



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

OAL DKT. NO.EDS 04541-18

AGENCY DKT. NO. 2018-27602

**J.B. ON BEHALF OF C.L.,**

Petitioners,

v.

**FREEHOLD REGIONAL HIGH**

**BOARD OF EDUCATION,**

Respondent.

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**Catherine Merino Reisman, Esq.,** for petitioners (Reisman Carolla Gran, LLP, attorneys)

**John B. Comegno, Esq.,** and **Todd H. Zamostein, Esq.,** for respondent (Comegno Law Group, attorneys)

Record Closed: February 11, 2020

Decided: August 31, 2020

BEFORE **PATRICIA M. KERINS, ALJ:**

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

This matter arises from the February 25, 2018, filing of a due process petition by J.B. on behalf of her daughter, C.L., under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. {1415 et seq. Petitioners assert that respondent Freehold Regional High School Board of Education (Freehold or the District) denied C.L. a Free and Appropriate Public Education (FAPE). during the second half of the 2017-18 school year,

and the entire 2018-19 school year, and they are entitled to the expenses incurred in unilaterally placing her in a private residential placement.

The due process petition was transmitted by the Office of Special Education Policy (OSEP) for a hearing as a contested case to the Office of Administrative Law (OAL) on March 28, 2018. A settlement conference date of April 12, 2018 was adjourned at petitioner's request and rescheduled for May 10, 2018. Petitioners filed a motion for partial summary decision in May 2018 and the District then filed a cross motion for summary decision. In July 2018, petitioners filed an amended petition which included a request for relief for the 2018-19 school year. In September 2018, an order and opinion issued denying both motions for summary decision. After unsuccessful settlement attempts, oral argument and testimony were taken on September 17, 20 and 25, 2018, November 5 and 20, 2018, December 20, 2018, February 8 and 21, 2019, March 18, 2019, May 29, 2019 and July 9, 2019<sup>1</sup>. The record closed on February 11, 2020, with the adjournment of a final hearing date, and with the receipt of final post-hearing submissions by the parties.

### **FACTUAL DISCUSSION**

C.L. was deemed eligible for special education services due to autism and specific learning disabilities in reading, writing and mathematics. Now of age<sup>2</sup>, her education became the responsibility of Freehold, a regional high school district, in the 2015-16 school year. She had been placed at the Center School (Center), a private school for students with learning disabilities (PSSD) during eighth grade, the 2014-15 school year. She continued attending Center until January 2018. In June 2017, an annual IEP meeting was held and the resulting IEP for the 2017-18 school year<sup>3</sup> continued her placement at the Center School. Center is located in Somerset, New Jersey and is an approved school for students with disabilities by the New Jersey Department of Education.

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<sup>1</sup> Other hearing dates were adjourned at the requests of both parties and with consent.

<sup>2</sup> C.L. became eighteen in October 2018. J.B., her mother, continued as petitioner in this matter on her behalf pursuant to a Durable Power of Attorney (J-114) and an Assignment of Educational Decision-making Authority (J-115)

<sup>3</sup> The parties discussed differing versions of the IEP during testimony. For purposes of this record, J-94 will be the IEP referenced to unless otherwise noted.

J.B. contacted Freehold in the fall of 2017 with concerns over C.L.'s placement. After petitioner spoke in October 2017, with Dr. Taylor (Taylor), Freehold's then Director of Special Services, C.L.'s case manager Linda Harold (Harold), visited Center to observe C.L. A meeting to discuss J.B.'s concerns was held with Freehold on November 1, 2017. In December 2017, J.B. forwarded information on the Vanguard School (Vanguard), a residential school in Florida, to C.L.'s case manager at Freehold. Vanguard is not an approved school for students with disabilities and it does not provide therapeutic services. Also, in December 2017, J.B. provided Freehold with a private learning evaluation during another meeting with the District, and a letter from her treating physician recommending the out-of-district placement. On January 2, 2018, an IEP meeting was convened and the resulting document (J-95) noted that J.B. had requested an out-of-district placement at Vanguard as she felt Center was not meeting C.L.'s needs. The IEP went on to state that while a residential placement was requested and considered, it was not an appropriate placement.

In her response to the January 2, 2018 IEP meeting, J.B. again requested C.L.'s placement at Vanguard, writing that she was placing her daughter there. She entered into the signed contract for Vanguard on January 16, 2018 and filed her petition for due process on February 28, 2018. In response to the January IEP meeting, Freehold proposed a reevaluation for C.L. That reevaluation was held in the spring of 2018 and on June 25, 2018, the District held an IEP meeting for the 2018-19 school year and proposed an IEP with continued placement at Center. J.B. had given the District notice that she intended to continue C.L.'s placement at Vanguard and amended her due process petition to include the 2018-19 school year. C.L. remained enrolled at Vanguard during the pendency of this due process matter.

While the above facts are not in dispute, the parties disagree on material facts necessary to determine the issues in this case. The first issue to be determined is whether J.B. provided the necessary notice to Freehold of the proposed unilateral placement in a timely fashion. The second issue to be decided is whether Freehold had offered and provided C.L. with a free and appropriate education (FAPE), and if it had not, did the unilateral residential placement at Vanguard warrant reimbursement of its cost to the petitioners.

Unilateral Placement Notice

On the issue of notice to Freehold of J.B.'s intention to unilaterally place C.L. at the Vanguard School, and to seek reimbursement for that placement, Freehold presented the testimony of Taylor, Harold and Linda Fiorentino (Fiorentino), the director of Center. Both Taylor and Harold acknowledged that J.B. had brought the issue of C.L.'s placement and behavioral issues to their attention in the fall of 2017. As a result, Harold observed C.L. at Center and the parties met on November 1, 2017. Both Harold and Taylor testified that J.B. did not bring up placement at the Vanguard School or ask for reimbursement at that meeting. J.B. then scheduled and attended a meeting at Center in December 2017. Freehold was not advised of the meeting and no member of their staff attended. According to Fiorentino, J.B. advised them during the meeting that she had located a boarding school in Florida near C.L.'s grandparents that she was interested in as a placement for C.L. It was Fiorentino's testimony that J.B. did not request placement at Vanguard, or reimbursement, and in fact she recalled her saying that C.L. would be finishing out the school year at Center.

