State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

<u>**FINAL DECISION**</u>

OAL DKT. NO. EDS 12346-19

AGENCY DKT. NO. 2020 30455

D.M. ON BEHALF OF N.M.,

      Petitioner,

          v.

SCHOOL DISTRICT OF THE CHATHAMS

BOARD OF EDUCATION,

      Respondent.

        Ryan J. Clark, Esq., for petitioner (Clark, Clark & Noonan, attorneys)

        Andrew Morgan, Parent Advocate, for petitioner pursuant to N.J.A.C. 1:1-5.4(a)7

        Danielle Pantaleo, Esq., for respondent (Cleary, Giacobbe, Alfieri, Jacobs, attorneys)

Record Closed: June 12, 2020   Decided: July 21, 2020

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

STATEMENT OF THE CASE

Petitioner D.M (petitioner or D.M.) on behalf of her daughter N.M. requested a due process hearing challenging N.M.'s proposed declassification. The respondent, The School District of the Chathams Board of Education (respondent or District) asserts that N.M.'s declassification is appropriate as she no longer qualifies for special education and related services. Petitioner asserts that N.M. has a specific learning disability, is in need of special education and related services, and that the proposed declassification fails to confer a Free Appropriate Public Education (FAPE).

PROCEDURAL HISTORY

The contested case was transmitted to the Office of Administrative Law (OAL), where it was filed on September 5, 2019. After unsuccessful settlement discussions, the hearing was scheduled to begin on January 15, 2020 but was adjourned at the request of petitioner's counsel, who had entered an appearance on behalf of petitioner on December 13, 2019. On January 30, 2020, respondent filed a motion in limine to exclude petitioner's expert reports. On February 1, 2020, petitioner filed a motion to exclude respondent's expert reports. These motions were denied, and a plenary hearing was held on February 5, 2020, February 7, 2020, February 21, 2020 and March 10, 2020. The parties presented post-hearing briefs, and the record closed on June 12, 2020.

FACTUAL DISCUSSION

The facts are largely undisputed. Based upon a review of the documentary evidence and the testimony presented at the hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following pertinent **FACTS**:

N.M. was first found eligible for special education and related services in July 2016, prior to starting the sixth grade, following a parental referral. She was found eligible under the classification category of specific learning disability (SLD) and an

Individualized Education Program (IEP) was put into place prior to N.M. starting middle school. N.M. was initially deemed eligible for special education and related services under the category of SLD in the area of basic reading.

N.M. was initially classified based in part on a psychological evaluation report prepared by Michael J. Gerson, Ph.D. (Gerson), a psychologist retained by petitioner who evaluated N.M. in March 2016 while she was in the fifth grade, as well as a neurodevelopmental evaluation conducted by Dr. Isabel Carotenuto (Carotenuto).

As part of his evaluation, Gerson utilized the Wechsler Intelligence Scale for Children – Fifth Edition (WISC-V), and the Wechsler Individual Achievement Test – Third Edition (WIAT-III). He identified a Full Scale IQ (FSIQ) of 116, high average. His report, dated April 6, 2016, concludes that N.M. is "a bright, intellectually capable youngster with even and consistent intellectual functioning in the High Average Range . . . [but] she is struggling with her academics, most particularly in the . . . language related areas." He found that N.M.'s scores in Word Reading, Decoding and Spelling were "significantly lower than would be expected given her strong level of intellect" and that these results "suggest a language related learning disability." On the WIAT-III, N.M. had a standard score (SS) of 98 in the Word Reading subtest; a SS of 96 in the Pseudoword Decoding subtest; and a SS of 91 in Spelling. In his report, Gerson suggests that in light of N.M.'s academic difficulties, she should be considered for special education classification. He also noted in his report that N.M. was beginning to lose confidence and her self-esteem was faltering due to her weakened academic performance. (J-1.)

Near the end of N.M.'s sixth grade in June 2017, the District also received a psycho-educational evaluation prepared by psychologist Lisa Tomasini, Ph.D. (Tomasini), who was retained by petitioner and worked in Gerson's practice. Tomasini did not testify at the hearing. According to her report, Tomasini administered the Woodcock-Johnson IV (WJ-IV) Tests of Oral Language, the WJ-IV Tests of Achievement, Bender Gestalt Test, 2nd Edition and Behavior Assessment System for Children. On the WJ-IV of Oral Language, Tomasini identifies N.M.'s diagnosis as "Specific Learning Disability with an impairment in reading." (J-2.)

