord, for purposes of the reevaluation or development of the November 2019 IEP. Clearly, most members of the IEP team were individually troubled by the thought of moving the Student to Olympic/Newport in the manner contemplated by the IEP. When asked at the end of the meeting, "Does anyone, after hearing what you've heard about the Student today, believe that moving the Student now would be a good choice?", no one but Mr. Delport responded that they did. The other team members did not answer.

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20. As set forth above, FAPE consists of SDI supported by such services as are necessary to permit the child to benefit from the instruction. An IEP must be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. Moreover, an IEP team is charged with developing a "comprehensive plan" that is "tailored to the unique needs of a particular child." The essential function of an IEP is to set out a plan for pursuing academic and functional advancement. In the present case, the November 2019 IEP's plan for the Student's functional advancement was inadequate. Given the Student's anxiety, autism, noise sensitivity, and negative experience at Highland, as well as the input from the Parents and Dr. Lord, the IEP team should have recognized that the Student would be unable to benefit from his instruction, and be unable to make appropriate progress, for potentially a very long period of time were he to be "thrown in" to the environment at Olympic/ Newport. Even if a formal transition plan was not necessary (though the evidence strongly points to the fact that it was), the immense impact of the transition on the Student should, at the very least, have been *considered* by the IEP team. The District's unwillingness to do so constituted a failure to offer the Student FAPE.

21. The cases cited by the District in its briefing do not change this conclusion. In *J.G. by & through Greenberg v. Dep't of Educ.,* 772 F. App'x 567 (9th Cir. 2019), the case most on point, the underlying district court case provides necessary context. J.G.'s IEP was developed over a series of five IEP meetings that included the parents. *J.G. v. Hawaii,* 2018 U.S. Dist. Lexis 132945 at *2 (D. Haw. 2018). The IEP provided that a transition plan would be developed for the student and specified the areas of concern that needed to be addressed, including "new people, new location, potential regression," and other factors. *Id.* at *5. The foresight expressed in that IEP shows an awareness of J.G.'s needs that is lacking in the IEP in the present case. In *J.G.,* a "concerted effort" was made by the school district to develop a transition plan in consultation with the parents. *Id.* at *44. In contrast, in the present case, the Student was expected to move to the public school almost immediately yet the impact of the transition was not even considered by the IEP team.

22. The other Ninth Circuit cases cited by the District similarly do not support the argument that the November 2019 IEP offered the Student FAPE despite the failure of the IEP team to consider the impact of the Student's transition to Olympic. In *B.B. ex rel. J.B. v. Hawaii Dep't of Educ.,* 483 F. Supp. 2d 1042 (D. Haw. 2006), a detailed "transfer plan" was developed for the student. The court noted that, while the IDEA does not mandate the creation of a specific transition plan, in some cases the knowledgeable experts agree that a particular student would benefit from such a plan, and the transition plan is necessary to demonstrate that the district can provide a FAPE. *Id.* at 1057. The present case is just such a situation. Similarly, *James M. ex rel. Sherry M. v. Hawaii,* 803 F. Supp. 2d 1150 (D. Haw. 2011), is distinguishable because that court did not find evidence to demonstrate that the Student required a transition plan (but a plan was developed nonetheless). *Id.* at 1163-64.

<u>Whether the District violated the IDEA and denied the Student FAPE from January 9, 2019, to December 31, 2019, by failing to offer IEPs for the Student on June 14, 2019, and November 25, 2019, that are reasonably calculated to deliver FAPE for the 2019-20 school year</u>

23. The Parents contend the District failed to offer the Student IEPs that are reasonably calculated to provide him with FAPE in June and November of 2019.

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24. With respect to the June 2019 IEP, the Ninth Circuit has determined that the question of substantive compliance with the IDEA need not be reached if the reviewing court finds procedural inadequacies that seriously infringe a parent's opportunity to participate in the IEP formulation process. *N.B. v. Hellgate Elem. Sch. Dist.,* 541 F.3d 1202, 1207 (9th Cir. 2008)(internal quotations omitted). It has been concluded above that the District predetermined, prior to the June 2019 IEP meeting, that EAS would not be considered or recommended as a placement for the Student. This is a serious procedural violation of the IDEA that denied the Student FAPE. Nonetheless, the question of the June 2019 IEP's substantive compliance with the IDEA will be addressed here.

25. In developing an IEP, the IEP team must consider, among other things: the concerns of the parents for enhancing the education of their student; the results of the most recent evaluation of the student; and the academic, developmental, and functional needs of the student. WAC 392-172A-03110(1). "Any review of an IEP must appreciate that the question is whether the IEP is *reasonable*, not whether the court regards it as ideal." *Endrew F.,* 137 S.Ct. at 999 (emphasis in original, internal citations omitted). However, a reviewing court may fairly expect school district authorities "to be able to offer a cogent and responsive explanation for their decisions that show the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances*." Id.* at 1002.

