



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

DECISION

OAL DKT. NO. EDS 14310-17

AGENCY DKT. NO. 2018-26993

J.M. AND A.M. ON BEHALF OF M.M.,

Petitioners,

v.

**MIDDLETOWN TOWNSHIP BOARD OF
EDUCATION,**

Respondent.

Lenore Boyarin, Esq., for petitioners (Sussan, Greenwald and Wesler, attorneys)

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

Record Closed: June 15, 2018

Decided: July 9, 2018

BEFORE **CATHERINE A. TUOHY**, ALJ:

STATEMENT OF THE CASE

Petitioners, J.M. and A.M., on behalf of their minor son, M.M. dispute the Child Study Teams' (CST) recommended placement of M.M. in the in-district Multiple Disabilities Class (MD) as opposed to the less restrictive Language Learning Disabilities Class (LLD). The dispute involves the IQ assessment of M.M. The Middletown Township Board of education (the District) has determined that M.M. is Cognitively Impaired while

the parents' expert has determined M.M.'s IQ to be in the average range. At issue is what is the appropriate placement for M.M.

PROCEDURAL HISTORY

On September 25, 2017, following a mediation conference, petitioners requested that this matter be converted from a request for mediation to a request for a due process hearing with the Office of Special Education of the New Jersey Department of Education. The matter was transmitted from the Office of Special Education to the Office of Administrative Law (OAL) as a contested case and filed on September 29, 2017 pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The sole issue transmitted is what is the appropriate placement for M.M. The matter was heard on January 16, March 5 and March 15, 2018. The parties provided written submissions and briefs and the record closed on June 15, 2018.

FACTUAL DISCUSSIONS AND FINDINGS

Erin Aiello testified on behalf of the respondent. She is currently employed as a kindergarten teacher by respondent at the Bayview school. Ms. Aiello has been employed by the District for seventeen years, nine as a kindergarten teacher, four as a third-grade teacher and four as a first-grade teacher. Her resume has not been updated since she applied to the District (J-27), but should include the fact that she has since obtained her Masters' degree in Education in 2006. Ms. Aiello obtained her elementary school teacher's certificate in 2002. As an elementary school teacher at Bayview, she has one general education kindergarten class and teaches all subjects including reading, writing, math, science, social studies as well as social skills. There are generally seventeen – twenty-four children in her class. She does provide education to students with disabilities and she has attended IEP meetings and provided input to the CST staff as a general education teacher. Ms. Aiello does not make recommendations as to a student's placement as she is not a special education teacher.

Ms. Aiello first met M.M. when she was conducting the kindergarten screenings in June 2016. Kindergarten screenings are done at the end of the school year and basically

consist of a quick fifteen-minute evaluation of a child's readiness for kindergarten. The screening consists of evaluating a child's listening and language skills to see if they can follow instructions; describe objects; hop; skip; build a tower and things of that nature. The screenings are scored 'okay', 'rescore' or 'refer'. Ms. Aiello did M.M.'s screening and noted that he had difficulty with language skills and had a hard time describing objects. M.M. was good at repeating things. She scored M.M. as a 'refer' and brought it to her principal's attention who advised that they would review it again in September.

Ms. Aiello had M.M. in her kindergarten class for the 2016-2017 school year. She believed she received the pre-school evaluations of M.M. (J-1, J-2, and J-3) from the parents after the school year had started. On September 20, 2017, with the parents' consent, Ms. Aiello filled out a "Receptive/Expressive Language Referral Form" directed to the CST because M.M. was having difficulty expressing himself (J-4). The first page of the referral form indicates the areas of concern and Ms. Aiello indicated that M.M. was having difficulty with all of the items listed (J-4). These were observations made by Ms. Aiello as a general education teacher since she is not a speech pathologist. She indicated that M.M. did not engage in age appropriate conversation. Usually a five or six-year old can engage in basic conversation and tell you their name, birthday, and what they had for breakfast. M.M. could echo what was said, but could not converse like other five or six-year old children. He had little spontaneous language. M.M. had difficulty following directions and Ms. Aiello had to do a lot of one on one instruction with him. There are certain basic skills that are expected in kindergarten for instance writing your name; recognizing the letters in your name and recognizing your name. M.M. was not able to do this. M.M. could not write words. Children entering kindergarten with various ranges of skills. Some children know their letters, upper and lower case. Some can read, but not all. Most children know their shapes and colors. M.M. was in the lower range of skills as he did not know shapes, colors and could not recognize his name or know his letters.

M.M. is a very sweet, loving, kind child and is not a behavior concern. He is very social and wants to be a part of his peer group. However, he has difficulty communicating with the other children. M.M. mimics what the other students say. A lot of their activities are group activities. There were seventeen – eighteen students in M.M.'s kindergarten class. Ms. Aiello's is the only adult in the classroom. The classroom had six or seven

tables with four to six children at a table and two rug areas. Most of the instruction took place while the children were seated on the carpet. Ms. Aiello would give 'mini lessons' and then the children would practice what they learned in smaller groups at their seat. Another rug area was for reading time. M.M. had a difficult time paying attention and was easily distracted. Ms. Aiello met with the parents at the parent teacher meeting and expressed her concerns to the parents who agreed with Ms. Aiello that M.M. was struggling.

An Intervention and Referral Services (I & RS) Initial Request for Assistance (J-5) was requested September 20, 2017. Ms. Aiello had collaborated with the early childhood consultant, Ms. Goldstein, the speech therapist, Kathy Kamaris and the CST regarding how to assist M.M. A language referral goes to the CST. The I&RS process goes to the SBSS led by Ms. Goldstein. Ms. Aiello did referrals for both. An I&RS Staff Data Collection Form dated September 23, 2016 was also prepared by Ms. Aiello as part of the referral process (J-6). An initial identification/evaluation planning meeting was conducted on October 13, 2016 and the CST agreed to test M.M. to evaluate him for special education and related services. The Parental Notice Following an Initial Identification/Evaluation Planning Meeting (J-7) was sent to the parents who consented to the proposed assessments. Ms. Aiello agreed with the CST that M.M. was in need of testing. A speech language evaluation of M.M. was conducted by the speech therapist Kathleen Kamaris (J-8). An Individualized Education Program (IEP) was prepared for M.M. (J-14). Ms. Aiello attended the IEP meeting conducted January 10, 2017. As his teacher, she prepared the "Present Levels of Academic Achievement and Functional Performance" section of the IEP (J-14, page 3). She provided all of the academic assessments. Ms. Aiello indicated that in math, although M.M. is still part of the group, he had to be given his own work because the class was moving too quickly for him. M.M. could not identify the letters in his name consistently. Under the "Accommodations/Modifications" section of the IEP, it was recommended by Ms. Aiello that all work presented to M.M. must be modified and that he needed a separate curriculum from the rest of the students in the class (J-14, page 4). Ms. Aiello does not have any input as far as the placement of M.M., the CST decides that. She also does not have any input into the goals or objectives of the IEP. Basically, she provided her assessment of M.M. in the general education setting. She does agree with the IEP's

proposed placement of M.M. in the Multiple Disabilities (MD) class because M.M. needs to develop basic skills and he will receive the one on one attention required. By notice dated March 16, 2017 entitled "Speech/Language: Parental Notice Following a Meeting When the IEP is Not Used as Notice" (J-17) the District recommended that M.M. receive speech therapy twice a week for thirty minutes. The notice also stated M.M. was recommended for the Multiply Disabled program which the parents rejected by not signing the consent to implement the program. Ms. Aiello did not recall the specific reasons the parents did not agree to the IEP.

M.M. did make progress throughout the kindergarten year. He learned how to behave in class and follow the routine of the classroom. He learned to recognize his letters and his counting improved. Although he made progress, it was slow and not consistent.

On cross-examination it was brought out that M.M. was receiving speech services pre-school through the early intervention program for which he was screened and found eligible (J-1, 2 & 3). The pre-school records identified the same difficulties Ms. Aiello observed with M.M. in her class. Ms. Aiello was questioned whether she gave M.M. preferential seating in her class. Her attention was called to a Speech and Language Evaluation and Classroom Observation report done by Samantha Tasco (J-18, page 11). During the whole group instruction Ms. Tasco observed M.M. positioned towards the back, far left side of the carpet and in her opinion M.M.'s spot on the carpet was not in support of his language deficits (J-18, page 13). Ms. Aiello stated that was Ms. Tasco's opinion. When she met with M.M.'s parents at the parent teacher meeting she did discuss with them that M.M. had special education needs but she did not discuss placement with them because she is not a special education teacher. Ms. Aiello indicated that M.M. did have some spontaneous language by January. Although the MD class has several children in the class who are non-verbal there are other opportunities to be with verbal children and Ms. Aiello believed the one on one instruction he would receive in the MD class would be beneficial to M.M. The MD class has one teacher and multiple para-professionals. Ms. Aiello was asked whether she considered whether M.M. might need an LLD class which is not as large as a general education class as opposed to an MD class. She believed all of M.M.'s academic needs were important and that the MD

class was appropriate. Ms. Aiello reviewed all of the CST evaluations and her opinion was that the MD placement was appropriate.

Maureen Massell testified on behalf of the respondent. Ms. Massell is M.M.'s current first grade general education teacher for the 2017-2018 school year. She has been teaching first grade at Bayview school for four years and taught kindergarten for twenty years, approximately sixteen in Middletown Township, two years in Neptune and two years in Jersey City. She is a certified elementary school general education teacher (see resume J-30). Ms. Massell teaches all subjects as a general education first grade teacher and has an average of nineteen children in her class. She became familiar with M.M. when he entered her first-grade class in September 2017. Ms. Massell did speak to Ms. Aiello about M.M. which is common when children are transitioning from one grade to the other for teachers to discuss issues with personality and things that would be helpful for the new teacher to be aware of. The biggest item of concern when moving up from kindergarten to first grade is the reading level. There is a big jump in reading and writing development in the first grade. She reviewed M.M.'s report card and reviewed his records. M.M.'s reading level was below the benchmark. His reading, writing and math skills were significantly behind those of the average first grader. M.M. could not write letters, just strings of circles and slashes. He received speech services while in her class and was pulled out two times a week to receive services. M.M. quickly adjusted to the routine; generally understood the structure of the classroom and followed instructions and the routine consistently. M.M. is not a verbal student. During reading and writing lessons M.M. is given an iPad to work on at his own level since he is behind the other students. When the teacher is not directly working with him, he gets distracted and needs more one to one instruction. He socializes with his peers best when they show him how to do something. Then he understands and will do it. However, he does not understand when they verbally tell him to do something. She is familiar with the MD class as she has two students from that class join her class to participate in their morning meetings for socialization purposes. During the morning meeting, the children greet each other, talk about what is happening and each one gets a chance to share. M.M. is not a verbal student and usually is not on topic. M.M. is struggling in first grade especially in reading and writing. M.M.'s first grade report card indicates that he is generally receiving "1s" and "2s" (J-37). "1" indicates that he is not meeting grade level expectations and does not

demonstrate an understanding of basic concepts and skills. "Two" indicates that he is progressing towards grade level expectations (J-37). M.M. is doing better with counting. M.M. is making some progress in first grade, mainly with counting.

During the parent teacher conference, Ms. Massell and Kathy Kamaris, the speech therapist were present. M.M.'s father said he knew that the class was too advanced for M.M. Ms. Massell expressed relief because she did not want to go through all of M.M.'s difficulties and instead, focused on the positives such as his interactions with the other children, learning to play soccer, going outside every day. Ms. Massell is of the opinion that M.M. is making minimum progress overall.

On cross-examination, Ms. Massell explained that M.M. does better when he is shown how to do something and benefits from a multi-sensory approach. She used the example of M.M. playing soccer with the other children. Apparently at one point M.M. picked up the soccer ball while playing a game and the other children said "no" you cannot do that. He did not understand until they showed him how to play soccer, but then he learned.

Ms. Massell agreed that M.M. was doing better near the end of the year. A.M., the mother, wrote to Ms. Massell that M.M. was able to complete the math sentences with no prompting and that this was an easier concept for M.M. (J-33, page 0271). M.M. still has a hard time determining which is greater and which is less. The Fountas and Pinnell Literacy benchmark assessment system for kindergarten was filled out May 2017 and indicated that it was difficult to get an accurate result for M.M. due his to language deficiency (J-34). She reviewed part of the CST education evaluation regarding M.M.'s difficulty with vocabulary and language.