According to Taylor the District met with J.B. in December as well, and although J.B. brought up the Vanguard school as placement for C.L., she did not inform the District that she intended to place her daughter there and seek reimbursement from the District. On December 15, 2017, J.B. forwarded Harold an email (J-24) that she had received from Vanguard accepting C.L. into the school beginning on January 16, 2018. In her email J.B. informs Harold that: "These are the documents from the new school." On December 16, 2017, J.B. forwarded another email from Vanguard (J-29) regarding its acceptance of C.L., and her attendance in January 2018. In its J.B. responds that C.L. will be attending. In the email, J.B. additionally asks Vanguard for a copy of the contract which it uses for "sending schools" to present to Freehold at the IEP meeting scheduled for early January 2018. J.B. also provided Freehold with a December 21, 2017, letter from C.L.'s physician recommending the proposed placement at Vanguard (J-30).

Taylor and Harold also testified regarding the IEP meeting of January 2, 2018. Freehold still maintained that Center was the appropriate placement for C.L. but scheduled another IEP meeting for January 18, 2018. Taylor and Harold did not recall

J.B. stating at the meeting that she was placing C.L. at Vanguard in January and seeking reimbursement. However, the proposed IEP resulting from that meeting (J-95) does state that the parent is seeking placement for C.L. at Vanguard.

J.B., on the other hand, testified that she had been explicit both in December, and at the January 2, 2018 meeting that she intended to place C.L. at Vanguard in January and that she was seeking reimbursement from the District. It was not until January 15, 2018, however, in her response to the IEP proposed after the January 2, 2018, meeting that she provided written notice to the District that she was enrolling C.L. at Vanguard on January 16, 2018, and she was seeking reimbursement from the District. (J-33)

Overall, the record shows that J.B. had been discussing an out-of-district placement for C.L. with Freehold since at least November 2017. In December she met with both the District and Center and discussed placement at Vanguard for her daughter. In mid-December her emails to Harold show that C.L. had been accepted at Vanguard and that she was planning to send her there in January. While she did not directly state that she was seeking reimbursement from the District in writing in December, one of the emails to Harold references the contract form a sending district would use to reimburse Vanguard. Her testimony about discussing Vanguard with the District at the January 2, 2018, meeting was more credible than that of Taylor or Harold. By that time, the District had her December 15 and 16, 2017, emails to Harold which clearly showed that C.L. had been accepted at Vanguard, and that J.B. replied with her intention of C.L. attending the school in January. Reference also was made to the need for a contract from the sending district. Given the discussions between the parties leading up to the January 2, 2018, meeting and given the emails sent to Harold, it was more likely that the parties discussed placement and reimbursement at that meeting.

While J.B. was credible that she informed the District at the January 2, 2018 meeting that she was placing C.L. at Vanguard and requesting reimbursement, it was not until January 15, 2018, that she provided the District with her request in writing.

FAPE

The second issue arising from petitioners' request for reimbursement for C.L.'s unilateral placement at Vanguard is whether the IEP in place on January 16, 2018, and the IEP proposed by the District for the 2018-19 school year were reasonably calculated to provide FAPE to C.L. The last agreed upon IEP between the parties was the June 2017 IEP (J-94) for the 2017-2018 school year. After the IEP meeting of January 2, 2018, the District proposed an IEP (J-95) for the period January 2, 2018 to June 6, 2018. Petitioner objected to that IEP by letter of January 15, 2018. Finally, during this due process matter, Freehold proposed an IEP for the 2018-19 school year after an IEP meeting held on June 25, 2018 (J-64 and J-96). Petitioner received that IEP on July 13, 2018, and again disagreed with it. Each of the IEPs provided for C.L.'s placement at Center.

In support of its contention that FAPE was provided, Freehold presented several witnesses. They included Taylor, Harold, Fiorentino, as well as Amanda Choma (Choma), school psychologist, Tristan Epstein (Epstein), school psychologist, Marla Sperling-Reich (Sperling-Reich), a speech language therapist and a rebuttal witness, Mary Ann Grabowski (Grabowski) from Center.

Harold is a licensed social worker and is employed by Freehold as a school social worker and case manager. She was qualified as an expert in social work and special education. She has been C.L.'s case manager since 2015-16 and testified that there had been no reports from Center that C.L. presented with any behavioral difficulties. She recalled that at the June 2017 IEP meeting, J.B. expressed concerns over C.L.'s anxiety regarding transportation to school in a van, and whether C.L. would be prepared for college courses. Her concerns were noted in the IEP and J.B. consented to the IEP and waived evaluations for that year. Harold testified that during the 2016-17 school year J.B. did not advise her of any behavioral issues or aggression in the home. During her testimony she identified J-94 as the IEP in the District's files and offered J-28 as progress reports on C.L., which she stated showed her making some progress in her modified curricula. She also relied upon C.L.'s grades at Center which were mostly As and Bs.

Harold stated her opinion that the goals and objectives in each of C.L.'s IEPs were appropriate for her. She said that Center provided a program individualized for each student, including C.L. with a FSIQ in the eighty - eighty-five range, C.L.'s courses were geared to her cognition level and her goals and objectives were prepared in each content area by her teacher for that area at Center. The data used in evaluating her progress was the performance data compiled by her teachers. Additionally, Harold cited C.L.'s MAP scores as showing she was making progress. MAP tests are standardized tests used in assessing students in a modified curriculum.

In her testimony Harold discussed concerns raised by J.B. in the fall of 2017 regarding the program at Center and C.L.'s behavioral difficulties at home. According to J.B., her daughter was belligerent at home and would often refuse to go to school. As J.B. transported her to school, she said C.L. would give her difficulty in the car, including shoving her at one point. J.B. also asserted that because she could not get C.L. to go to school at times, she had an excessive number of absences.

Harold then did an observation visit at Center in October 2017. Additionally, when J.B. advised Freehold of C.L.'s behavioral issues at home, including an incident in November where she had to contact a Crisis Unit, they advised J.B. to consult Perform Care, a company which could provide behavioral and mental health services. When J.B. requested a meeting with Freehold over what she described as her daughter's increasing aggression and behavior problems at home, the parties met on November 1, 2017. Harold said J.B. did not inform the District at that meeting that she was considering Vanguard, although Harold did say that other out-of-district placements in New Jersey had been discussed with petitioner. At that meeting, the District did offer to do new evaluations, but petitioner declined according to Harold.

In reviewing the assertions made by petitioner in her due process petition Harold denied that the District was keeping C.L. in a vocational program but noted that the program had workplace training and life skills components. She stated that in preparing the IEP for the 2018-19 school year, the evaluations done in the spring of 2018 were used. No need was seen for a residential placement and Vanguard was not seen by the District as an appropriate placement.