26. An IEP must include a statement of the special education and related services to be provided to the student to enable the student to advance appropriately toward attainting annual goals. WAC 392-172A-03090(d). "Related services" means such services as are required to assist a student eligible for special education to benefit from special education, including psychological services and counseling. WAC 392-172A-01155(1).

27. The June 2019 IEP calls for the Student to spend 73.83% of his time in the general education setting at Interlake for the 2019-20 school year. The IEP notes that the Student is able to cope with anxiety-inducing situations only 0-25% of the time. The IEP contains no plan to transition the Student from EAS to Interlake, and calls for the move to take place *immediately*. The IEP's social/emotional "regulation" goal, the only goal to directly address anxiety, provides that the Student will recognize his anxiety and request to take a break. The IEP includes no related counseling or psychological services. Prior to the IEP meeting, the Parents provided input from Dr. Lord that noted that the Student's functioning could be significantly reduced if he were to return to his prior academic environment (i.e. a large public school), and the mere thought of changing schools causes the Student to experience trauma symptomology.

28. At least one District IEP team member, Ms. Arroyo, felt that consideration of a transition plan was called for, and that she needed more information about the Student. However, the District refused to consider interim placement of the Student at EAS pending the reevaluation and offered no reason for this refusal. Notably, after the reevaluation, the November 2019 IEP team determined that Interlake was not an appropriate placement for the Student, and that the Student needed more support than could be provided at Interlake. It is well established that the appropriateness of an IEP must not be judged in hindsight, but rather based on the information that was reasonably available to the parties at the time the IEP was developed*. Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). However, information indicating the Student would experience difficulty adjusting to Interlake, and needed more support than the IEP provided, was

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very available to the parties in June of 2019. The Parents attempted to call the significance of this information to the attention of the District team members, to no avail.

29. For these reasons, it is concluded that the June 2019 IEP did not adequately address the Student's functional needs, was not a comprehensive plan tailored to the unique needs of the Student, and was not reasonably calculated to deliver the Student FAPE for the 2019-20 school year.

30. With respect to the November 2019 IEP, it is concluded above that the District's unwillingness to consider the impacts of the transition from EAS to a large public school constituted a failure to offer the Student FAPE. Nonetheless, the issue of whether the IEP was reasonably calculated to provide the Student with FAPE will be further addressed here.

31. It is clear and undisputed that the Student has a pervasive sensitivity to noise and crowds; the ability to cope with these sensitives is an overriding functional need on the part of the Student. This was well known by the District by November of 2019 but is not adequately addressed by the November 2019 IEP. There is a risk that the Student will hide, rock, scream, completely withdraw, and/or use headphones constantly to attempt to cope with the environment at Olympic/Newport. The Student's November 2019 reevaluation noted that he should receive scaffolded exposure to crowds and noise. Dr. Lord and Dr. Keirsey disagreed with this approach, both opining that the Student needs to learn coping skills and techniques in order to manage these sensitivities while avoiding isolation and separation from others. Regardless of which approach may be most appropriate, the IEP provides for neither; it does not provide for scaffolded exposure, and does not provide an opportunity to learn coping skills and techniques. It merely provides the Student can take breaks for up to five minutes and possibly use noise-canceling headphones. The social/emotional "regulation" goal, the only goal to directly address anxiety, provides that the Student will label how he is feeling to improve his ability to identify emotions for self-regulation. The IEP includes no counseling or psychological services other than a boilerplate description of the Olympic Program. The PWN issued after the meeting states that Olympic "will offer support to address Student's anxiety," but does not describe the nature of that support, when or how it will be provided, or by whom it will be provided. The Student's anxiety related to noise and crowds is not adequately addressed, and the District did not provide a cogent and/or responsive explanation for the inadequacy. The IEP is, therefore, not a "comprehensive plan" that is tailored to the unique needs of the Student.

32. For this reason, it is concluded that the November 2019 IEP is not reasonably calculated to deliver the Student FAPE for the 2019-20 school year.

Whether EAS is an appropriate placement at which to provide the Student a FAPE

33. Parents who unilaterally enroll a student in a private school are entitled to tuition reimbursement only if: (a) the school district's placement violates the IDEA, and (b) the parents' private school placement is proper under the IDEA. *Florence County Sch. Dist. v. Carter,* 510 U.S. 7, 114 S.Ct. 361, 364 (1993). *See also* WAC 392-172A-04115; *Burlington v. Dep't of Educ*., 471 U.S. 359, 369, 105 S.Ct. 1996 (1985).