Ms. Massell agrees that M.M. does not belong in a mainstream class. He needs a smaller class; a language enriched environment; multi-sensory instruction and verbal peers. His spontaneous language skills have improved minutely in her class. He does repeat what other children say. He follows classroom routine. Ms. Massell reviewed the notes from Ms. Aiello from kindergarten (J-35). The notes indicate that M.M. did not follow simple instructions and now he does follow simple instructions. He can sit on the carpet

and listen to the story without moving around. M.M. has made some progress, although his counting is inconsistent. M.M. can now write his name and knows all the letters in his name and can recognize his name. According to Ms. Aiello's notes, he could not do these things last year and now he can. Although M.M. has improved, he does need more intensive services.

Elizabeth McCarthy testified on behalf of the respondent. She is the reading development teacher at Bayview elementary school for kindergarten through fifth grade. Her resume (J-29) is up to date except for the fact that she now is a certified reading specialist. She took an additional thirty credits beyond her Masters' degree specifically for reading instruction. Ms. McCarthy is in her third year in the District. The types of intervention she uses depends on the student. For kindergarten students she would concentrate on concepts of print, letter recognition and phonemic awareness. She will be asked to participate in identification meetings if she has worked with the child. She never works with children who have an IEP. Ms. McCarthy provides support services only for general education students kindergarten through fifth grade. She started working with M.M. in February 2017 at the direction of the principal. She obtained permission from M.M.'s parents and began a tier two intervention which was two times per week for twenty minutes. Tier one is intervention in the classroom by the classroom teacher. Tier three involves seeing Ms. McCarthy four times per week for twenty minutes a session. Ms. McCarthy primarily focused on letter recognition and concepts of print with M.M. His skills were a lot lower than she typically would see, even in kindergarten. M.M. could not identify the animal with the word. He knew the animal noise, for example he would say "oink" for pig but could not identify the word. He did not know a lot of words. They completed ten weeks of tier three intervention which ended in October 2017. The tier two goals were the same as the tier three goals - letter recognition and concepts of print. She would use repeated reading techniques. His progress was inconsistent. The September 27, 2017 concepts of print assessment (J-34) indicates that M.M. was able to open the book to where the story began, but in the October assessment for concepts of print he was not able to say where the story began, but was able to show her the first letter in a word and the last letter in a word. If there is no progress after the tier three instruction, they re-evaluate. Ms. McCarthy consulted with M.M.'s classroom teacher, Ms. Massell. M.M. was far below the language level for first grade general education students she

usually works with. Ms. McCarthy does not know a lot about the MD classroom. She does provide LLD teachers with assistance for professional development. M.M. does not have the vocabulary that the students she has worked with in the LLD class have and it would be incredibly challenging for M.M. in the LLD class. Following District guidelines, after completing tier three, if no progress is made, they have to try something different.

On cross-examination, Ms. McCarthy admitted that she mostly worked with M.M. on concepts of print which consists of verbal directions and then asking questions. She also used multisensory demonstrations such as letter cards. She would also use puzzle pieces and hunt for letters in dried beans. She would also do sand writing wherein she would form a letter in the sand and then M.M. would form the letter. Whenever she did an assessment some growth would be demonstrated, but on a reassessment it would not be consistent. M.M. was not reading any print format. Ms. McCarthy last worked with M.M. in October 2017, after completing the ten weeks of tier three intervention.

Kristine Venneman testified on behalf of the respondent. She is the elementary math specialist and has been employed by the District since 2012 (J-28). She works with all grades kindergarten through fifth. Ms. McCarthy works with the teachers and creates lessons and district initiatives. She has received extensive training independently from Monmouth and Rowan University. Aside from an elementary education certificate, there is no specific certification for a math specialist. Ms. Venneman began working with M.M. on December 16, 2016 at the request of his teacher, Ms. Aiello. She was concerned about his counting. They completed three tier interventions. The tier one intervention was six-eight weeks in the classroom. Tier two can be in class and outside of class. Tier three was three to four times per week. Each tier generally lasted six-eight weeks. “Dream box” is the District’s math intervention program and it is a very adaptive program that allows the student to move at their own pace. It starts at the kindergarten level with identifying ‘more’ or ‘less’. M.M. was not very successful with the dream box program because he could not get passed the first lesson of identifying ‘more’ or ‘less’. The Mathematics Data Intervention Log contain Ms. Venneman’s progress notes for M.M. from September 18, 2016 to December 21, 2017 and “anecdotal notes dated December 16, 2016 through June 19, 2017 from the previous year (J-36). In March 2017, M.M. was able to count to five cubes consistently and could identify written numbers up to nine more

consistently than not. On May 18, 2017, M.M. was able to count up to ten more consistently than not. M.M. will now more consistently identify “more” but is not as comfortable with the concept of ‘less’. The goal is to get him to identify one more or less instantly without counting all over again. M.M. cannot identify how many he has after counting one, two, three, four, five and starts counting all over again as opposed to just answering “five” the last number he counted. Ms. Venneman explained that there is a very wide range of what is appropriate in math skills for kindergarten and first grade.

Stephanie Scheick testified on behalf of respondent. She is an elementary school teacher, a teacher of the handicapped and a learning disabilities teacher consultant (LDTC). In February 2015, she started work with the Middletown district as a case manager and an LTDC on the Child Study Team. She has a Masters in special education. She worked seven years as a teacher of the handicapped in kindergarten through eighth grade programming and case managing special education students and the majority of her career has been at the elementary level (J-26). An LDTC is a special education teacher who has a Master’s degree and additional certification in evaluating both educationally and cognitively, students who have potential learning disabilities or other disabilities recognized by the IDEA. Ms. Scheick was qualified as an expert in the field of special education generally and as an LDTC specifically. She is qualified to administer IQ tests and is familiar with the guidelines for determining cognitive impairment in a child. Cognitive impairment looks at the cognitive ability of a child together with their adaptive functioning. Communication is part of the adaptive skills. She did not administer a cognitive battery of tests to M.M. but relied on the school psychologist. Ms. Pompeo’s cognitive assessment. Ms. Scheick was not familiar with how many previous cognitive tests Ms. Pompeo administered prior to her evaluation of M.M. Ms. Scheick performed the educational evaluation of M.M. (J-10). She became his case manager on July 1, 2017 when the prior case manager left the District. Ms. Scheick had been involved in M.M.’s case since September 2016 as a member of the CST. The parents had contacted the District to have M.M. evaluated by the CST in 2013 through early intervention services. Initially there was a consent to evaluate, which the parents rescinded because there was an issue regarding transportation of M.M. to and from the pre-school program.

Ms. Scheick did not perform the cognitive testing on M.M., but she is personally vouching for the accuracy of the results of Ms. Pompeo's evaluation (J-9). Ms. Scheick reviewed Ms. Pompeo's testing and protocols and she has observed M.M. in the classroom and knows his functional performance. She believed the IEP offered was appropriate.

Ms. Scheick understands that the ultimate issue in this case is whether M.M. should be placed in the LLD or the MD class and in her opinion, in collaboration with the rest of the team, at the time the IEP was offered, the appropriate placement for M.M. was the MD class.

Prior to offering the IEP, Dr. Pietrucha's report was reviewed (J-12). She renders a diagnostic impression of language impairment and significant semantic pragmatic deficit. Although the LLD class can address these issues, M.M.'s functioning in the classroom and his inability to communicate his wants and needs with peers and teachers in addition to his academic skills would make the LLD class inappropriate for M.M.

The social assessment is also taken into account as it gives a background history of the child as reported by the parents (J-13). There are two different rating forms for the Vineland Adaptive Rating Scale 3 - a Teacher Rating Form and a Parent Rating Form. The Vineland rating provides the students adaptive functioning both in the classroom and at home but best practice is to have both a parent report and a school report to see how the child is functioning in both areas. There was some discrepancy in the reports in that M.M. was functioning quite a bit lower in the school setting than in the home setting. It is not that the District distrusts the accuracy of the parent report, but that parents see their children differently than they may be functioning in school.

Ms. Scheick attended the IEP meeting at which the IEP was offered (J-14). The IEP meeting immediately followed the eligibility meeting. Ms. Scheick recalled the teacher going over the present levels of academic achievement and functional performance. M.M. was not achieving as they would expect a typical kindergartener to achieve. The curriculum had to be significantly modified for M.M. and he did not have the pre-readiness skills such as identifying letters, sounds, writing his name, and writing and

counting numbers from one to ten. Although M.M. would run after the children at recess, he could not hold a conversation with them. Ms. Pompeo, together with the CST team presented the plan to the parents, that the multiple disabilities class would be the most appropriate setting for M.M. based on his level of functioning. The IEP program description stated, "Multiple Disabilities Special Class" (J-14, page 82).

It was explained to the parents that this program was a self-contained classroom with a maximum of twelve students with one paraprofessional. The class has four students that need additional support that cannot be implemented in the general education setting. This description applies to the LLD class as well. The difference between the two classes is that the MD class affords more direct instruction time and more infusing of language into the classroom with additional supports such as communication groups that the speech therapists run in addition to occupational therapy groups if warranted. There is a multisensory approach if necessary for those students who need it for math, reading and writing. A lot of the day involves hands on learning and small student to instructor ratio. Related services for M.M. included individual speech and language, two times per week for thirty minutes, pull out and in class, and other related service, communication life skills, two times per week, forty minutes pull out. Students in the LLD class do not receive communication life skills which is conducted in a group setting where students learn to interact with each other socially, taking turns, playing games, asking questions and basically practicing more common interactions within the school environment. M.M.'s parents did not like the idea of the MD class but wanted to see it before making any decisions.

The IEP was not implemented because the District needed the parents' consent to do so. The parents were not happy with the MD classroom and wanted to see an LLD classroom. Since the District did not propose the LLD classroom as a placement for M.M., they did not show the LLD class to the parents. The team did not feel that the LLD placement was appropriate for M.M. and that is the reason they have not placed M.M. in an LLD class even after the parents filed the petition for due process requesting same. The District discussed giving the LLD class a try, however, based on M.M.'s current level of functioning felt that the LLD was not an appropriate placement for M.M. M.M. has still not received an IEP despite this IEP being offered a year ago. At this point in time, Ms.

Scheick believes M.M. is still having significant difficulties functioning in the general education setting.

An occupational therapy referral request was made at the eligibility meeting because all of the evaluators and teachers had concerns about M.M.'s fine motor skills such as writing, coloring, copying and cutting (J-15). The parents did consent to the occupational evaluation on January 10, 2017 the date of the IEP meeting. The OT evaluation found that M.M. had deficits.

Although the January 10, 2017, IEP was not consented to, the District felt M.M. still needed speech and language services to benefit him, so an IEP for speech and language services only was developed in March 2017 to address these deficits. The parents consented to the speech only IEP and that has been implemented (J-17). M.M. receives speech therapy individually two times per week for thirty minutes from the speech therapist, Kathy Kamaris. According to Ms. Kamaris, M.M. has made progress in his speech therapy sessions, however the progress is not significant enough to change his placement to the LLD class.

Dr. Barenbaum's report states that the manner in which the District tested M.M. resulted in a lower IQ score (J-20). Giving Dr. Barenbaum the benefit of the doubt, that she is correct and that Ms. Pompeo underrepresented M.M.'s IQ score, Ms. Scheick would still be of the opinion that M.M. belonged in the MD classroom. Programs for students are not based solely on their IQ scores but on other factors such as academic functioning, functioning in the classroom and school environment; their communication needs and their adaptive skills. The whole child is considered. Ms. Scheick has read Dr. Barenbaums' report and disagrees with it. The evaluation tool administered, the PPVT-4 (Peabody Picture Vocabulary Test – Fourth Edition) was less than a year from when Ms. Tasco administered the test. Dr. Barenbaum commented that M.M.'s moving around was more from anxiety than ADHD, yet M.M. had not been diagnosed with ADHD and Ms. Scheick did not know why Dr. Barenbaum included that comment. The TONI 4 (Test of Non-Verbal Intelligence – 4) is indicated for students with little or no verbal communication skills and Ms. Scheick had no problem with Dr. Barenbaum using that test in her evaluation of M.M.