Under cross-examination Harold admitted that she had not been aware of the thirty absences that C.L. had incurred in 2016-17, as neither Center nor J.B. had brought it to her attention. She said that Center's attendance report would have gone to Freehold's attendance office, not her. Harold did admit that not being able to get a child to attend school would affect her access to an appropriate education. She also admitted that the progress reporting for C.L.'s goals and objectives did not show what percentage of the time C.L. was able to master the task or show baseline performance data.

Amanda Choma, a school psychologist at Freehold also testified for respondent. In addition to her school psychologist duties, she serves as a Board-Certified Behavior Analyst (BCBA) for the District. She was qualified as an expert in special education, school psychology and in behavior analysis (BA). She stated that not all autistic students require ABA services and that it was not the District's duty to provide Behavior Intervention (BI) services for home issues unless it was impacting school behavior. Along with Tristan Epstein, she performed a Functional Behavior Analysis (FBA) on C.L. at her home in the spring of 2018. Choma testified that she did not see aggressive behavior by C.L. Based on J.B.'s assertions the targeted behavior in the FBA was aggression by C.L. toward her mother. The FBA took place in the home, not the car and Choma stated it was structured on information given by J.B. in the parent interview.

Choma testified to the results of the FBA. No aggressive action was seen in C.L., and no need for a Behavior Intervention Plan (BIP) in the home was shown, nor were ABA therapy services needed in the home for C.L. She did recommend some behavior "strategies" for C.L. Choma stated that there was no need for residential placement. She opined that the mild negative behaviors she observed were a way for C.L. to seek attention from her mother. She admitted that she did not review C.L.'s IEP prior to the FBA. She said she was not told by J.B. of the multiple times C.L. was aggressive toward her in the car.

In addition to Choma, the District presented the testimony of another Freehold school psychologist, Tristan Epstein, who was qualified as an expert in school psychology and special education. In addition to assisting Choma in the FBA of C.L., she performed a psychological evaluation of C.L. for the District in April 2018. As part of the evaluation,



she administered the Adaptive Behavior Rating Scale (ABAS-3), the Behavior Assessment for Children (BASC-3) and the Social Skills Improvement System (SSIS). Based on the scores received in these tests, along with a review of C.L.'s records, Epstein concluded that C.L. was performing to her ability in the areas tested. Each of the tests involved scoring input from C.L., her family and her teachers. She noted that teacher reports did not indicate behavior concerns in school or issues with behavior in the home that were preventing C.L. from learning. She found that C.L. and her mother have different views of C.L.'s behavior.

Epstein was questioned regarding the FBA she and Choma performed on C.L. She corroborated Choma's testimony as to their findings. She testified that she did not observe the behaviors J.B. had described as aggressive and she agreed with the data they had compiled during the assessment. She stated she has reviewed the IEP for 2017-18 and agreed that it addressed C.L.'s needs. She reviewed the services provided in the IEP and found they were appropriate. She was of the same opinion in regard to the proposed IEP for the 2018-19 school year.

Under cross examination Epstein stated that she had not visited Center but was familiar with the school's programs. She was questioned regarding the forms used in the ABAS-3 test which were filled out by Center in evaluating C.L. Epstein considered Center's contact with C.L. over the years and up to December 2017 as recent enough under the test's guidelines to produce a valid result.

A speech and language specialist, Marla Sperling-Reich then testified for the Board as an expert in Speech and Language Pathology and Special Education. Her caseload at the District includes over a hundred children over two schools. She performed a Speech and Language Evaluation on C.L. as part of the reevaluation process in the spring of 2018 and her testing included the Clinical Evaluation of Language Fundamentals (CELF-V), Social Language Development Test for Adolescents, and an Informal Articulation Assessment. C.L.'s results on the CELF-V were mostly average, as were her results on the Social Language Development Test. As for the Articulation test, C.L. did not have articulation errors but did have a mild distortion of "r".

Sperling-Reich stated that one of the services provided C.L. was speech and language in a peer group which addressed social skills, and which addressed some of her social and life skills weaknesses, including humor and inferences. She testified that in her opinion the Center IEP addressed C.L.'s speech and language needs.

Fiorentino, the director of Center, was qualified as an expert in special education and school leadership. In addition to her testimony referenced above regarding notice from J.B. that she was placing C.L. at Vanguard, she testified to other matters. She described Center, its staff and its programs as a private school for disabled students approved by the State of New Jersey. At the time of her testimony, Center had ninety-four students and thirty (30) teaching staff. Forty-seven (47) of the students were autistic. Fiorentino testified that Center's program integrates its social skills components throughout the school day and includes peer groups run by social workers or psychologists. Its programs also include work readiness transition modules and enrichment programs, all of which are offered during Extended School Year (ESY). Additionally, she noted that Center uses positive reinforcement techniques within its programs.

Although Fiorentino had not dealt directly with C.L. she had reviewed her records and was part of a team which had reviewed her progress. C.L. had presented with no behavioral issues and she felt that she had been making progress. Fiorentino pointed to C.L.'s grades and her results on the NWEA (also known as the MAP) standardized tests in support of her progress. The NWEA scores are generally used as a starting point in September for an individual student. She recalled that when J.B. had requested more data on C.L.'s curricula, staff provided her with the NWEA data for her daughter. She did admit that her 2017-18 IEP (J-94) did not contain criteria for mastery of her goals and objectives but said her progress reporting (J-27-28) did.

She recalled meeting once with J.B., in December 2017. In that meeting, J.B. raised a number of concerns. In reviewing the allegations in petitioner's due process petition, she said that J.B. had not brought them to her attention while C.L. was attending Center. Addressing those concerns, Fiorentino said C.L. had not shown signs of social anxiety at school and had friends, including one student A., with whom she worked in the

school cafeteria as part of the work module for students. For some reason, J.B. appeared to find him inappropriate as a friend for C.L. Fiorentino also explained that the gender disparity at the school, more boys than girls, was present in most PSSD schools simply because more boys than girls received special education services, particularly in the autism spectrum. While J.B. had brought up what she termed sexually explicit conversation among the students, Fiorentino said that the students were adequately supervised, even at lunch. In her testimony, she said that J.B.'s concerns also were centered on her relationship with her daughter and she brought up her behavior in the car during the meeting.