On June 20, 2017, the District held an annual review IEP meeting. Petitioner attended the meeting and consented to implementation of the IEP. N.M.'s IEP for June 20, 2017 through June 19, 2018, seventh grade, indicates that she is eligible for special education and related services under the classification category of SLD in the areas of basic reading and math calculation skills. The IEP provides for: In-class resource in English, Math, Science and Social Studies; pull-out resource replacement for learning skills; and counseling services three times per month for thirty minutes (up from twice a month). Accommodations and supports were provided pursuant to the IEP, including extended time on in-class assessments/assignments and advanced notice of, and study guides for, tests/quizzes.

On October 19, 2018, the District child study team held an annual review IEP meeting. Petitioner reported at the IEP meeting that N.M. had been having emotional breakdowns at home the year before as a result of schoolwork and school-related stress, with triggers noted to include perceived workload and homework and multiple tests in a day. Petitioner did not consent to implementation of the IEP and subsequently filed for due process on the proposed IEP. The matter was later resolved by the parties, and the District agreed to provide N.M. with Supplemental Learning Skills. As with the earlier IEPs, N.M.'s eighth grade IEP also included in-class resources and learning skills, counseling services, and supplementary aids and services. (J-38.)

On April 3, 2019, a re-evaluation planning meeting took place in which petitioner was informed that the District would be conducting an Educational Evaluation and a Psychological Evaluation as part of N.M.'s triennial review. Petitioner consented and also requested a speech and language evaluation as part of the re-evaluation, which was also conducted. At this meeting, petitioner reported concerns about N.M.'s writing skills and reported that N.M. feels overwhelmed when she has to complete multiple assessments within a short time frame and will become frustrated at home when she is confused about schoolwork.

The Educational Re-Evaluation was conducted by Lauren McKenna, MA, LDTC, (McKenna) a Learning Disabilities Teacher Consultant employed by the District. The

Psychological Re-Evaluation was conducted by District school psychologist Lydia MacIntosh-Haye, AGS, NCSP, (MacIntosh-Haye), and the Speech and Language Evaluation was conducted by Jennifer Schwartz, MA, CCC-SLP (Schwartz), the District's Speech-Language Specialist.

On June 18, 2019, a re-evaluation eligibility determination IEP meeting was held. Based on the results of the evaluations conducted by McKenna, MacIntosh-Haye and Schwartz, together with reports from N.M.'s teachers concerning N.M.'s functioning in the classroom, the District determined that N.M. was no longer eligible for special education and related services, and that she should be declassified. Petitioner did not agree to N.M.'s declassification.

Educational Re-Evaluation

As part of the Educational Re-evaluation, McKenna administered the WJ-IV Tests of Achievement and the WJ-IV Tests of Oral Language, which are comprised of test clusters with respective subtests that assess specific skills in the areas of reading, math, written language, academic knowledge, and oral language. Performance in each broad category, cluster area, and subtest was compared to N.M.'s same-age peers. N.M. scored in the average and high average range in all tested areas on the WJ-IV administered by McKenna.

The Basic Reading Skills cluster measures sight word reading, phonics, and structural analysis. N.M.'s performance in this area was assessed to be within the average range (SS 93; 31st percentile). This cluster is a combination of the Letter-Word Identification[1] and Word Attack[2] subtests.

The Math Calculation Skills cluster is a measure of computational skills and automaticity with basic math facts. This cluster includes the Calculation and Math Facts

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[1] According to the WJ-IV, the Letter-Word Identification subtest measures word identification skills.
[2] According to the WJ-IV, the Word Attack subtest measures the ability to apply phonic and structural analysis skills to the pronunciation of unfamiliar printed words.

Fluency subtests.[3] N.M.'s performance in this cluster area fell within the average range (SS 96, 40th percentile).

The scores achieved on the WJ-IV were then integrated with the findings of the Psychological Re-Evaluation conducted by MacIntosh-Haye.

Psychological Re-Evaluation

MacIntosh-Haye administered the WISC-V. N.M.'s overall level of intellectual functioning was reflected in her FSIQ of 111, which falls in the high average range. While N.M. scored five points lower on her FSIQ than she did in 2016 when tested by Gerson, both scores fell in the high-average range and no evidence was presented to establish that this five-point difference is statistically significant or that MacIntosh-Haye's assessment was faulty.