Ms. Scheick stated that assuming Dr. Barenbaum's test was accurate, that still would not undermine the results of the WPPSI-IV (Wechsler Preschool and Primary Scales of Intelligence, 4th Edition) test administered by Ms. Pompeo. The TONI measures different abilities and is a totally nonverbal test. The WPPSI has both verbal and nonverbal portions and considering M.M.'s scores, verbally and nonverbally, were consistent, the District felt that the test was accurate. The District was concerned that Dr. Barenbaum's test results indicated that M.M. cognitively was of average intelligence. Even if Ms. Pompeo's test results on the WPPSI showed M.M. to be of average intelligence, Ms. Scheick would still be of the opinion that M.M.'s IEP should still include the MD program because M.M. is functioning at a level similar to other students in the MD program. On the YCAT (Young Children's Achievement Test), M.M. did not receive a basal score. Dr. Barenbaum did not report any score and a score can be reported. The Vineland Adaptive Behavior Scales II (VABS II) test results reported by Dr. Barenbaum appears to report average functioning, however the Vineland II is an outdated scale and the Vineland III is the most recent scale used. The Middletown staff were not requested by Dr. Barenbaum to complete the survey and the survey was only filled out by the parents.

Ms. Scheick agrees with Dr. Barenbaum's statement regarding academic achievement in that M.M.'s test results reveal significant deficits impacting his ability to read letters and words (J-20, page 12).

The IQ of a child does not have anything to do with socializing. Dr. Barenbaum is of the opinion that she has tested M.M. and he is of average intelligence and therefore needs to be with peers of at least average intelligence. Ms. Scheick is of the opinion that the IQ of a child does not have anything to do with socializing.

The MD class addresses daily living skills and fine motor skills are also worked on including zippering, fastening, buttoning, tying things. They also work on common symbols and signs such restroom, stop, and danger signs in the MD class. This is a precursor to learning words. Dr. Barenbaum's report indicates that language pragmatics need to be a priority. M.M. needs to be immersed in a classroom setting where both expressive and receptive language is emphasized and M.M. is encouraged to use

language for communication purposes. Ms. Scheick agrees with that statement and indicates this would be provided in the MD as well as the LLD class. Although both classes provide this, the language immersion is a much richer program in the MD classroom. The students are given a multisensory approach in the MD class. She is familiar with both the MD and LLD classes as a case manager she is in the classes. The children in the MD class varies. There is one nonverbal child in the MD class at the present time out of the ten children in the class. It is her opinion that M.M. belongs in the MD class.

Ms. Scheick testified that most of the recommendations contained in Dr. Barenbaums's report (J-20, pages 23 – 26) can be met in the MD class.

Dr. Barenbaum states that M.M. requires a multi-modal academic program in which language is the primary focus throughout the curriculum and integrated with academic instruction. Additionally, M.M. needs to be placed in a school that he feels he is part of the learning community rather than being placed in a highly isolated, restrictive environment. (J-20. Page 24). Ms. Sheik states that the MD program is not a highly isolated program in that the students are mainstreamed with the general education children for music, art, recess, gym and lunch.

Dr. Barenbaum opined that M.M. is in need of a small out-of-district placement that will provide him with consistency and instruction in academic and social situations both in school as well as in naturalistic and extra -curricular social settings. A specialized school placement specifically geared towards working with children with communication disorders impacting speaking, reading, writing, mathematics, and social skills is recommended. Ms. Scheick disagrees with this opinion. An out-of-district placement would be more restrictive than the MD classroom. Students with significant needs who the District cannot educate are usually placed out-of-district. Ms. Scheick feels that the District has the resources, the staff and the teachers to provide M.M. with an appropriate education.

Dr. Barenbaum also opined that M.M.'s IEP needs to be modified to incorporate Present Educational Levels with specific goals and objectives directed at meeting his

specific educational needs so that progress can be monitored. According to Ms. Scheick, this was contained in the IEP that was offered.

Ms. Scheick stated that as a professional, it is her duty to make sure that all of the programming is appropriate for a student. She feels M.M. needs much more intensive programming than the LLD class can offer. More direct instruction, more planned learning experiences, more prescribed communication exposure and planning in addition to sensory needs. That is why she was unwilling to allow M.M. to try the LLD class.

On cross-examination, Ms. Scheick estimated she worked with M.M. approximately six to eight hours in developing the IEP (J-14) which included observing him in the classroom and the testing session. As his current case manager for this school year, she observes M.M. about a half hour to forty-five minutes a week in addition to checking in with his teachers and seeing how he is doing in the classroom, ten minutes extra every couple of days.

In the pre-kindergarten readiness screen M.M. tested “refer to CST”. Ms. Scheick agrees that M.M. has significant communication impairment. She also agrees that the WPPSI questions are all verbal for the cognitive testing and that another modality should be used when a child has a communication impairment. Dr. Pietrucha conducted a pediatric neurologic-neurodevelopment examination of M.M. (J-12). The District referred M.M. to Dr. Pietrucha. Cognitive impairment is a neurodevelopment disability. Dr. Pietrucha did not say rule out cognitive impairment to the District. M.M.’s Vineland Adaptive Skills assessment were lower at school than home (J-9).

Ms. Scheick’s most recent observation of M.M. was last week. He is asking questions, and speaks in sentences. He is following directions. He plays with other children. The MD class had ten or eleven students last year. Cognitive impairment is a significant finding and appellation for a child. Ms. Scheick was not aware of peer review literature that suggest that teachers have lower expectations of students who have been labeled cognitively impaired.

Ms. Scheick agreed that there would be no harm to the District if M.M. is placed in the LLD class. She could not answer what the harm to M.M. would be if he is placed in the MD class inappropriately.

Ms. Scheick has not observed any math lessons recently or formal reading lesson by the classroom teacher. When Dr. Barenbaum observed the MD class, she asked Ms. Pompeo if the speech and language teacher came into the classroom to incorporate group language activities, Ms. Pompeo said no, all speech and language is completed outside of the class (J-20, page 8). Ms. Scheick's testimony was inconsistent with that statement which Dr. Barenbaum relied on. Ms. Scheick was not aware that the TONI uses no verbal communication at all. She agrees that it would be appropriate to stop the YCAT if the child reaches no basal score and the child is getting frustrated. She does see M.M. on the playground and he is always running around with the other students. Ms. Scheick agrees with Dr. Barenbaum that verbal peers are an important factor in achieving pragmatic language (R-20, page 17). She does not think M.M. should learn sign language as opposed to continuing learning verbal communication skills. Dr. Barenbaum was denied the opportunity to observe the LLD classroom. Typically, the District only shows the parent the program that the District proposed. The District did not allow the parents or the parent's expert to observe the LLD class and explain why the District did not think it appropriate for M.M. As far as life skills communication class, Ms. Scheick was aware that M.M. has met some of the goals. M.M. says good morning and greets people, and that he takes turns with his peers. If M.M. has reached some of the life skills goals he could just have some support in the LLD class without the full life skills communication emphasis in the MD class if M.M. has already met some of the goals. Ms. Scheick said it depends on his individual needs. M.M. does not have an IEP so she is not following an IEP and as a case manager has no educational role at the present time. She visits the classroom to support the teacher. M.M. follows classroom routine and has learned that since kindergarten.

On redirect examination, Ms. Scheick stated that Ms. Pompeo was incorrect in telling Dr. Barenbaum that all speech and language instruction was completed outside of the class. Also, the observations Dr. Barenbaum made regarding the MD class at page seven of her report, that only one child was listening to the story and when asked

questions about the story, only responded with one-word responses was not an accurate representation of the class in general. There were five verbal students last year in the MD class and some of them spoke in sentences.

A communication impairment is different than a cognitive impairment. A communication impairment is the difficulty in acquiring and accessing language. Cognitive impairment is more gross overall global delays.

In determining a child's placement one of the most crucial factors is how they are functioning in the academic environment. Then the test scores would be considered. Based upon M.M.'s functional performance, the MD class is the most appropriate placement for him. Ms. Scheick is currently case managing two students in the MD class who have below average IQs.

Ms. Scheick did agree, that more likely than not, a child with a higher IQ would not be placed in a MD class.

Kathleen Kamaris testified on behalf of the respondent. She has worked for the respondent for thirty-two years as a speech language specialist. She has a Certificate as a Speech Correctionist and a Certificate as a Speech Language Specialist (J-31). Throughout the course of her employment with the District, she has provided speech language services to grades kindergarten through fifth general and special education students. Speech language therapy involves helping children with articulation, expressive and receptive language delays and pragmatic language delays. She has her masters' degree in speech language pathology. Ms. Kamaris served on the CST that offered the January 2017 IEP to the petitioners and was in attendance at the July 10, 2017 IEP meeting (J-14). Ms. Kamaris was accepted as an expert speech language specialist.

Erin Aiello, the kindergarten classroom teacher had approached Ms. Kamaris at the beginning of the school year in September 2016 regarding M.M.'s language difficulties. Ms. Kamaris recommended that Ms. Aiello request a referral for a speech evaluation of M.M. Ms. Kamaris did a speech evaluation of M.M. (J-8). The test of language development is universally applied without any accommodations. This test was

administered to measure M.M.'s receptive and expressive language skills, which were low. The expressive language test is a verbal test. She was unsure if M.M. understood the directions so she gave him another test. Because his standardized scores were low, she wanted to see how he performed in the classroom and did an observation on November 16, 2016. Nothing in her observations of M.M. were inconsistent with her formalized testing. At the time of this evaluation, M.M.'s expressive and receptive language skills were significantly low for someone his age level. As a result of her evaluation, Ms. Kamaris recommended speech language services for M.M. at the IEP meeting. The Related Services portion of the IEP recommends individual speech and language services two times per week for thirty minutes, pull out and in class and other related services, communication life skills two times per week for forty minutes, pull out (J-14, page 0082). Ms. Kamaris recommended these services because the placement being considered was the MD placement and the communication life skills was important for M.M. to receive. Many students are not incidental learners and do not pick up things like their average peers. This program facilitates the MD students to be more effective communicators with their peers in a pragmatic way. As of the date this IEP was offered in January 2017, Ms. Kamaris had not yet provided M.M. any speech language services. Ms. Kamaris subsequently provided speech language services to M.M. through a speech and language services only IEP.

Ms. Kamaris is familiar with both the LLD and MD class and is constantly consulting with the teachers in both classes. She was of the opinion that the MD class was more appropriate for M.M. than the LLD class. The LLD class uses the curriculum at a slower pace and there is more incidental learning that goes on in the LLD and a little more independence, but M.M. lacked the foundations to be in the LLD class. Incidental learning is learning not directed to a particular student but taught in a group and the students pick up on it. In January 2017, there were approximately nine students in the MD class.

At the IEP meeting, the parents were not happy with the MD class recommendation. At that point the District felt it was the most appropriate placement for M.M. at that time. The goal would be to move up to the LLD class which is less restrictive with more independence.

Ms. Kamaris wrote the Goals and Objectives contained in the January 2017 IEP (J-14, page 0076). The goals were that M.M. would develop and demonstrate basic language concepts and develop and demonstrate practical and correct usage of pragmatics. Pragmatics refers to the social use of language. She felt these goals and objectives were appropriately ambitious for M.M. based upon his abilities at the time offered. Although this IEP was not accepted, there was a speech and language IEP that was accepted (J-17)

Since March 2017 Ms. Kamaris has been providing speech therapy to M.M. for approximately one year. They have been working on his vocabulary and he has shown improvement. His receptive vocabulary is stronger than his expressive vocabulary. M.M. has progressed as far as labeling objects. The speech therapy notes are sent home so the parents can see what they are working on (J-38). She has gotten along well with M.M.'s mom. M.M. has progressed with his expressive speech especially if it comes from within. When asked a question, he does not do as well. He is now speaking in full sentences.

Ms. Karamis has reviewed the report of Samantha Tasco, Speech Pathologist with the Princeton Speech-Language & Learning Center (J-18). She has no reason to doubt the credentials of Ms. Tasco or the validity of her testing. Ms. Karamis has reviewed this report and there is nothing contained therein which changes her mind that the appropriate placement for M.M. was the MD class. Ms. Karamis stated that test scores obtained by Ms. Tasco were significantly low as were hers. She also finds that M.M. needs a multisensory approach to learning, which Ms. Karamis agrees with.

Ms. Tasco administered the Peabody Picture Vocabulary Test – Fourth Edition to M.M. and his performance level was “impaired” (J-18, page 0103). It means that M.M. has a significant impairment in receptive vocabulary. Ms. Tasco also conducted a Clinical Evaluation of Language Fundamentals – Preschool 2nd Edition in which M.M. scored low to very low range and on the subtest, basic concepts, criteria were not met (J-18, page 0104). This means that M.M. struggles significantly in the areas of expressive and receptive language and at the kindergarten level, they are not doing a lot of reading so they rely heavily on expressive and receptive language skills.