Respondent's final witness was Taylor, Freehold's Director of Special Services. After reviewing her extensive resume (J-89), she was qualified as an expert in Special Education, Behavior Analysis, Psychology, Psychometrics and Transition Planning. She testified that although she had only observed C.L. once, she had reviewed her records and reports. Taylor stated that C.L. had specific learning disabilities in math, reading and language arts and presented with autism. Her needs were also driven by ADHD, executive functioning issues and needs for vocational training. She opined that C.L. could make progress in a daily school setting and that a residential placement was not necessary. She also found that any behavioral issues C.L. had exhibited in the home setting had not been present in school. Nor did C.L. require a Behavior Plan or ABA therapy in order to learn. She further found that the IEP in place for C.L. and the proposed IEP for the 2018-19 school year was appropriate and addressed her needs. She described C.L. as requiring multi-faceted programming and that Center provided such programming.

Taylor stated she was familiar with Center and its program and that it integrated social skills training throughout its daily school program. She noted that C.L. had been unable to take part in afterschool programs due to outside activities, such as horse riding that J.B. had scheduled. Although she saw no evidence of inappropriate remarks by the teenage boys at Center, she described Center as providing a highly supervised environment. As to J.B.'s concerns regarding a gender imbalance at Center, like Fiorentino, she pointed out that more boys are classified to receive special education services.

Addressing concerns raised by J.B. in fall 2017 regarding C.L.'s aggressive behaviors, Taylor said she was contacted by petitioner in a phone call. When Taylor contacted Center to follow up, Center reported that C.L. had not exhibited any such behaviors at school. Taylor stated that she had advised J.B. that the District's BCBA's were available to collaborate with the registered behavior technician (RBT) retained by J.B. to provide services to C.L. in the home. Additionally, she met with J.B. on November 1, 2017, and advised her to contact the outside behavior services provider, Monmouth Cares to assist with any issues in the home. According to Taylor, evaluations were offered to J.B., but she declined. Petitioner did ask that Freehold consider different placements for C.L. but did not mention Vanguard.

Taylor testified that she was not aware that J.B. had met with Center staff in December until after the meeting occurred. She met with J.B. in December over her concerns and an IEP meeting was scheduled for January 2, 2018. She noted that the private education evaluation (J-20) which J.B. provided just prior to that meeting did not make recommendations for residential placement and in her opinion C.L.'s program at Center was fulfilling what recommendations it did make. It was however, considered by the Child Study Team (CST) at the IEP meeting, along with a letter from C.L.'s psychiatrist, Dr. Senese (Senese). (J-30).

Discussing (J-20), the educational evaluation performed by Amanda Colannino, Taylor took issue with some of the testing results, noting the testing came with only a sixty-eight (68%) confidence level, where scoring results should be within the 95<sup>th</sup> Percentile to signal accuracy. As for C.L.'s lower score on the Woodcock Johnson IV, as opposed to her earlier score on the Woodcock Johnson III, she attributed it to the "Flynn Effect" that occurs when tests are reformed. She stated that scoring differences are common between reformed tests and "that just to maintain the same score, you have to make progress." Taylor also pointed out that C.L. had been taken off all of her medications in the weeks before the testing took place which could have affected her scores. In reviewing the neuropsychological report of Dr. Greco (J-31), submitted by petitioner in January 2018, Taylor addressed his recommendations. The social skills training and social support groups he recommended were part of Center's curricula but

were not offered at Vanguard. Other recommendations such as preferential seating, extended time and breaks were available at Center.

When the District met in the spring regarding C.L., it first scheduled an eligibility meeting in May, as petitioner had made a unilateral placement and the matter was in litigation. The spring evaluations and FBA were reviewed. It then held an IEP meeting for the 2018-19 school year on June 25, 2018 and an IEP was issued which continued placement at Center and used present levels of performance from the evaluations.

In rejecting petitioner's request for placement at Vanguard, Taylor cited a number of issues with Vanguard, and referenced a report (J-130) she had prepared after visiting the school. It is not approved to provide special education services and New Jersey standards for special education and curricula were not followed. Related services are more limited than Center, for example a speech therapist only is available three days a week. Most of the teachers are general education and therapeutic services are not provided. In fact, Vanguard does not accept students with behavioral difficulties or aggression problems. She said the curricula was taught at a lower level than at Center and she found it to be outdated. C.L. does not have an IEP, but rather only an ISP (Individual Service Plan) which provides only accommodations. C.L. does not receive counseling at Vanguard and she said there was no life skills curricula. Nor does C.L. receive speech therapy services at Vanguard.

When questioned concerning the extent of C.L.'s absences, Taylor reviewed Freehold's policy and said that C.L. provided documentation regarding her absences. She stated that J.B. had not made her aware of a continuing problem in getting C.L. to go to school and that she had only told her of one incident in a car.

In support of their case, petitioners presented the testimony of J.B., Kristine Fitzgerald (Fitzgerald), Senese and Colannino.

J.B. testified that her daughter was diagnosed with autism, as recently as 2015, after she began seeing Senese. She felt the late diagnosis hurt C.L. since she could have been receiving services tailored to the spectrum and it was only in 2017 that she

began receiving ABA therapy. That therapy was arranged by J.B. According to J.B., as early as the 2016-17 school year and at the June 2017 IEP meeting, she advised Freehold that she had difficulty getting C.L. to school. She testified that she had discussed the issue with Harold, a social worker at Center, Katie Snyder (Snyder), and the principal at Center. As she drove C.L. to and from school, she interacted with Snyder frequently and told her about the issue continuously. J.B. further testified that she had discussed other concerns with Snyder and Freehold staff, including foul language by students at Center, lack of a peer group and friends, and her daughter's discomfort with some teachers.

She testified that she first called mobile crisis at CPC Behavioral Health Care in September 2016, and a safety plan for C.L. was developed. She called the crisis center again in November 2017, after an incident in which her daughter body slammed her on the way to the car and was aggressive in the car, threatening to walk into traffic. J.B. contacted Taylor in the fall to discuss the issue with her daughter getting into school. She met with the District, including Taylor during that fall and made them aware she was looking at other schools for C.L., including Purnell and Cambridge. She said she obtained a private educational evaluation from Colannino after requesting the District to fund independent evaluations. Freehold declined, first wishing to do its own reevaluations of C.L.

J.B. discussed the private services she obtained for C.L., including private speech therapy, a private social skills group, therapy with a Perform Care therapist, psychotherapy and a therapeutic riding program, as well as ABA therapy twice a week. In her opinion the curriculum at Center was too easy and was not preparing C.L. to move on to post high school coursework.