34. In order for a private placement to be proper, parents must demonstrate that it "provides educational instruction specially designed to meet the unique needs of a handicapped child,

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supported by such services as are necessary to permit the child to benefit from instruction." *C.B. v. Garden Grove Sch. Dist.*, 635 F.3d 1155, 1159 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 500 (2011). In *C.B. v. Garden Grove*, the student at issue had unique needs in math, among several other areas. The private center in which he was placed provided only language-based services, and no instruction in math. Nonetheless, the Ninth Circuit found the private placement was proper because it met some, though not all, of the student's educational needs, and provided significant educational benefits. *Id.* at 1159-1160. In contrast, a private placement is not proper when the educational benefits conferred are "meager" and the student at issue makes no progress in essential areas. *M.N. v. State of Hawaii*, 509 F. App'x 640, 641 (9th Cir. 2013).

35. A private placement does not have to be the Student's least restrictive environment to be appropriate for reimbursement purposes. *C.B. v. Special Sch. Dist. No. 1*, 636 F.3d 981 (8th Cir. 2011).

36. An ALJ may reasonably rely on testimony of witnesses who have a consistent relationship with the student at issue and/or have observed the student's school performance over those who base their opinion predominately on file reviews. *N.B. v. Hellgate Elem. Sch. Dist.,* 541 F.3d at 1212.

37. The Bellevue location of EAS has 50 students. Approximately one third of the student body is made up of typical learners, i.e. general education students. EAS follows state curriculum standards. It has the capability to provide a social skills class, including instruction on interpreting facial expression, body language and social cues. The study skills class at EAS focuses on executive functioning. There is a special education teacher on staff, and the District currently has a student placed at EAS who is working on social emotional goals. Social support and social-emotional learning are imbedded into each class. The EAS staff has demonstrated the ability to work with the Student and Parents to address the Student's somatic complaints and avoidance tactics. The Student has made great progress at EAS, as described in the Findings of Fact, above. Notably, the D&D activity that is implemented at Olympic is implemented to a greater degree at EAS and has been very effective for the Student. He is on track to graduate with the necessary prerequisites for college attendance.

38. In light of the legal standards and Findings of Fact articulated above, it is concluded that EAS is an appropriate placement at which to provide the Student FAPE.

Whether any of the Parents' claims and/or requested relief are barred by the terms of the settlement agreement entered into by the parties on January 9, 2019

39. The District raised the terms of the Agreement to preclude or bar only the June 2019 IEP meeting predetermination claim, discussed above. It is concluded above that the Agreement does not bar that claim. Accordingly, none of the Parents' claims and/or requested relief are barred by the terms of the Agreement entered into by the parties on January 9, 2019.

Whether the Parents are entitled to their requested remedies or other relief

40. The Parents have incurred and paid $16,875 in tuition expenses to EAS for the 2019-20 academic year. They seek reimbursement for that payment as relief in this action. It is concluded that this tuition is reasonable. Because the District did not offer the Student FAPE in June and

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November of 2019, the Parents are entitled to reimbursement for the tuition paid to EAS for the 2019-20 academic year in the amount of $16,875.

41. With regard to prospective placement at EAS, IEPs are only one year in length because a student's needs change over time. The evidence does not support a conclusion that the District is incapable of offering the Student FAPE. Consequently, the need for prospective placement of the Student at EAS beyond the 2019-20 school year has not been demonstrated. If the District makes an offer of placement through a new IEP with which the Parents disagree, they have the right to file a new due process hearing request.

42. The Parents are entitled to the remedies and relief set forth above, and as specified in the ORDER below.

43. All arguments made by the parties have been considered. Arguments not specifically addressed herein have been considered, but are found not to be persuasive or not to substantially affect a party's rights.

ORDER

1. The Bellevue School District violated the IDEA and denied the Student FAPE in multiple ways, as set forth above.

2. The District is ordered to reimburse the Parents for private school tuition in the amount of $16,875.

3. All remedies requested by the Parent have been considered. Any remedies not awarded above are denied.

Signed on the date of mailing.

Jacqueline H. Becker
Administrative Law Judge
Office of Administrative Hearings

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Right To Bring A Civil Action Under The IDEA

Pursuant to 20 U.S.C. 1415(i)(2), any party aggrieved by this final decision may appeal by filing a civil action in a state superior court or federal district court of the United States. The civil action must be brought within ninety days after the ALJ has mailed this final decision to the parties. The civil action must be filed and served upon all parties of record in the manner prescribed by the applicable local state or federal rules of civil procedure. A copy of the civil action must be provided to OSPI, Administrative Resource Services.

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that today I served this document on each of the parties listed below. I emailed via secure or mailed a copy to the parties at their addresses of record using Consolidated Mail Services or U.S. Mail.

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Dated April 8, 2020 at Seattle, Washington.

lan

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