Ms. Tasco made observations of the proposed MD program. In her report she indicates that “While the programming observed are areas of weakness for M.M., the instruction appeared to cater to the auditory visual learner. For example, Mrs. Capriglione showed a student three-piece sequencing photos and asked questions such as, “What happened first . . . next . . . last?” While this particular student is able to learn by listening and seeing the pictures, M.M. would need additional support, such as concrete objects that he could manipulate and experience. M.M.’s ability to understand and use language during this evaluation was at its strongest given opportunities to see, hear, touch, explore and manipulate objects during play. Ms. Kamaris agrees with this opinion and this is something provided as a matter of course in the MD class.

A lot of one on one instruction occurs in the MD class. There are paraprofessionals in the MD class to assist the teacher. There are currently five or six paraprofessionals in the MD class. Some are assigned to the individual child and some are classroom paraprofessionals. It would be more difficult to provide a paraprofessional to work one on one with a student in the LLD class because they do more instruction in whole group activities. An MD student can be moved to LLD class when they have a stronger foundation developmentally with the academic skills they need. She does not feel M.M. is at that level. Although the LLD class does grade level curriculum at a slower pace, the MD class does not necessarily follow grade level curriculum. It depends on the particular student’s needs. Some students in the MD class will go into the LLD class for certain subjects.

Ms. Tasco’s report goes on to say that “M.M.’s phonological awareness skills are significantly impaired and he will require a program that includes multi-sensory reading and writing instruction as well as individualized, daily, intensive instruction that is infused in M.M.’s classroom throughout the day.” (J-18, page 0108). This describes the Middletown MD program. Ms. Tasco states that “M.M. requires a small, language intensive classroom environment with other students with a similar learning profile” (J-18, page 0113). She does not necessarily agree that they have a similar learning profile in that some can be higher functioning. “Additionally, his placement must offer play-based and hands on learning intervention, and multi-sensory supports should be provided across his day to maximize learning.” Ms. Kamaris agrees with that statement and said

that the MD class offers this. The LLD also does, but not to the same extent as the MD class. Ms. Tasco further states in her report “Based on the observation of the proposed multiply disabled placement at Bayview Elementary School, this program cannot provide the level of hands on learning with multi-sensory supports that M.M. requires in order to maximize his learning.” (J-18, page 0113). She does not agree with that. The MD class does offer a lot of manipulatives, such as working with the white board.

Ms. Tasco recommends that M.M. participate in direct, individual speech and language therapy at least three times per week to improve his ability to understand and use language appropriately. Ms. Karamis recommended two individual sessions plus the two forty-minute communication life skills sessions which would have exceeded Ms. Tasco’s recommendations. M.M. needs to relate to his peers and the life skills pragmatic component would facilitate this more than individual speech therapy sessions. Ms. Tasco also recommended that M.M. would benefit from a small peer language group one time per week to address his pragmatic language skills. Ms. Kamaris recommended the life skills communication class two times per week which is part of the MD class.

Ms. Tasco noted that information regarding M.M.’s hearing was not included in his case history and therefore it is recommended that he receive updated hearing testing to rule out any underlying cause related to his language deficits. Ms. Kamaris was not aware if M.M. had any audiological testing done. Ms. Tasco’s report also indicated that M.M. may be experiencing weaknesses in his visual perceptual skills as difficulty discriminating between similar looking letters and numbers was observed during the evaluation and that therefore he should be evaluated by an occupational therapist with experience in this area. Ms. Kamaris said this had been done. After Ms. Kamaris received Ms. Tasco’s report in the Spring of 2017 from the case manager, there was nothing in this report that would cause her to offer a different IEP with different services or a different placement. However, when the initial IEP was turned down, she felt strongly that M.M. needed to receive speech services, which he did through the speech IEP.

Based upon the current population of the LLD class, Ms. Kamaris believes M.M. should not be placed there. She does not believe he would be in a much better situation than he is now, after sitting through kindergarten and first grade in the general education

class and not really getting anything out of it. She believes the gap has gotten bigger since the District first evaluated M.M. Currently, he is in a regular general education first grade class receiving speech services two times per week. Since the parents declined the IEP, they cannot put him in the MD class.

On cross-examination, Ms. Kamaris admitted that his echolalic language has decreased significantly from last year. The communication life skills is part of the MD program. Even if M.M. has already achieved the goals of the life skills class, he still would have to take the life skills communication class if he is in the MD class. One of the benchmarks or short-term objectives listed in the IEP for speech is that M.M. will decrease the incidence of echolalia by eighty percent (J-14, page 0076). However, there is no baseline indicating how much of his speech was echolalic at the time this IEP was written in order to measure if the goal was being met. From this benchmark, you cannot tell how much of his speech was echolalic. Ms. Kamaris agreed that the IEP is the road map to educational success. There is no current benchmark indicating how much of his speech is echolalic. A base line would have to be established in order to evaluate if the goals are achieved.

Regarding Ms. Tasco's report, Ms. Kamaris had no reason to dispute her scores even though a large part of her report was narrative. M.M. is not really the sum of his scores, no child is. Ms. Kamaris spent approximately two hours giving M.M. the standardized assessments, but gave him breaks and tried to communicate with him during the breaks. She is not observing him that much in the classroom this year. He has learned the routine of the classroom very nicely. He tries to continue to look at the teacher and is not as easily distracted as he was last year. Ms. Tasco felt that M.M. would benefit from paraprofessional support. The proposed IEP (J-14) does not provide for M.M. to have a one to one aide or paraprofessional (J -14, page 82).

In preparing her report, Ms. Kamaris reviewed the referral from the teacher before preparing J-8. She added the pre-school language skill test which has a lot of manipulatives M.M. could use and was more appropriate for M.M.

Ms. Kamaris was present at the parent teacher meeting with Ms. Massell and M.M.'s father, J.M. J.M. appreciated what they were doing and said he knew M.M. was not in the proper placement but it was up to the Court to decide. Ms. Kamaris advised J.M. that M.M. has made some progress in speech. J.M. said M.M. is now speaking in sentences at home. Ms. Kamaris emphasized to J.M. that they wanted what was best for M.M.

On re-direct regarding benchmarks for echolalia, Ms. Kamaris has observed M.M. and his echolalia has decreased. Ms. Kamaris had no data regarding M.M.'s conversational volleys with peers because she sees him on an individual basis for speech. Had the IEP been accepted and M.M. participated in the communication life skills class, data would be kept regarding his conversation with peers.

Samantha Tasco testified on behalf of the petitioners. She had received extensive training in language disorders (J-19). Ms. Tasco has a Certificate of Clinical Competence from the American Speech and Language Hearing Association (ASHA). Since earning her certificate, she has done approximately one hundred evaluations, thirty of which were of children with cognitive impairments. She is now employed by Creative Speech Solutions. She was employed by Princeton Speech-Language and Learning Center which does private evaluations for parents. Ms. Tasco was accepted as a Speech and language pathology expert and as an expert in formulating speech and language goals for IEPs.

Ms. Tasco completed a Speech and Language Evaluation and Classroom Observation report for M.M. (J-18). She reviewed Ms. Kamaris' report. After looking at the scores, she can see what he was not able to do, but not what he was able to do. There should have been a narrative as to what he was able to do. The biggest problem was M.M.'s not being able to follow the instructions of the testing. Across the testing, expressive language was a consistent weakness for M.M. and his receptive language was stronger than he was able to express. Therefore, M.M. would have difficulty answering open ended questions. When Ms. Tasco did her report she wrote a narrative after each section explaining why he scored the way he did. Ms. Tasco also reviewed the psychological report and noted that M.M. fell in the low range of functioning (J-9). If

M.M.'s language deficits are as significant as reported, he would score poorly on a language based assessment. Ms. Tasco included informal measures in her evaluation such as what type of supports does he respond to. Ms. Tasco explained that echolalia is a compensatory response. When a child is not comprehending what you ask, but they realize an answer must be provided, they repeat the question. Ms. Tasco also reviewed the educational evaluation (J-10) and observed M.M. in his current placement. Reviewing this assessment she recognized M.M. as an at risk student in that the mainstream classroom would not have the supports M.M. needs to be a successful learner. Ms. Tasco also reviewed the social assessment report (J-11) and noted that communication was the primary issue. M.M.'s peer interactions were a strength for him. She also reviewed the Pediatric Neurologic-Neurodevelopmental Examination and noted that there were no atypical behaviors and that the echolalia reported stems from weaknesses in comprehension. The diagnostic impression was that this is a child with a language impairment. There was no finding that this is a child with a cognitive impairment (J-12).

Ms. Tasco found that M.M.'s pragmatic language was a strength although it was limited. He can use the phrases he knows appropriately. When using a play activity, the child will perform stronger away from the demands of testing. The phonological testing was done by changing it to a comprehensive test as opposed to an expressive test. He can learn when given multisensory options. M.M. participated across the board in everything Ms. Tasco asked. He was attentive and attention was not an issue with M.M.

Ms. Tasco observed the MD classroom. The lessons were geared towards that expressive component that is so challenging for M.M. The children were expected to provide rote responses which they had previously practiced. There were not the multisensory supports M.M. needs. She did not see opportunities for peer interaction. Ms. Tasco did not see new concepts or vocabulary being introduced in any other way but by drill work. Ms. Tasco's time was limited to twenty minutes. In Ms. Tasco's professional opinion, the appropriate methodology for M.M. to learn would be in a language enriched environment. He needs his peers because he models his peers and needs to use pragmatic language to build his relationships with his peers. That is how children learn at this age. The MD classroom was too restrictive for M.M.

A language enriched environment would provide multiple opportunities for children to learn with stories, plays, creation, movement and she did not observe any of these opportunities in the MD classroom. Ms. Tasco observed M.M. in his kindergarten placement and he watched his peers and models their behavior. When he was not attending, he did not understand what he should be doing and he was not redirected by the teacher. During whole group instruction, his positioning was away from the group. He looked to his peers for the help he needed. The MD classroom is not appropriate for M.M. M.M. was not supported in any way in the mainstream classroom. She could not choose between the general education classroom or the MD classroom if forced to choose one. M.M. would be at risk for modeling poor behaviors. Non-verbal peers would not be able to offer M.M. the pragmatic skills he needs to work on.

Ms. Tasco recommendation that since M.M. has stronger receptive language than he is able to express, he needs opportunities to play and manipulate what he is learning to multiple activities. Phonological awareness and writing were hard for him and he needs intensive instruction in those areas as well and multisensory supports.

In the MD class, paraprofessionals were providing instruction and M.M. would need a teacher trained in working with language and learning disabilities. M.M. is a young learner and needs to build his language skills and he would benefit from both pull out and push in models. M.M. needs a more naturalistic approach and should be paired with children with similar language abilities. M.M. is a young learner who learns through play and exploration. M.M. will say he has an idea but then cannot go any further with communicating his idea. His peers would have to have a similar language profile to him. She has not observed an LLD classroom. Ms. Tasco's understanding of the LLD class is that it offers more language opportunities for children whose communication is their primary need. The most important part of an LLD classroom is the opportunity to build language in order for these children to have access to the curriculum. She would recommend at least once a week have the speech and language therapist push into the classroom to reinforce what was covered in the individual sessions. At this time, Ms. Tasco cannot give a recommendation as to what would be an appropriate program for M.M.

On cross-examination, Ms. Tasco stated that M.M. could work on the kindergarten core curriculum content level with the appropriate supports. M.M. was ready to identify letters. She was limited to observing the mainstream classroom for one hour and twenty minutes in the MD classroom. Ms. Tasco was not sure if she had seen the proposed IEP (J-14). She has not worked on public schools IEPs. She observed three children in the MD class and the class had twelve students who were doing other activities at this time. She did not ask the case manager if the MD class offers multisensory opportunities for learning at other times during the day aside from the twenty minutes she observed. She has not seen M.M. since the spring of 2017. Since Ms. Tasco was only limited to the twenty minutes she observed the MD classroom and she only observed one to one instruction that was the basis for her opinion that the MD classroom was not appropriate for M.M.

On re-direct, in her experience when she does observations she is allowed an hour and all of the students are present.

Ms. Tasco believes the general education class is not appropriate for M.M. in that the language abilities of the children are more advanced than M.M. and those less advanced would tend to get run over by those whose language abilities are more advanced. By the same token, if M.M. were in a MD class where the students language abilities are less than his, M.M. would not be offered the opportunity to develop his pragmatic language skills by modeling his language to those in the class. If the case managers testified that some of the children in the MD class had similar language profiles to M.M., Ms. Tasco would have no reason to doubt that. Since Ms. Tasco did not see all of the children in the MD class she cannot state that there are no language role models in that class. Ms. Tasco was not afforded the opportunity to observe the LLD classroom.