She testified that she did not hide her intentions from Freehold to seek another placement for her daughter and had immediately forwarded Harold C.L.'s acceptance at Vanguard on December 15, 2017. J.B. testified that she was candid with Vanguard about C.L.'s behaviors at home, and that she did not have any behavioral issues at school. She taped the January 2, 2018, IEP meeting (J-134) and testified that the District was aware at that meeting she was seeking reimbursement for placement at Vanguard. After C.L.

was enrolled at Vanguard she cooperated with the District in its reevaluation process that spring.

Under cross-examination, J.B. was shown a copy of Center's attendance report for her daughter. She had testified that her daughter was absent thirty days in 2016-17 and twenty days for the first half of 2017-18. She said the report was incorrect in the reasons it reported for absences but admitted that when her daughter would refuse to go to school, she would obtain a doctor's note to report the absence as medical. The absences listed also included reasons such as trips, vacations and appointments. At points in her testimony she admitted that her daughter did not have behavioral problems in school.

Kristine Fitzgerald testified by video for petitioner. She is the director of residential life at Vanguard and was its former mental health counselor and assistant principal. She still has duties as a counselor at times. She was not qualified as an expert and appeared as a fact witness. At one point she had to be directed to answer a question. She differed with Taylor on the definition of certain educational and mental health terms. She testified that an IEP was not prepared for C.L. and that her ISP did not contain goals. Fitzgerald described Vanguard's student population as seventy (70%) male. She described C.L. as adjusting well to the school and she frequently interacts with her.

Dr. Karen Senese also testified by video as an expert in Child and Adolescent Psychiatry. She did not provide an expert report but as C.L.'s treating psychiatrist she reviewed her treatment notes in her testimony. She met C.L. in 2015 after a referral from her prior school district. She noted high levels of anxiety in both C.L. and her mother in her early notes and diagnosed C.L. as autistic with ADHD. She also noted that in 2015 C.L. was argumentative and disruptive with a need for redirection. In 2017, J.B. contacted her about her problems getting her daughter to school and mentioned that she was considering other placements for her. In November 2017 J.B. again contacted Senese stating that C.L.'s behaviors had escalated, and she prescribed medication for the girl. In December 2017, Senese testified that she signed a letter which J.B. had drafted (J-30), recommending a placement at Vanguard. After seeing C.L. in June 2018, she said she saw improvements in her behavior.

The final witness for petitioner was Amanda Hope Colannino who had prepared the 2017 educational evaluation of C.L. for petitioner. She was qualified as an expert in Special Education, as a Learning Disabilities Teaching Consultant (LDTC) and in case management for elementary schools. In her testing she found C.L. to have an IQ of eight-six and to fall in the low average range of intelligence. She testified that in comparison to testing performed on C.L. in 2014, she had decreased slightly in reading and had regressed in math calculation and broad math. She opined that based on her testing, C.L. had not made appropriate progress. She testified that she had not visited Center and had not reviewed the writing or math program at Center.

In rebuttal, respondent called Mary Ann Grabowski, a Center director to authenticate J-139 , the attendance report for C.L. She said parents call in to report absences and the information is inputted into a data base by the attendance staff member. Each school district receives a monthly report from Center. If a student is absent five consecutive days, a notice is sent to the District.

In addition to the above testimony, the parties placed documentary evidence, including extensive joint exhibits into the record.

### **LEGAL DISCUSSION**

Parents who unilaterally place their child in a private school while invoking their due process rights may be entitled to reimbursement if it is determined that “the district had not made a free and appropriate public education [FAPE] available to that student in a timely manner prior to that enrollment and that the private placement is appropriate.” N.J.A.C. 6A:14-2.10(b); 34 C.F.R. § 300.148(c); see also Sch. Comm. of Burlington v. Dep’t of Educ., 471 U.S. 359, 369 (1985).

The test for reimbursement for unilateral private placements is a two-prong inquiry: First, the court must determine if the District provided the student with a FAPE, and then, only if the District failed in its obligation, does the court need to ask whether the private placement is appropriate. T.R. ex rel. N.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 582 (3rd Cir. 2000). The second prong of this inquiry is a reference to the substantive



standard for an appropriate education. R.S. & M.S. v. Somerville Bd. of Educ., 2011 US Dist. Lexis 748, \*29 (D.N.J. 2011). The Supreme Court has recently clarified that to meet the substantive standard of a FAPE, a “school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 137 S. Ct. 988, 999 (2017); see also L.H. v. Hamilton Cty. Dep’t of Educ., 900 F.3d 779, 791 (6th Cir. 2018) (quoting Endrew F. in applying the substantive standard for the second prong of the unilateral reimbursement analysis). The Third Circuit has always had a heightened standard, holding that an IEP must provide a disabled child with “significant learning” and confer a “meaningful benefit.” Polk v. Central Susquehanna Intermediate Unit 16, 853 F.2d 171, 184 (3rd Cir. 1988); see also Mary Courtney T. v. Sch. Dist., 575 F.3d 235, 242 (3rd Cir. 2009) (noting that a private placement is appropriate when it provides significant learning and confers meaningful benefit) (quoting Lauren W. v. DeFlaminis, 480 F.3d 259, 276 (3rd Cir. 2007)). Therefore, for a private placement to be appropriate, “the program must itself be proper under the IDEA—that is, it must ‘provide [] significant learning and confer [] meaningful benefit.’” Munir v. Pottsville Area Sch. Dist., 723 F.3d 423, 430 (3rd Cir. 2013) (quoting Mary Courtney T., 575 F.3d at 242).

In this matter, the primary issue is whether Freehold provided FAPE to C.L. in the IEPs it implemented for the 2017-18 school year and the IEP it proposed for the second half of the 2018 year and for the 2018-19 school year. If it did not, the next issue to be determined is whether petitioner provided timely notice of the decision to unilaterally place C.L. at a private, residential school in Florida. Finally, if FAPE was not provided to C.L., was reimbursement for the costs of the residential placement warranted.