Edna M. Barenbaum, PhD. testified on behalf of the petitioners. She has testified at the OAL ten times before. She testified in the case G.F. v. Verona which involved the issue of cognitive impairment. Her opinion prevailed in that case. Dr. Barenbaum received her PhD. From Temple University (J-21). She took test construction courses on how to construct standardized tests; diagnosing special needs children with cognitive problems and how to remedy learning disabilities. Her dissertation, based on five years

of research, was on cognitively impaired adolescents and adults. While she was working on her dissertation, she was employed by Temple University at the Woodhaven Center which was a center for children with cognitive disabilities. She was responsible for conducting the intake evaluations to see if the children qualified to be admitted into Woodhaven. They had to have had an IQ of seventy or below and a measure of adaptive behavior. Dr. Barenbaum worked with many children evaluating cognitive disability to see if the children qualified to attend Temple University's Woodhaven Center. After she received her doctorate she was hired by Gabriel College which is now Arcadia University as an expert in cognitive disabilities. The person who hired her was Phyllis Newcomer, who developed a number of the standardized tests used by the school districts. She convinced her that she needed to be in the field of learning disabilities and working with special needs children in other areas besides cognition. In the five years Dr. Barenbaum worked with Phyllis Newcomer, they developed a diagnostic and prescriptive model that still applies today. How to diagnose children with disabilities and how to remediate the disabilities, with most of the focus on learning disabilities. She continued this model when she went to Cabrini College which is now Cabrini University where she was employed as the Director of Special Education, Undergraduate courses. From there, she developed the special education graduate program at Cabrini University. She was asked to join the psychology department in the late 1990s because of her expertise in test development. She is still working in the area of child development and developmental psychopathology and runs the undergraduate psychology clinic and supervises the undergraduate students in various placements.

Dr. Barenbaum began her career as an elementary teacher and worked with first graders for a couple of years and did post doctorate work in reading at Temple University. She is familiar with the core curriculum standards in New Jersey. Dr. Barenbaum has certificates in elementary education, special education, reading and as an educational specialist in school psychology. She has supervisory certificates in elementary education, special education and reading. Dr. Barenbaum is a member of the American Psychological Association and the National Association of School Psychologists.

She is currently on sabbatical and is working with Phyllis Newcomer in developing a test of early literacy for children. They published one in 1993 and are in the process of

updating the test. She is also working to formulate a new test to replace the Young Children's Achievement Test (YCAT). Dr. Barenbaum has been fighting since 1993 for people to understand communication disorders and how it impacts children in testing. They are focusing on age three to seven and those children who cannot seem to get to first base with regards to literacy, which is M.M. Dr. Barenbaum has evaluated approximately five thousand children. All of the tests involved IQ tests. She has evaluated five hundred cognitively impaired children for her dissertation and two hundred at Woodhaven. The same tests, although updated, are still being used in the evaluations including the WISC, WPPSY, the Stanford Binet and the Wechsler scales.

Dr. Barenbaum was accepted as an expert in psychology, the development of assessment tools, the administering of assessment tools, special education and IEP development.

Dr. Barenbaum prepared a report as a result of her record review, classroom observation of M.M. on April 20, 2017 and evaluation of M.M. on May 8, 2018 (J-20). She reviewed the speech language evaluation of M.M. (J-8). This report indicates that M.M. has significant receptive and expressive language problems in kindergarten. She reviewed the psychological report (J-9). The significance of this report is that the only standardized test used to evaluate this child with a language disability was the Wechsler Preschool and Primary Scales of Intelligence, 4th Edition (WPPSI-IV) which is a language based test. This is what she has been fighting since 1993. The research shows that this test is going to be testing M.M.'s disabilities rather than his abilities. The psychologist did not go any further but made a determination on this one single test. Dr. Barenbaum noted the lack of background information as to why M.M. was not doing well in school or what his entry evaluation was when he entered kindergarten. M.M. would have had to have very weak skills when he was evaluated the spring or summer before entering kindergarten to score as low as he did in November 2016. Dr. Barenbaum also reviewed the educational evaluation (J-10). This report, like the psychological report, reports scores but does not tell you anything about the behaviors. There is no description as to what the evaluators were observing. The educational evaluator did not go into the classroom to observe the child. The whole purpose of assessments is to determine what a child's strength and weaknesses are and how to remediate those weaknesses. There

are testing observations but there is no indication as to what he can and cannot do. Dr. Barenbaum believes the education evaluator could have gone further.

Dr. Barenbaum also reviewed the Pediatric Neurologic-Neurodevelopmental Examination report of December 2016 by Dr. Dorothy Pietrucha (J-12). This was an outside expert retained by the school district. What is significant about this report is that the doctor diagnoses M.M. as having a significant language impairment and fine motor problems. Hand dexterity can impact his test scores, particularly timed tests such as the WPPSI involving eye hand coordination. M.M. has difficulties performing the tasks that are asked of him not because he is cognitively impaired, but because of his disability with fine motor skills. If Dr. Pietrucha had seen cognitive disability, she would have put this in her report and she did not. If she felt M.M. was cognitively impaired, she would have made this diagnosis. She also does not address any adaptive behaviors. The District retained the expert who found that M.M. had a significant language impairment, yet there is no discussion how this has impacted his testing and test results. The social assessment is important in that it reflects that M.M.'s developmental milestones were in the typical range. If he was cognitively impaired, his developmental milestones would not be in the typical range (J-11).

There was a second social assessment that was done (J-13). Dr. Barenbaum did a Vineland and found that the two areas that were really weak were M.M.'s language and fine motor skills. The school psychologist interviewed the classroom teacher and the parents. The teacher rated M.M. as low, in the cognitively impaired range. Dr. Barenbaum commented that there was a study done in 1968 which is one of the most critical studies done in educational psychology (Rosenthal and Jacobson, 1968). A school principal and a researcher were at a conference and decided to take two first grade classrooms and advise the teacher of one class that had bright children that the children were low achievers. The teacher of the other class had low achieving children and that teacher was told the students in the class were very bright. They did a baseline test of all the children in September. They re-tested all of the children in June and found that the high achieving children achieved lower scores than the lower achieving students. The classroom teacher that thought she had the higher achieving children expected more of the children and did more for the children. This research indicates that teacher perception

impacts how a teacher works with a child and how they approach a child. The impact of the cognitively impaired label pervades this case as far as M.M. being placed in a multiply disabled class as opposed to a learning disabled class. In her professional opinion, a child cannot be classified as cognitively impaired if both Vineland domains are not in the cognitively impaired range. The authority for this is the Diagnostic and Statistical Manual (DSM) four and five which indicates that both measures of adaptive behavior and cognition be examined.

Dr. Barenbaum is of the opinion that speech therapy two times per week for thirty minutes (J-17) is insufficient for M.M. and that he needs much more.

Looking at the psychological evaluation, M.M. is reported to have a full-scale IQ of sixty-one, which puts him in the low cognitive range. However, when Dr. Barenbaum reviewed the spread of the scores, she noted that he had a verbal comprehension index of fifty-nine, and a visual spatial index of fifty-eight, yet he had a fluid reasoning index of seventy-four and a processing speed of seventy-three. There is a rule of thumb in psychology, that comes from the authors of the WISC (Wechsler Intelligence Scale for Children), that when there is a difference of more than fifteen points between test sub-scores, you should not report the full-scale score because the score is shattered by the discrepancy. The authors of the WISC series speak strongly that you should not be presenting a full-scale score in these instances because it does not portray a clinically meaningful picture and can lead to an inaccurate picture of the child's abilities (Prifitera, Saklofske and Weiss, 2005).

Part of the assessment process is to observe the child. Dr. Barenbaum included in her report a behavioral observation of M.M. in the classroom as well as recess and lunch. She was limited by the District in how much time she was allotted. M.M. has tremendous observational skills and watches the other children to figure out what he should be doing next. Dr. Barenbaum stated that this has to be extremely difficult and stressful for M.M. She noted M.M. should have been seated directly in front of the teacher because he has difficulty understanding and paying attention and if he was sitting in front of the teacher she could keep him directed and on track. M.M. was sitting on the far edge of the carpet away from the teacher at the time Dr. Barenbaum observed him in a

language arts class (J-20, page 6). The teacher read a story and asked the class to discuss the story with their partner. The other children turned to their partner to discuss the story, but M.M. did not have a partner because no one wanted to be his partner because he cannot talk or express himself, so he is excluded. It also happened later on in the observation after the children write their stories, they are supposed to share their stories with their partners. M.M. and two other children go to the back of the room to a table and sit. It is almost like a learned behavior that they cannot do this activity so they just do not participate and no one tries to share with them. M.M. cannot perform at the level he is being asked to and Dr. Barenbaum opined that it must be extremely stressful for M.M. to go to school each day and be aware that he is being excluded. She is surprised M.M.'s parents do not get "push back" from M.M. not wanting to go to school. M.M. is not cognitively disabled. He watched the other children write their story, and he was trying to imitate what they were doing and wrote two pages of slash marks. No one has taught M.M. executive functioning skills. M.M. does not know the difference between a letter, a word and a sentence.

Dr. Barenbaum observed the multiply disabled class because that is the class the District was recommending for M.M. Dr. Barenbaum had a conversation with Ms. Pompeo who advised that M.M. had an IQ of sixty and low adaptive scores and that the MD class was the most suitable for him. Dr. Barenbaum stated that she was very surprised that she made this comment. After she observed the MD class which was very low functioning, she asked Ms. Pompeo if she could come back another time and observe the LLD class. Ms. Pompeo advised that M.M.'s IQ was very low and he did not qualify for an LLD class so therefore, no observation of an LLD class would be scheduled. Dr. Barenbaum stated there was no discussion as to why she would think M.M. would be better in an LLD class or what the harm was in showing her the LLD class. Ms. Pompeo said M.M. would get an individualized curriculum in the MD class. Dr. Barenbaum observed that everyone was being taught by an aide in the MD class and that M.M. would need specialized instruction from a special education teacher. M.M. has the ability to learn to read and write. He needs the appropriate instruction to be taught. He has a language disability and also has dyslexia and dysgraphia, which is the fine motor problem trying to put words together and trying to write. The MD class was not appropriate for M.M. Ms.

Pompeo was not giving Dr. Barenbaum any options but to recommend an out-of-district placement because she was told the MD class was all that was being offered.

Dr. Barenbaum chose the YCAT (Young Children's Achievement test) to obtain a baseline of M.M. The best predictor of children being successful in school and in reading is the Rapid Orthographic Naming test, the ERA, and Silent Orthographic Efficiency test and phonemic analysis.

Dr. Barenbaum used the Test of Non-Verbal Intelligence IV (TONI-IV). The Wechsler manual cautions evaluators regarding the WPPSI , that if a child has a language problem they might not be able to respond to the question. Language impacts the IQ test. Dr. Barenbaum was surprised that the school psychologist did not use another test to evaluate M.M., knowing he has a language impairment. M.M. scored a 103 on the TONI which indicates he has the ability to problem solve, reflect and organize. He is cognitively at the average level. He has the potential to learn and needs a specialized program to teach him to learn. The other test Dr. Barenbaum used was the Peabody Picture Vocabulary Test (PPVT-4) for receptive language and M.M. scored a lot higher. She realized Ms. Tasco administered the test to M.M. the year before. Dr. Barenbaum repeated this test because she did not believe M.M. understood the directions. She gave it to him to see if any achievement had occurred and see if he understood the directions "point to". M.M. was very anxious testing. A "practice effect" is that he had done better because he had taken the test before. There really was not a practice effect in that the same areas were not covered. In Dr. Barenbaum's experience, a child with a cognitive score of 60 would not have been able to sit through the length of the evaluation process, and participate and remain engaged in the evaluation process.

Dr. Barenbaum administered a Vineland to M.M.'s mother. She administered the Vineland because the school psychologist only gave her the scores from the Vineland that she had done without giving her the behaviors. Dr. Barenbaum needed to know his adaptive behaviors.

M.M. has no basic literacy skills and that is where his education needs to start. Dr. Barenbaum's concern is that children who do not learn and use spoken language by the

age of five are at a disadvantage when they go to school. By ages six and seven, if they have not learned these skills they are behind and the longer you wait to remediate, the further the divide becomes and the less likely you are able to remediate the problem. M.M. has essentially passed part of the critical age of language development and learning reading and early literacy. If he went into a MD class, he would never learn to read or to use language to express himself. M.M. could have learned in kindergarten. He needs a smaller class with intensive language. There was nothing in the MD class that would support M.M.'s learning.