The timeliness of the notice issue will be addressed first. Under N.J.A.C. 6A:14-10 the cost of reimbursement for a unilateral placement may be reduced or denied:

1. If at the most recent IEP meeting that the parents attended prior to the removal of the student from the public school, the parents did not inform the IEP team that they were rejecting the IEP proposed by the District;
2. At least 10 business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not

- give written notice to the District board of education of their concerns or intent to enroll their child in a nonpublic school;
3. If prior to the parents' removal of the student from the public school, the District proposed reevaluation of the student and provided notice according to N.J.A.C. 6A:14-2.3(g) and (h) but the parents did not make the student available for such evaluation; or
  4. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

Here, as discussed earlier, petitioner was credible in her testimony that she had discussed out-of-district placements with Freehold in the fall of 2017, and that on December 15, 2017, and December 16, 2017, she had forwarded emails to C.L.'s caseworker of her acceptance at Vanguard. While Freehold and petitioner had discussed evaluations in the fall, and Freehold contends she failed to agree to those evaluations, Freehold has not shown that it provided petitioner with the notice set forth in N.J.A.C. 6A:14-2.3 (g) and (h). J.B. also was credible in her testimony that at the January 2, 2018, meeting she advised Freehold that she planned to place her daughter at Vanguard and was seeking reimbursement. Her testimony was corroborated by the IEP proposed as a result of that meeting which acknowledged that she sought placement at Vanguard. By mid-December 2017, it was clear the issue of placement had been joined between the parties and certainly would have been a topic discussed at the IEP meeting of January 2, 2018. While J.B. did not formally request reimbursement in writing pursuant to the regulation until her written rejection of the IEP on January 15, 2018, she was in substantial compliance with the regulation. Any proposed reduction of reimbursement for the placement at Vanguard for the second half of the 2017-18 school year, therefore, would be subject at best to a minimal reduction.

As for compliance with the regulation for the 2018-19 school year, petitioner has satisfied the notice requirement. A due process petition regarding placement had been filed and petitioner amended it to include the 2018-19 school year. Freehold clearly was on notice of her request for reimbursement for that placement.

Turning to the issue of FAPE, respondent presented the expert testimony of several witnesses that the IEPs at issue provided C.L. with FAPE. Most significant of those witnesses was Dr. Taylor. Her testimony was knowledgeable, assured and articulate. She was familiar with Center's program as a PSSD approved by New Jersey and testified to C.L.'s specific needs and the manner in which Center met them. Her expert opinion was that the IEPs at issue were appropriate for C.L.'s needs and provided her with meaningful benefit. When questioned regarding the lack of measurement tools in the IEPs for C.L.'s goals and objectives, Taylor discussed various tools used to measure her progress, including progress reports, teacher comments, and grades. She also discussed the use of the NWEA, or MAP scores used to provide baseline data for C.L., as well as tracking her progress. As to whether behavioral difficulties impeded C.L.'s ability to learn, she saw no evidence of that at school, but did acknowledge that J.B. had difficulties with her daughter's behavior at home.

While Harold was not as assured a witness as Taylor, her testimony regarding the appropriateness of C.L.'s program at Center as set forth in the IEPs was instructive and corroborative of Taylor. She too stated that data used to measure C.L.'s goals and objectives were contained not in the IEPs but rather in the progress reports on her work, her grades and the NWEA and MAP scores.

Further testimony by respondent's witnesses, Choma and Epstein addressed C.L.'s behavior and her educational needs. Both had conducted an FBA on C.L. in the spring of 2018 and identified no aggressive behaviors by C.L. and no need for a Behavior Plan. Epstein further testified to the results of the psychological evaluation she had performed on C.L. in the spring of 2018. She found C.L. to be performing to her ability in areas tested and saw no indication in her review of records of behavior issues with C.L. in school. Another Freehold staff member, Sperling-Reich testified to C.L.'s speech and language and social skills needs. She was an articulate and extremely credible witness. She identified C.L.'s social skills needs and weaknesses and provided an opinion that her IEPs addressed them appropriately.

Although Fiorentino from Center had not personally interacted with C.L., she provided informative testimony regarding Center's program and the manner in which

C.L.'s IEP for 2017-18 would have been developed. Data on her goals and objectives were gleaned through progress reports, teacher observations, and grades. NWEA or MAP scores were used to chart progress as well.

In response to the expert and fact testimony presented by respondent, petitioners conducted detailed and spirited cross examination, as well as their own witness testimony. J.B. was overall credible in her testimony regarding her concerns for her daughter and the deficiencies she saw with Center's program. Her concern was that her daughter was not being challenged academically and did not have adequate social interaction with appropriate peers. She also contended that her daughter's behaviors at home and in the car going to school negatively impacted her ability to learn. Her testimony that she had difficulties with C.L.'s behaviors at home, particularly in the fall of 2017, rang true. Yet even she admitted in her testimony that her daughter did not have behavioral issues at school. With regard to C.L.'s absences in 2016-17, however, it was unclear from the record how many were related to her refusal to go to school, or for other reasons shown on the attendance record from Center (J-139).

Petitioners presented the testimony of two expert witnesses, Dr. Senese and Amanda Hope Colannino. Senese was credible in her diagnoses of C.L., and her testimony was corroborative of J.B.'s contention that C.L. presented with behavioral difficulties at home. Her testimony, however, was limited in scope. She had not reviewed C.L.'s educational records or underlying data and could not opine on the appropriateness of C.L.'s IEPs or her placement at Vanguard. She admitted that her letter (J-30) recommending Vanguard as a placement was actually drafted by J.B.

Colannino presented limited testimony regarding the educational evaluation she had performed on C.L. While the results of tests she performed on C.L. during her evaluation supported petitioner's contention that she was not making progress, those results were undermined by the testimony of Taylor regarding their reliability.

In reviewing the record as a whole, I **CONCLUDE** that respondent provided FAPE to C.L. While J.B. presented credible testimony that her daughter exhibited behavioral difficulties at home, and a reluctance at times to go to school, the evidence showed that

C.L. did not present with behavioral difficulties at school or that any of her behaviors outside of school impaired her ability to learn. The record did show that she had more than the usual number of absences, particularly in the fall of 2017, but when J.B. notified Center of reasons for the absences, she admitted that many times she simply obtained a doctor's excuse, rather than advising that she could not get her daughter to school.

Her concern over gender disparity in Center's student population was genuine, but unfortunately that disparity is unavoidable in programs due to the simple fact that more boys are classified than girls, particularly on the autism spectrum. Petitioner's assertion that the goals and objectives in her daughter's IEPs were not adequate or measurable is of concern, however. Through extensive cross examination and argument petitioner raised the issue of whether the IEPs themselves set forth adequate criteria for how progress in those goals and objectives should be measured. A review of the IEP (J-94) for the 2017-18 school year shows it is not detailed on how C.L.'s goals and objectives are to be measured and achieved. The IEP proposed for the 2018-19 school year is more detailed and provides more specifics on measuring her progress.

Respondent, however, did present credible expert testimony, particularly from Dr. Taylor on how C.L.'s goals and objectives, as well as her progress were to be measured. Freehold argued that C.L.'s progress in relation to the goals and objectives in her IEP were adequately measured by her grades, progress reporting and importantly, the standardized NWEA or MAP tests which provided an objective measure of her levels of achievement and progress. The use of those metrics did ameliorate the facial deficiency in the 2017-18 IEP as to how her goals and objectives were to be measured. Additionally, those metrics did show C.L. making some progress overall.

Viewing the record as a whole, the IEP in place for 2017-18 and the IEP proposed for the 2018-19 school year provided C.L. with a program at an out-of-district placement at a fully accredited PSSD. That program as set forth in her IEPs provided for a curriculum tailored to her needs and abilities as detailed in those IEPs. The program was comprehensive and included additional services beyond her classroom work tailored to her as an individual. As such it provided her with meaningful benefit and offered her a free and appropriate education. Petitioner's request for relief therefore must be denied.

**ORDER**

Petitioners' requested relief in this matter is **DENIED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2019) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2019). 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.



August 31, 2020

DATE

PATRICIA M. KERINS, ALJ

Date Received at Agency

August 31, 2020 (emailed)

Date Mailed to Parties:

\_\_\_\_\_

PMK/mel

**APPENDIX**

**WITNESSES**

**For Petitioners:**

J.B.

Karen Senese

Kristine Fitzgerald

Amanda Colannino

**For Respondent:**

Amanda Choma

Marcie Fiorentino

Linda Harold

Teresa Herrero Taylor

Maryellen Grabowski

Tristan Espstein

Marla Sperling-Reich

**EXHIBITS**

**Joint:**

- J-1 Neuropsychological Evaluation, Steven P. Greco, Ph.D. dated October 1, 2014
- J-2 Neuropsychological Evaluation, Steven P. Greco, Ph.D. dated August 18, 2015
- J-3 Letter from J. Sheeley dated December 10, 2015
- J-4 The Center School Interim Report dated December 21, 2015
- J-5 Email from J. Barlew to L. Harold dated January 14, 2016
- J-6 Email from J. Burlew to L. Harold dated January 14, 2016
- J-7 Center School Meeting Report 2015-2016

- J-8 IEP from Center School Records dated June 6, 2016
- J-9 Center School Reports Card (15-16) – final
- J-10 Email from J. Burlew to R. Davis dated October 1, 2016
- J-11 Center School meeting report form dated June 1, 2017
- J-12 IEP from Center School Records dated June 1, 2017
- J-13 Center School Report Card (16-17) – Final
- J-14 Reevaluation Plan Waiver from Center School Records dated June 1, 2017
- J-15 The Center School Interim Report dated December 16, 2017
- J-16 Safety Plan dated November 3, 2017
- J-17 Email from J. Burlew to L. Harold dated November 14, 2017
- J-18 Request for Transcript/Vanguard to Center dated November 16, 2017
- J-19 Woodcock Johnson Score Report dated November 25, 2017
- J-20 A. Colannino Academic Evaluation dated November 25, 2017
- J-21 Center School Report Card (17-18) – 1<sup>st</sup> Marking Period
- J-22 Letter from Rebecca Gonzalez dated December 4, 2017
- J-23 Reference from Ronald Rinaldi dated December 4, 2017
- J-24 Email from J. Burlew to L. Harold regarding Vanguard School dated December 7, 2017
- J-25 Center School Meeting Report 2017-2017 dated December 9, 2017
- J-26 Email from R. Ostrander to J. Burlaw with MAP Scores dated December 13, 2017
- J-27 NWEA Data (MAP Scores\_ - Student Goal Setting Worksheet, Student Progress Report, MAP Growth
- J-28 The Center School Interim Report dated December 15, 2017
- J-29 Email from J. Burlew to L. Harold dated December 16, 2017
- J-30 Letter from Dr. Karen Senese dated December 21, 2017
- J-31 Neuropsychological Evaluation, Steven P. Greco, Ph.D. dated January 2, 2018
- J-32 Treatment Plan dated January 5, 2018
- J-33 Parental Letter of Concern dated January 15, 2018
- J-34 Vanguard Contract dated January 16, 2018
- J-35 Dresher – Taylor email exchange dated January 17, 2018
- J-36 Correspondence from D. Dresher to Dr. T. Herrero – Taylor dated January



- 22, 2018
- J-37 Notice of Vanguard Enrollment / Dresher Taylor emails dated January 22, 2018
  - J-38 Freehold Transcripts dated January 23, 2018
  - J-39 Dresher – Taylor email exchange dated January 25, 2018
  - J-40 Letter from Taylor to J. Burlew dated January 25, 2018
  - J-41 Service Plan and Therapy Dog Contract dated January 26, 2018
  - J-42 Reevaluation Plan – Proposed Action dated January 26, 2018
  - J-43 Dresher – Taylor email exchange dated February 9, 2018
  - J-44 Email exchange – D. Dresher and Dr. T. Herrero – Taylor dated March 1, 2018
  - J-45 Dresher – Taylor email exchange dated March 21, 218
  - J-46 Dresher – Taylor email exchange dated March 23, 2018
  - J-47 Occupational therapy Evaluation (reviewed by Team on May 8, 2018 and June 25, 2018) dated March 26, 2018
  - J-48 Educational Evaluation (reviewed by team on May 8, 2018 and June 25, 2018) dated March 27, 2017
  - J-49 Social Evaluation (reviewed by Team on May 8, 2018 and June 25, 2018) dated March 27, 2018
  - J-50 Psychiatric Evaluation (reviewed by Team on May 8, 2018 and June 25, 2018) dated March 29, 2019
  - J-51 Neurological Evaluation (reviewed by Team on May 8, 2018 and June 25, 2018)
  - J-52 Email from C. Reisman to S. Tarica with letter from Vanguard and December 15, 2017 Notice dated April 4, 2018
  - J-53 Speech and Language Evaluation (reviewed by Team on May 8, 2018 and June 25, 2018) dated April 10, 2018
  - J-54 FBA (reviewed by TEAM on May 8, 2018 and June 25, 2018) dated April 24, 2018
  - J-55 Psychological Evaluation (reviewed by Team on May 8, 2018 and June 25, 2018) dated April 24, 2018
  - J-56 Vocational Evaluation (reviewed by Team on May 8, 2018 and June 25, 2018) dated April 30, 2018