M.M. has tremendous family support. When asked to draw a picture of a person, M.M. drew his family which indicates they provide him with comfort and support.

Dr. Barenbaum provided a diagnostic summary of M.M. Her diagnosis is that he has average intellectual ability. M.M. has specific learning disability; mixed language based learning disability impacting spoken language, receptive language, semantic pragmatic deficits, written language, word recognition and reading comprehension with accompanying dyslexia and dysgraphia; and anxiety: performance anxiety (J-20, page 18).

In Dr. Barenbaum's experience, she has never seen a child with an average intelligence placed in a MD class. Dr. Barenbaum was very concerned that this process has taken so long and that M.M. has been unable to receive the instruction that he needs during this very critical period in his schooling. She was very concerned that the District was not willing to allow her to look at other classes to discuss the situation and negotiate placement. It did not feel like a team effort at all in that the District made a decision and that was it. In the end, the goal is to teach M.M. so he can learn and grow up to be an independent individual and go on to high school and college. When people are not willing to listen to each other, Dr. Barenbaum finds this upsetting. At the end of her report, Dr. Barenbaum lays out the specific instruction M.M. needs which is not provided in the MD class. The regular classroom is too large with seventeen students. The multiply disabled classroom was totally inappropriate for M.M. She was told there were no other options.

In Dr. Barenbaum's opinion, she feels that M.M. is being sentenced to the multiply disabled class where he will remain for the rest of his school career from kindergarten to twelfth grade. Dr. Barenbaum said this was scary, that a decision is being made for a six or seven-year-old which is a lifetime decision. At best he would go out to vocational classes. M.M. is at a critical period of language and is passing through that critical age between five and seven years of age that if they are not talking and using language for communication, children fall very behind in school and really never become successful. These past two years have absorbed this critical period while trying to make some decisions regarding M.M. The MD class would be very inappropriate for him and the trajectory would be totally inappropriate for him.

Dr. Barenbaum makes recommendations for M.M. based upon all of the assessments. She does not understand why M.M. was not placed in the LLD class to see how he would succeed. It is much easier to move down than it is to move up. What is happening with M.M. now is that he is not learning and his skills are getting farther away from typically developing aged peers and as they are getting further away it is harder to close that gap. M.M. needs an appropriately enriched language environment, where nothing is taken for granted and the teacher keeps explaining all along the way. The teacher needs to engage in interactive teaching and hear from M.M. that he understands and make him express himself and interact.

In Dr. Barenbaum's professional opinion, the IEP offered at J-14 was not appropriate to meet M.M.'s needs.

On cross-examination Dr. Barenbaum, defined multiply disabled as being cognitively impaired with deficits in adaptive behavior. If a child qualifies under two different disability classifications and one particular program cannot meet their needs, it is appropriate to classify a child as multiply disabled. Dr. Barenbaum said for M.M. his needs cannot be met in the MD class.

Dr. Barenbaum was only allowed to observe the MD class for a half hour and the kindergarten class for an hour. In her opinion, she was unduly restricted in her

observation. The teacher of the MD class indicated that what Dr. Barenbaum observed of the MD class was representative of the class.

Psychologists can give a diagnosis of anxiety, but she would probably defer to a psychiatrist. She observed M.M. to have anxiety (J-20, page 9).

Academic ability is tested by the YCAT and Dr. Barenbaum was unable to obtain a basal score. Aside from the TONI-4, she used the Vineland to determine that M.M. had average cognitive ability. Dr. Barenbaum did not give the Vineland to the teacher, just the mother, even though it was Ms. Aiello who referred M.M. on September 20, 2016 (J-4). Dr. Barenbaum did not have the Receptive/Expressive Language referral form filled out by Ms. Aiello (J-20) when she did her report.

When asked why she did not submit any follow up written questions to the District, Dr. Barenbaum stated that she did not think the school district would bring this to a hearing. She really thought they would try M.M. in an LLD class and see what happens.

She observed the MD class for thirty minutes and although she cannot say one hundred percent that the seven children she observed belonged there, she can say unqualified that M.M. was different from those children and did not belong there. There were seven children there and only one was listening to the teacher. There were seven, one to one aides. There were obvious behavior issues and some of the children were nonverbal. In Dr. Barenbaum's opinion, M.M. needs verbal models around him.

Dr. Barenbaum admits that most districts evaluate student's cognitive ability based upon the verbal intelligence tests and not the TONI. Children with language disabilities are incorrectly labeled cognitively impaired.

To the extent that the IEP recommended M.M. be placed in the MD class, Dr. Barenbaum found it inappropriate (J-14). Under the present levels of academic achievement and functional performance accommodations/modifications section, Ms. Aiello recommended that M.M. needed a separate curriculum from the rest of the students in the class and that all work presented to M.M. has to be modified (J-14, page 70). Dr.

Barenbaum agrees with this statement as it applies to his kindergarten general education placement.

Although the LLD class is working on the grade level core curriculum content standard but at a slower pace, Dr. Barenbaum believes the curriculum could be modified in some way that M.M. can be placed in the LLD class. The IEP goals and objectives are too vague and do not contain a baseline to measure goals. Identifying letters of the alphabet is not specific enough. You have to specify what letters M.M. knows and what he does not know.

Dr. Barenbaum's opinion of the appropriateness of the LLD class is based on her experiences with model LLD classes even though she did not see this districts' LLD class or know the specific curriculum. She believes M.M.'s literacy skills will not be advanced in the MD class. Dr. Barenbaum's opinion is that the District is insisting on the MD class because of their evaluation of M.M. as being cognitively impaired.

In Dr. Barenbaum's special education experience, once a child is placed in the MD class, that is where they stay. Even if they are mainstreamed for specials such as gym or lunch they are still grouped with their special education classmates. At lunch, the special education children are often put at the same table in a corner still secluded from the general population, but it is called mainstreaming because they are in the same cafeteria. M.M. is in a better place now than he would be in the MD class, even though he is not learning. He is imitating the other children.

Dr. Barenbaum feels that an LLD class is less restrictive than a MD class. The code definition of a self-contained class is one where all the children have an IEP. The pacing is based on the individual needs of the child. Dr. Barenbaum does not know about the pacing of the LLD class in Middletown since she was not permitted to view the LLD class. Since the school psychologist had essentially closed the door on the option of the LLD class for M.M., Dr. Barenbaum did not submit any written inquiries to the District.

Dr. Barenbaum does not know what the communication life skills class is and did not ask about it. She understood M.M. would be receiving two weekly individual speech sessions and two weekly communication life skills class.

On re-direct, Dr. Barenbaum revisited the significance of the fluid reasoning test referred to in the psychological evaluation (J-9). The fluid reasoning test is a measure of non-verbal intelligence and is a timed test requiring fine motor skills. Even though it was one of M.M.'s higher scores, he was penalized because he does have problems with his fine motor skills, so his score could have been a lot higher.

ADHD is within the purview of a pediatric neurologic-neurodevelopmental physician to make a diagnosis and no such diagnosis was made (J-12).

The IEP indicates as one of the goals and objectives, that M.M. will decrease the incidence of echolalia, yet there is no base line indicating how much of his speech was echolalic (J-14, page 76). Goals should be specific, measurable, achievable, in a timed setting and that could be repeated and observed. Such goals were not present in this IEP.

Both the psychological and educational reports lacked a narrative description of what M.M. can and cannot do, they just reported scores (J-9).

Dr. Barenbaum believes an LLD class would address his academic needs and the children in an LLD class are going to have language learning problems just like M.M. and would be closer in level so that the language used for instruction would be more appropriate for M.M., more than the one-word instruction used in the MD class.

J.M. testified on behalf of the petitioners. He is the father of M.M. He was present in the courtroom for all of the testimony. The CST did not evaluate M.M. while he was at the Goddard school. M.M. underwent a kindergarten screening with Ms. Aiello which was approximately seven to ten minutes long. There was nothing in writing regarding the screening. Ms. Aiello advised that there was no referral to the CST at that time which J.M. did not agree with. Petitioners had private speech services for M.M. (J-1). The parents went to back to school night for kindergarten where they expressed their concern

regarding their sons' speech issues. There was no discussion about any major issues other than he was having some learning issues. They requested speech services for M.M. and Ms. Aiello said that was the CST's job. Ms. Aiello completed a receptive/expressive language referral form (J-4) to get the process started. On September 20, 2016 they spoke to Ms. Aiello regarding intervention and referral services (J-5, J-6). J.M. wanted to proceed directly to the CST for services but were told they had to go through I&RS first.

The "Parental Notice Following an Initial Identification/Evaluation Planning Meeting" dated October 7, 2016(J-7) was received and they understood this to be the beginning of the process. Ms. Aiello discussed with them that they should be prepared for the LLD room. The psychological evaluation dated November 16, 2016 was conducted by Ms. Pompeo (J-9). J.M. did not agree with Ms. Pompeo's report. There was a difference of opinion as to how to achieve the goals needed for M.M.'s education. J.M. received and reviewed the Educational Evaluation (J-10) of Ms. Scheick and discussed it with Ms. Scheick and Ms. Pompeo. He did not agree with Ms. Scheick's report.

A social assessment report dated December 14, 2016 was prepared by Ms. Greeves (J-11). He did not agree with her report. He felt it undervalued M.M.'s social assessment. He saw more ability from M.M. when he was in a better setting. J.M. also consented to M.M. being evaluated by Dr. Pietrucha (J-12). He discussed the report with Dr. Pietrucha and agreed with her report that M.M. had a language impairment.

They had an IEP meeting on January 10, 2017 and J.M. declined the IEP (J-14). He did not receive the updated version of the IEP (J-14). J.M. and his wife consented to let the District do what they needed to do in order to get M.M. the help he needed and at the meeting, when the parents disagreed with the District's placement of M.M. in a MD class, there was no discussion, the parents were just informed of their due process rights. The parents went with Ms. Pompeo to observe the MD classroom and after about two minutes, they asked Ms. Pompeo was this really the best they had to offer for their son. Ms. Pompeo said she wished there was a room between the MD room and the LLD room, but there is not so this is what they were offering them. At the time they observed the MD

class, J.M. asked Ms. Pompeo if she saw what was going on in there - one child was chewing on a scissors and another child was getting into a physical altercation with an aide. He explained that M.M. is such a sweet boy, he does not fit in that class and that his personality and what makes him able to deal with his disability would be taken away from him if he were put in that class.

J.M. received a "Speech/Language: Parental Notice Following a Meeting when the IEP is Not Used as Notice" dated March 16, 2017 (J-17). The District only consented to give M.M. speech and language services after the parents had retained Ms. Boyarin's firm (J-16). The parents also consented to an Initial Occupational Therapy/Physical Therapy Assessment (J-15).

J.M. visited M.M.'s class in kindergarten for a pizza party and it seemed like he had his own little group of friends but that it definitely seemed like he needed more than he was getting and M.M. knew it. He also attended back to school night for M.M. in first grade with Ms. Massell. J.M. wanted to break the ice so he admitted that they really do not want M.M. in this class but there is a big dispute as to what is best for M.M. Initially, J.M. was under the impression that M.M. had been disruptive and apologized to Ms. Massell. She said that was not the case, that M.M. followed the rules of the class and that he understands the structure. Ms. Massell said that they know they have an educational gap in the class, but M.M. is able to understand the process of the day and does what he has to do to get through the day. Ms. Massell explained how M.M. was learning to play soccer from playing with the other children at recess, which was nice to hear. Then the speech therapist spoke to J.M. about progress being made with labelling objects, the rooms of the house.

In J.M.'s experience, if you just give M.M. some time and understand how he learns, he will get to the solution. J.M. says M.M. is frozen in time back to kindergarten because of the due process proceeding and M.M. is not reaching his potential. M.M. has made significant progress in counting. He understands the parts of a book. He now uses full sentences to speak and not one word utterances. He has come a long way and follows the structure of the class and respects the teacher. M.M. is growing emotionally

in experiences such as making a friend and then losing a friend and trying to understand the dynamics.

J. M. was surprised with the educational background of Ms. McCarthy. After Ms. McCarthy testified, the school district sent home a letter that they were going to resume reading services. J.M. says M.M. can do so much more now, despite the earlier testimony as to his abilities in kindergarten. M.M. went to school so eager to learn and get help and the last eighteen months have been the most trying times of M.M.'s life. J.M. could not agree with Dr. Barenbaum more that if something does not change soon and M.M. given the proper educational services, he does not know what is going to happen. He is worried too much time has passed. M.M. has come a long way without really any services. Two thirty-minute sessions of speech are all the District has provided. Everything else has been done by the family. M.M. is frozen in time and needs to be given a chance. M.M. has two parents that are on top of this. He needs the chance to flourish.

On cross-examination, J.M. disagreed with the psychological report of Ms. Pompeo (J-9). He disagreed with M.M. having difficulty sitting still. J.M. agreed with the social assessment because it mostly reflected the parents view of M.M. (J-11). The IEP they were handed at the IEP meeting recommended the MD classroom. They were not happy with the MD class but they agreed to look at it. They were hopeful that the District would continue to discuss M.M.'s placement, but when they became aware that the District would not consider any other placement but the MD class, they refused to sign the IEP. He heard the testimony from the Districts employees that the goal of the MD program is to move the children out of the MD class. J.M. believes M.M. should not be started in the bottom placement with the MD class, but that M.M. should be given a chance. He also heard the Districts employees testify that the pace of the LLD class curriculum would be too fast for M.M. but he disagrees with their opinion and that is why the parents retained their own experts.

On re-direct examination, J.M. stated that he had asked Ms. Pompeo had she ever had any experience with a boy like M.M., to which she replied no, this was one of her first cases. J.M. agrees that the results from the VABS, Parent Rating Form indicated that

M.M.'s adaptive behavior was overall adequate with an adaptive level of 53% (J-13, page 63).

DISCUSSION

Credibility is the value a fact finder assigns to the testimony of a witness, and it incorporates the overall assessment of the witness's story considering its rationality, consistency, and how it comports with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); see In re Polk, 90 N.J. 550 (1982). Credibility findings "are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record." State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions on credibility on his or her common sense, intuition or experience. Barnes v. United States, 412 U.S. 837 (1973).

Ms. Pompeo advised Dr. Barenbaum that the MD class was the appropriate placement for M.M. because of his IQ of sixty-one and low adaptive scores. After Dr. Barenbaum observed the MD class, which was very low functioning, she asked Ms. Pompeo to allow her to observe the LLD class. Ms. Pompeo's response was that M.M.'s IQ was very low and he did not qualify for the LLD class, so therefore, no observation of that class would take place. Stephanie Scheick testified that although she did not perform the cognitive testing on M.M., she personally vouches for the accuracy of the test done by Ms. Pompeo. Ms. Scheick went even further and stated that even if Dr. Barenbaum was correct and Ms. Pompeo's IQ test undervalued M.M.'s IQ score and M.M.'s IQ was higher and of average intelligence, that still would not change her opinion that M.M. belonged in the MD class, due to his functional performance. I do not **DEEM** her testimony in this regard to be credible. Ms. Scheick did admit that, more likely than not, a child with a higher IQ would not be placed in a MD class. She herself currently case manages two students in the MD class, both of whom have below average IQ scores.

Dr. Barenbaum testified that based on her many years of experience in special education, she has never seen a child of average intelligence placed in a MD classroom. She was convinced that the District's insistence that the MD class was appropriate for

M.M. was based on the low cognitive scores reported by Ms. Pompeo on her administration of the WPPSI to M.M. Dr. Barenbaum was most persuasive in her testimony that M.M.'s language impairment prevented obtaining an accurate score of M.M.'s intelligence, since the WPPSI test administered by Ms. Pompeo was a language based assessment. Dr. Barenbaum pointed out that the authors of the test themselves cautioned against using the test for a child with a language impairment. Her in depth analysis and interpretation of the various scores M.M. achieved in the subtests indicated that the full-scale IQ of sixty-one obtained by Ms. Pompeo was flawed. Dr. Barenbaum administered the TONI to M.M. which was more appropriate in evaluating his IQ since he had a language disability and the TONI is a nonverbal intelligence test. M.M. was found to have an IQ score of 103 and of average cognitive ability. I **DEEM** the testimony of Dr. Barenbaum to be highly credible.

Dr. Barenbaum testified very persuasively regarding a significant psychological study done indicating that teachers have lower expectations of students who have been labelled cognitively impaired. She suggested that perhaps that was why Ms. Aiello's VABS teacher rating form for M.M. was much lower than M.M.'s parent VABS rating form. The adaptive behavior survey filled out by Ms. Aiello indicated that M.M. had a mild deficit in overall adaptive behavior with a rank of less than 1%. The parent rating form yielded an adequate adaptive level indicating average overall adaptive behavior with a rank of fifty-three percent.

The school district believes the MD class was the most appropriate placement for M.M. However, at no time were the parents of M.M., or petitioners' expert witnesses, ever allowed the opportunity to observe the LLD class. The LLD class follows the core curriculum but at a slower pace. If the District was so certain that M.M. did not belong in the LLD class and that the MD class was the most appropriate placement for M.M., one would think that the District would allow M.M.'s parents and their expert witnesses to observe the LLD class to support their position. The parents are considered part of the CST and the placement process is supposed to be a collaborative one. Ms. Tasco testified that she could not make a recommendation as far as M.M.'s placement since she did not observe the LLD class, although she thought both the MD class and general education class were not appropriate. Dr. Barenbaum recommended an out-of-district

placement for M.M. because she was advised by Ms. Pompeo that the MD class was the only option.

The District did allow the parents and their experts to observe the MD class, but on the District's terms and conditions and with strict time limitations. Both Ms. Tasco and Dr. Barenbaum were of the opinion that the MD classroom was too restrictive and inappropriate for M.M. based on their respective observations of the MD class, as well as their assessments, evaluations and observations of M.M. The MD class consisted of lower functioning, nonverbal students some of whom had behavioral problems. The MD class does not follow the core curriculum. There was one special education teacher in the MD class and most of the instruction was given by the individual aides. It was not a multi-sensory, language enriched program where M.M. could model his peers and develop language skills. M.M. needs specialized instruction from a special education teacher. He has a language disability, but has the ability to learn to read and write with the appropriate instruction.

There was testimony from Ms. Kamaris as well as Ms. Scheick that M.M. be placed in the MD class and that he may eventually move to the LLD class when he acquires basic skills. There was more compelling testimony from Dr. Barenbaum that if M.M. is placed in the MD class, he will never learn to read or to use language to express himself and would likely remain in the MD class for the remainder of his academic life. Dr. Barenbaum explained that M.M. has essentially passed part of the critical age of language development and learning reading and early literacy, ages five-seven. The longer you wait to remediate the problem, the further the educational divide becomes. Dr. Barenbaum could not understand why the District did not try M.M. in the LLD class since it is easier moving down than going up. Dr. Barenbaums' concern was that M.M. could have learned the kindergarten curriculum with the appropriate support in a smaller language enriched class. Ms. Tasco was also of the opinion that M.M. could have learned the kindergarten curriculum if given the appropriate supports.

During cross-examination of both Ms. Tasco and Dr. Barenbaum, the District questioned that perhaps what the experts observed was not indicative of the MD class. Since the District dictated the terms and conditions of the petitioner's experts' observation

of the MD class, the District would be hard-pressed to argue what they allowed petitioner's experts to observe of the MD class was really not representative of what goes on in the MD class.

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

M.M. entered kindergarten in September 2016. His parents were concerned with his communication skills. Although children enter kindergarten with a various range of skills, M.M. was in the lower range. He was unable to communicate in an age appropriate manner and had difficulty expressing his wants and needs. His kindergarten teacher, Ms. Aiello had previously conducted an informal kindergarten readiness screening of M.M. in June 2016 and noted that he had difficulty with language skills. As a result of this screening, Ms. Aiello referred M.M. to the CST, but was told by her principal to wait until September. An initial identification/evaluation planning meeting was conducted on October 13, 2016 and the CST agreed to test M.M. to evaluate him for special education and related services.

The Parental Notice Following an Initial Identification/Evaluation Planning Meeting was sent to the parents who consented to the proposed assessments (J-7). M.M. was evaluated and reports prepared by the school psychologist, Lauren Pompeo (J-9); the school speech therapist, Kathleen Kamaris (J-8); the school LDT-C, Stephanie Scheick (J-10); and the school social worker, Victoria Greeves (J-11). A second social assessment was done by the school psychologist, Lauren Pompeo on January 5, 2017 (J-13). The school district also engaged the services of Dr. Dorothy Pietrucha to conduct a pediatric neurologic-neurodevelopment examination of M.M. (J-12). Although an Occupational Therapy request for assessment was consented to by petitioners (J-15), no report was provided as to the results of the assessment.

Dorothy Pietrucha, MD evaluated M.M. at the request of the District on December 20, 2016. Dr. Pietrucha is a Diplomate of the American Board of Psychiatry and Neurology with a special qualification in Child Neurology and Neurodevelopmental

Disabilities. She noted that M.M. was initially apprehensive but then became cooperative. M.M. smiled and made eye contact during the testing and his extraocular movements were full. His gross motor skills were good. Dr. Pietrucha found that M.M. had significant semantic-pragmatic language deficits which results in echolalia. Dr. Pietrucha also found that M.M. has difficulties with graphomotor and visual motor tasks. M.M. did not exhibit any splinter or rote skills. Dr. Pietrucha's diagnostic impression was that M.M. has a language impairment with significant semantic-pragmatic deficits (J-12).

Dr. Pietrucha did not make any finding of cognitive impairment.

On January 10, 2017, the District offered M.M.'s parents the proposed IEP placing M.M. in the Multiple Disabilities Special Class (J-14).

Petitioners objected to the IEP placement of M.M. in the MD class

The parents visited the MD class and observed the class to be inappropriate for their son. The District refused to show them any alternative placements and advised the parents to file for due process if they were not satisfied with the District's proposal, which they did. The school district did not allow petitioners' expert witnesses to observe the LLD class and significantly limited their observations of the MD class.

M.M. has average cognitive ability.

M.M. has adaptive skills in the average range.

M.M. has a language impairment and semantic pragmatic language deficits as well as difficulties with graphomotor and visual motor tasks.

The LLD class addresses language impairments and semantic pragmatic language deficits, which is what M.M. has been diagnosed with by Dr. Pietrucha. The primary purpose of an LLD class is to offer more language opportunities for children whose primary need is their communication skills. The most important part of an LLD classroom is the opportunity to build language skills in order for children with

communication needs to gain access to the curriculum. The LLD class follows the core curriculum but at a slower pace.

M.M. is a very sweet, loving and kind child who is not a behavioral concern. He is very social and wants to be a part of his peer group. He is not a discipline problem. He follows the rules and routine of the classroom. M.M. has tremendous observational skills. Even without special education services being provided to him, M.M. has progressed in his language and math skills although the educational gap has widened between M.M. and his peers.

The MD classroom does not offer the multisensory supports M.M. needs or the opportunities for peer interaction. The children are lower functioning, nonverbal and have behavioral problems. M.M. needs to learn in a language enriched environment, with his peers and needs to use pragmatic language to build relationships with his peers. The MD class was too restrictive for M.M. M.M. would be at risk for modeling poor behaviors. M.M. needs specialized instruction from a special education teacher in an appropriately enriched language environment where the teacher engages in interactive teaching to make sure M.M. understands what is being taught and is made to express himself and interact.

LEGAL ANALYSIS AND CONCLUSION

As a recipient of Federal funds under the Individuals with Disabilities Education Act, 20 U.S.C.A. §1400 et seq., the State of New Jersey must have a policy that assures all children with disabilities the right to a free appropriate public education (FAPE) designed to meet their unique needs. 20 U.S.C.A. §1412. State regulations track this requirement that a local school district must provide FAPE as that standard is set under the IDEA. N.J.A.C. 6A:14-1.1. A FAPE and related services must be provided to all students with disabilities from age three through twenty-one. N.J.A.C. 6A:14-1.1(d). A FAPE means special education and related services that: a) have been provided at public expense, under public supervision and direction, and without charge; b) meet the standards of the State educational agency; c) include an appropriate preschool, elementary, or secondary school education in the State involved; and d) are provided in conformity with the individualized education program (IEP) required under sec. 614(d). 20 U.S.C.A. § 1401(9); N.J.A.C. 6A:14-1.1 et seq. The responsibility to deliver these services rests with the local public-school district. N.J.A.C. 6A:14-1.1(d).