- J-57 Email from Z. Gressey transmitting evaluations dated April 30, 2018
- J-58 Parental Waiver of Ten-Day Notice dated May 1, 2018
- J-59 Voice Mail of Dr. Senese – audio CD Transcript of Voice Mail dated May 7, 2018
- J-60 Eligibility Determination dated May 8, 2018
- J-61 Report Card dated June 5, 2018
- J-62 Letter from Dr. K. Senese dated June 7, 2018
- J-63 Emails from C. Reisman to S. Tarica regarding 2018-2018 placement dated June 2, 2018 through June 11, 2018
- J-64 20182019 IEP (received by parent on July 13, 2018) with parental input letter dated June 25, 2018
- J-65 Vanguard Contract 2018-2019 dated July 3, 2018
- J-66 Emails from C. Reisman to S. Tarica and signed releases dated July 4, 2018 through July 5, 2018
- J-67 Parental Letter of Concern dated July 17, 2018
- J-68 C.L. Student Schedule 2018-2019 dated August 27, 2018
- J-69 Records of Dr. Greco various dates
- J-70 Emails Produced by Respondent various dates
- J-71 Records of Dr. Senese various dates
- J-72 Records of the Center School various dates
- J-73 Records from Perform Care
- J-74 Student Attendance Records – The Center School (16-17, 17-18) (requested but not received)
- J-75 Sample Coursework from The Center School
- J-76 Nursing Visits Notes – The Center School
- J-77 Observation Notes of L. Harold (visit to the Center School) dated October 12, 2017, and October 19, 2017
- J-78 Records of the Vanguard School various dates
- J-79 Petitioner's Due Process Petitioner dated February 25, 2018
- J-80 Board's Answer to Due Process Petition dated March 26, 2018
- J-81 Petitioners' Amended Due Process Petitioner dated July 30, 2018
- J-82 Board's Response
- J-83 Petitioner's Motion for Partial Summary Decision dated May 29, 2018

- J-84 Board's Response for Partial Summary Decision dated June 18, 2018
- J-85 Petitioner's Letter Brief in Opposition dated July 3, 2018
- J-86 Board's Reply to Petitioner's Opposition dated July 24, 2018
- J-87 Pre-Hearing Order, Patricia M. Kerins, ALJ dated May 24, 2018
- J-88 Resume for Linda Harold, MSW, LCSW
- J-89 Resume for Teresa Herrero Taylor, Ph.D., BCBA-D
- J-90 Resume for Amanda Choma, NSCP, BCBA
- J-91 Resume for Amanda H. Colannino, MS, LDTC
- J-92 Resume for Marla Reich, MA, CCC-SLP
- J-93 November 1, 2017 Meeting Attendance Sheet dated November 1, 2017
- J-94 June 1, 2017 IEP – Replaces Exhibit 12
- J-95 January 2, 2018 Review and Revise IEP dated January 2, 2018
- J-96 June 25, 2018 IEP dated June 25, 2018
- J-97 Vanguard Documents Received dated September 14, 2018
- J-98 Vanguard "A Note from the Principal" dated September 12, 2018
- J-99 Resume for Jennifer Maher (Requested never Received)
- J-100 Resume for Danielle Dagato (Requested never Received)
- J-101 Resume for Lorraine Taddei-Graef (Requested Never Received)
- J-102 Resume for Dr. Rajeswari Muthuswamy (Requested Never Received)
- J-103 Resume for Dr. Dorothy Pietrucha (Requested Never Received)
- J-104 Resume for Marcie Fiorentino (Requested Never Received)
- J-105 Resume for Tristan Epstein, NCSP (Requested Never Received)
- J-106 Resume for Nancy Del Papa (Requested Never Received)
- J-107 Resume for Karen Senese, M.D. (Requested Never Received)
- J-108 Resume for Kris Fitzgerald, LMHC
- J-109 Progress Report from the Center School dated June 16, 2017
- J-110 ABC Form (FBA) dated March 28, 2018
- J-111 FBA Calculations dated March 28, 2018
- J-112 FBA Calculations dated March 28, 2018
- J-113 Collections of ABAS-3, BASC-3 and SSIS Reports
- J-114 Durable Power of Attorney
- J-115 Assignment of Educational Decision-Making Authority
- J-116 Email J. Burlew and N. Koslak dated October 2, 2018

- J-117 Emails regarding Center School dated October 31, 2018
- J-118 Emails Taylor and Harold regarding NWEA testing dated December 15, 2017
- J-119 Emails regarding Evaluations for Spring 2018
- J-120 Vanguard School Report Card for November 2018
- J-121 Marcie Fiorentino Excel Chart
- J-122 Vanguard School Accommodations
- J-123 Vanguard School Report Card for Spring 2018
- J-124 Stanford Achievement Test for April 2018
- J-125 Records from CPC Behavioral Healthcare dated November 28, 2018, September 21, 2016 and November 6, 2017
- J-126 Email from J. Burlew to M. Granowski dated June 28, 2018(Parties will Seek Ruling on Admissibility)
- J-127 The Center School Records
- J-128 Adaptive Behavior Assessments
- J-129 Vanguard School Documents
- J-130 Observation Report of Dr. T. Taylor at Vanguard School dated January 25, 2019
- J-131 Notes of Dr. T. Taylor from Visit dated November 8, 2019
- J-132 Vanguard Teacher Degrees and Certifications
- J-133 Email to K. Snyder from J. Burlew dated July 17, 2017
- J-134 Audio of IEP Meeting dated January 26, 2018
- J-135 Audio of IWP Meeting dated May 8, 2018
- J-136 Audio of IEP Meeting dated June 26, 2018
- J-137 J. Burlew Notes Regarding Dr. Taylor's Visit to Vanguard dated November 8, 2018
- J-138 FCIS Accreditation Standards
- J-139 Center School Attendance Reports

**For Petitioner:**

- P-1 Daniel E. Olympia, *et al.*, *Multifaceted FBA for Students with Externalizing Behavior Disorders*, 39(2) *Psychology in the Schools* 139-155 (2002)

- P-2 Brian A. Iwata, *et al.*, *Reliability and Validity of the Functional Analysis Screening Tool*, 46(1) *Journal of Applied Behavior Analysis* 271-284 (2013)
- P-3 Brian A. Iwata, *et al.*, *Clinical Application of the Functional Analysis Methodology*, 1(1) *Behav Anal Pract.* 3-9 (Spring 2008)
- P-4 Subpoena to Center School with Certifications of Center School Employees

**For Respondent:**

- R-1 Current Status of Indirect Functional Assessment Instruments