In order to provide a FAPE, a school district must develop and implement an IEP. N.J.A.C. 6A:14-3.7. An IEP is “a comprehensive statement of the educational needs of a handicapped child and the specially designed instruction and related services to be employed to meet those needs.” Sch. Comm. of Burlington v. Dep’t of Educ. of Mass., 471 U.S. 359, 368, 105 S. Ct. 1996, 2002, 85 L. Ed. 2d 385, 394 (1985). An IEP should be developed with the participation of parents and members of a district board of education’s child study team who have participated in the evaluation of the child’s eligibility for special education and related services. N.J.A.C. 6A:14-3.7(b). The IEP team should consider the strengths of the student and the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluations of the student; the student’s language and communications needs; and the student’s need for assistive technology devices and services. The IEP establishes the rationale for the pupil’s educational placement, serves as the basis for program implementation, and complies with the mandates set forth in N.J.A.C. 6A:14-1.1 to -10.2.

Parents who are dissatisfied with an IEP may seek an administrative due-process hearing. 20 U.S.C.A. § 1415(f). The burden of proof is placed on the school district. N.J.S.A. 18A:46-1.1.

The Board will satisfy the requirement that a child with disabilities receive FAPE by providing personalized instruction with sufficient support services to permit that child to benefit educationally from instruction. Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 203, 102 S. Ct. 3034, 3049, 73 L. Ed. 2d 690, 710 (1982). To meet its obligation to deliver FAPE, a school district must offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. Andrew F. v. Douglas Cnty. Sch. Dist., 580 U.S. (2017); 137 S.Ct. 988; 197 LEd 2d 335.

In considering the appropriateness of an IEP, case law instructs that actions of the school district cannot be judged exclusively in hindsight. The appropriateness of an IEP must be determined as of the time it is made, and the reasonableness of the school district's proposed program should be judged only on the basis of the evidence known to the school district at the time at which the offer was made. D.S. v. Bayonne Bd. of Educ., 602 F.3d 553, 564–65 (3d Cir. 2010). An IEP is a “snapshot, not a retrospective.” Fuhrmann v East Hanover Bd. of Educ., 993 F.2d 1031, 1041 (3rd Cir. 1991), citing Roland M. v Concord School Committee, 910 F.2d 983,992 (1st Cir. 1991). Thus, “in striving for ‘appropriateness’, an IEP must take into account what was, and was not, objectively reasonable when the snapshot was taken, that is, at the time the IEP was drafted.” Ibid. Our courts have confirmed that “neither the statute nor reason countenance ‘Monday morning quarterbacking’ in evaluating a child’s placement.” Susan N. v. Wilson Sch. Dist., 70 F.3d 751, 762 (3rd Cir. 1995), citing Fuhrmann, supra., 993 F.2d at 1040.

The Third Circuit in Ridgewood Bd. of Educ. v. N.E. 172 F.3d 238 (3d Cir. 1999) stated that the appropriate standard is whether the IEP offers the opportunity for “significant learning” and “meaningful educational benefit”. The benefit must be meaningful in light of the student’s potential; to fulfill this mandate, the student’s capabilities as to both “type and amount of learning” must be analyzed. Id. at 248. “When students display considerable intellectual potential, IDEA requires a great deal more than

a negligible [benefit].” Id. at 247 (quoting Polk, 853 F.2d at 182). When analyzing whether an IEP confers a meaningful benefit, “adequate consideration [must be given] to . . . [the] intellectual potential” of the individual student to determine if that child is receiving a FAPE. Id. at 248.

The IDEA also includes a mainstreaming requirement requiring education in the “least restrictive environment.” 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 setting as least restrictive, to enrollment in a residential private school as most restrictive. 34 C.F.R. § 300.115 (2015); N.J.A.C. 6A:14-4.3.

Courts in this Circuit have interpreted this mainstreaming requirement as mandating education in the least restrictive environment that will provide meaningful educational benefit. “The least restrictive environment is the one that, to the greatest extent possible, satisfactorily educates disabled children together with children who are not disabled, in the same school the disabled child would attend if the child were not disabled.” Carlisle Area Sch. v. Scott P., 62 F.3d 520, 535 (3d Cir. 1995), cert. den. sub. nom., Scott P. v. Carlisle Area Sch. Dist., 517 U.S. 1135, 116 S. Ct. 1419, 134 L. Ed. 2d 544 (1996).

Although petitioners request in their closing briefs that an out-of-district placement be ordered for M.M., there was no request for such relief in their initial request for mediation. Furthermore, there was no testimony at the hearing as to any particular appropriate out-of-district placement or what the programming would consist of. To the extent that the less restrictive, in district LLD class is a more appropriate placement for

M.M., and was what petitioners were seeking when they filed for mediation and this matter was transmitted to the OAL, the issue of a more restrictive out-of-district placement is not before me. Likewise, to the extent that petitioners' closing briefs seek reimbursement of all costs attributable to this due process hearing as well as compensatory education for the period of deprivation, this relief was also not requested in the initial request for mediation and is therefore not before me.

M.M. is currently in first grade in a general education class at Bayview elementary school. Both sides agree that this is not an appropriate placement for M.M. However, since M.M.'s parents did not consent to the proposed IEP offered by the District on January 10, 2017 calling for M.M.'s placement in the Multiple Disabilities (MD) Special Class (J-14, page 82) and the District not willing to offer M.M. an alternative placement in the LLD class, M.M. remains in a general education class while this matter proceeds through this due process proceeding. M.M. is receiving individual speech therapy two times per week for thirty minutes pursuant to a Speech/Language IEP dated March 16, 2017 (R-17), but no other supports. Nevertheless, he has made improvements.

M.M. was just entering kindergarten when he presented with a significant language impairment. He should have been referred to the CST in June 2016 following the kindergarten readiness screening that identified his delays. Although M.M. received intervention services in kindergarten and first grade, they were not provided by professionals qualified to teach students with disabilities. His kindergarten teacher, Ms. Aiello, his first grade teacher, Ms. Massell, the reading specialist, Ms. McCarthy and the math specialist, Ms. Venneman were not qualified to teach students with disabilities. There was testimony from Ms. Venneman that there is a very wide range of what is appropriate for math skills in kindergarten and first grade. There was testimony from Ms. Aiello that there were a various and wide range of skill sets in children entering kindergarten. Had M.M. been offered an IEP placing him in the LLD class in kindergarten, consistent with Dr. Pietrucha's diagnosis of a language impairment, the educational divide between M.M. and his peers that currently exists could have been prevented or at least minimized. Unfortunately, that did not happen and M.M. has sat through kindergarten and first grade in a general education class that everyone agrees is not appropriate for M.M. More harm was done to M.M. by keeping him in the general education setting

throughout this due process proceeding than would have come to him being placed initially in the LLD class receiving special education services for his language impairment and then arguing over whether he should be moved to the more restrictive MD class, if he was not progressing in the LLD class.

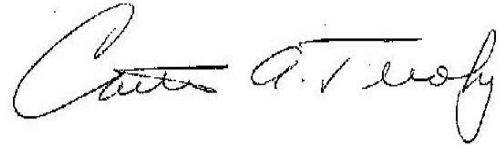
It is clear that there would be no harm to the District in placing M.M. in the LLD class. It is equally clear that placing M.M., a cognitively average child with a language disability in a class with cognitively impaired, non-verbal children with behavioral issues would be detrimental to M.M.

M.M. should have been placed in the less restrictive LLD class as a result of his diagnosed language impairment. The District's own expert, Dr. Pietrucha did not diagnose M.M. with a cognitive impairment, but a language impairment. M.M. has average cognitive abilities and average adaptive scores, making his placement in the MD class inappropriate. A child of average cognitive abilities should not be placed in a MD class. The January 10, 2017 IEP that was offered (J-14) was not reasonably calculated to enable M.M. to make progress appropriate in light of M.M.'s circumstances. To the extent that the IEP offered to M.M. called for his placement in the more restrictive MD class, I **CONCLUDE** that the respondent has not met its burden of showing by a preponderance of the credible evidence that it has offered M.M. an IEP with an appropriate placement that was reasonably calculated to enable him to make progress in light of his circumstances. I also **CONCLUDE** that to the extent that the District failed to offer M.M. an IEP with an appropriate placement reasonably calculated to enable him to make progress in light of his circumstances, it has failed to provide M.M. with a FAPE.

ORDER

It is hereby **ORDERED**, that the appropriate placement for M.M. is in the district for LLD class.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2017) 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 (2017). 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.



July 9, 2018
DATE

CATHERINE A. TUOHY, ALJ

Date Received at Agency

July 9, 2018 (emailed)

Date Mailed to Parties:

/mel

APPENDIX

WITNESS

For Petitioners:

Samantha Tasco
Edna M. Barenbaum
J.M.

For Respondent:

Erin Aiello
Maureen Massell
Elizabeth McCarthy
Kristine Venneman
Stephanie Scheick
Kathleen Kamaris

EXHIBITS

For Petitioners:

None

For Respondent:

None

Joint Exhibits

- J-1 Sunny Days Sunshine Center, Inc. – Progress Report, February 26, 2016
- J-2 The Goddard School – Children’s Progress Parent Report – PK Spring June 13, 2016 (ten pages)

- J-3 Sunny Days Sunshine Center – Progress Report, August 3, 2016 (three pages)
- J-4 Receptive/Expressive Language Referral Form, September 20, 2016 (two pages)
- J-5 Intervention & Referral Services – Initial Request for Assistance (two pages)
- J-6 Intervention & Referral Services – Staff Data Collection Form
- J-7 Parental Notice Following an Initial Identification/Evaluation Planning Meeting, October 6, 2016 (four pages)
- J-8 Speech Language Evaluation by Kathleen A. Kamaris, MA/SLP October 20, 2016 – November 16, 2016 (four pages)
- J-9 Psychological Evaluation by Lauren Pompeo, M.A., NCSP, School Psychologist, November 16, 2016 (seven pages)
- J-10 Educational Evaluation by Stephanie Scheick, M.A., LDT-C, December 6, 2016 (four pages)
- J-11 Social Assessment Report by Victoria Greeves, MSW, LSW, December 14, 2016 (seven pages)
- J-12 Pediatric Neurologic-Neurodevelopmental Examination by Dorothy Pietrucha, M.D., December 20, 2016 (three pages)
- J-13 Social Assessment Report by Lauren Pompeo, School Psychologist, January 5, 2017 (four pages)
- J-14 Proposed IEP dated January 10, 2017 (nineteen pages)
- J-15 Initial Occupational Therapy/Physical Therapy Assessment Request, January 13, 2017 (five pages)
- J-16 February 14, 2017 letter from Lenore Boyarin, Esq. to Eric Harrison, Esq.
- J-17 Speech/Language: Parental Notice Following a Meeting When the IEP is Not Used as Notice, March 16, 2017 (three pages)
- J-18 Speech/Language Evaluation & Classroom Observation Report by Samantha Tasco, M.A., CCC-SLP, April 20, 2017 (seventeen pages)
- J-19 Curriculum Vitae of Samantha Tasco, M.A., CCC- SLP
- J-20 Psychological Report by Edna M. Barenbaum, Ph.D. (twenty-nine pages)
- J-21 Curriculum Vitae of Edna M. Barenbaum, Ph.D. (ten pages)
- J-22 June 6, 2017 letter from Lenore Boyarin, Esq. to Eric Harrison, Esq. (two pages)

- J-23 June 23, 2017 letter from Lenore Boyarin, Esq. to Eric Harrison, Esq.
- J-24 July 11, 2017 letter from Lenore Boyarin, Esq. to Eric Harrison, Esq., with enclosures (thirty-eight pages)
- J-25 Mediation Request filed by Petitioners, August 16, 2017 (two pages)
- J-26 Curriculum Vitae of Stephanie Scheick, Case Manager (seven pages)
- J-27 Curriculum Vitae of Erin Aiello, General Education Teacher (three pages)
- J-28 Curriculum Vitae of Kristine Venneman, Math Specialist (two pages)
- J-29 Curriculum Vitae of Lisa McCarthy, Reading Specialist (three pages)
- J-30 Curriculum Vitae of Maureen Massell, General Education Teacher (two pages)
- J-31 Curriculum Vitae of Kathy Kamaris, Speech Therapist (three pages)
- J-32 2016-2017 and 2017-2018 Specialized Reading Instruction Data (ten pages)
- J-33 Writing/Work Samples (thirty-five pages)
- J-34 2016-2017 and 2017-2018 F & P Results (eight pages)
- J-35 Anecdotal Notes 2016-2017 and 2017-2018 (twenty-four pages)
- J-36 2016-2017 and 2017-2018 Specialized Math Instruction Data (eighteen pages)
- J-37 2017-2018 Report Card (four pages)
- J-38 2016-2017 / 2017-2018 Speech Data (thirty-eight pages)