The Composite scores from both MacIntosh-Haye's assessment and Gerson's assessment of March 2016 are:

	WISC-V (3/2016)	WISC-V (4/2019)
Verbal Comprehension	118 (88th percentile; high average)	108 (70th; average)
Visual Spatial	102 (55th; average)	108 (70th; average)
Fluid Reasoning	109 (73rd; average)	106 (66th; average)
Working Memory	117 (87th; high average)	120 (91st; very high)
Processing Speed	Not calculated	105 (63rd; average)
FSIQ	116 (86th; high average)	111 (77th; high avg.)

MacIntosh-Haye also administered the Achenback assessment, Conners' Teaching Rating Scale-Third Edition (Conners-3), and Revised Children's Manifest Anxiety Scale-Second Edition (RCMAS-2). She interviewed petitioner and N.M., and considered testing and classroom observations as part of her assessment.

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[3] According to the WJ-IV, the Calculation subtest is a test of math achievement, measuring the ability to perform mathematical computations such as addition, subtraction, multiplication, and division along with combinations of these basic operations. The Math Facts Fluency subtest measures the ability to solve simple addition, subtraction, and multiplication facts at an adequate rate and has a 3-minute time limit.

The Conners-3, which addresses functioning in the classroom setting, was completed using input from two of N.M.'s eight-grade teachers, Gina Bakaj (Bakaj) (language arts) and Carmella Zack (Zack) (learning skills). Zack reported "very elevated/many more concerns than typical" in the areas of Hyperactivity/Impulsivity, ADHD Predominantly Hyperactive-Impulsive Type and in the Global Index category of Restless-Impulsive. Bakaj, on the other hand, reported that N.M. fell in the "average/typical levels of concern" range in these areas. Instead, Bakaj reported "elevated/more concerns than typical" in the area of Learning Problems/Executive Functioning; and "high average/slightly more concerns than typical" in the areas of Learning Problems, Executive Functioning, and ADHD Predominantly Inattentive Type. The total score, based on information provided by Bakaj, was in the Average/Typical levels of concerns, while the information reported by Zack was in the "Elevated/More concerns than typical" range. While Zack reported significant levels of restlessness/hyperactivity, she also reported that N.M. is generally still able to focus on and complete tasks and that she utilizes her time productively and advocates for herself. Based on the information provided by Zack and Bakaj, MacIntosh-Haye determined that further investigation of anxiety or depression was not needed.

As part of the Psychological Re-Evaluation, MacIntosh-Haye also determined that the information provided by N.M.'s parents was unremarkable for challenges with regard to her social or emotional development or functioning. She also reports that N.M.'s singular concern might be about her ability to sustain her attention, reflected in scores in the borderline clinically significant range on measures of her attending/distractibility. MacIntosh-Haye also wrote that N.M. reported generally feeling satisfied with her social life, and feeling comfortable about her overall achievement, though she admitted to feeling stressed at times when she has a lot of content to master. N.M. also admitted to MacIntosh-Haye that she must study more in advance of assessments to boost her comfort level. Except for the rocky relationship she had with her once best friend, N.M. reported to MacIntosh-Haye that she is content with her life and cited no other significant concerns or stressors.

Speech and Language Evaluation

Schwartz conducted a Speech and Language Evaluation in May 2019. N.M. had not been receiving speech-language services as this was not included in her IEP. As part of the assessment, Schwartz administered a Word Test, for which N.M. tested in the average range, and a CELF-5, for which she tested above average in Core Language. The results of the evaluation indicate that N.M.'s overall speech and language skills were in the average to above-average range, and Schwartz did not recommend speech-language services because N.M. did not present with any deficits in this area.

Post-June 18 Re-eligibility Meeting

On June 27, 2019, petitioner, Gerson and Dr. Vincent D'Elia (D'Elia), Chatham's Assistant Superintendent of Student Support Services, participated in a telephone conference to discuss N.M.'s declassification. During this call D'Elia explained the reasons for declassification and offered to have the District provide a neuropsychological examination of N.M. to determine whether she could continue to receive special education and related services under a diagnosis of ADHD. Petitioner filed for due process two days later.

Months after filing for due process, petitioner produced a Report of an Educational Evaluation conducted by Amanda Hope Colannino, MS ED., LDTC (Colannino), dated December 5, 2019. This report was based on Colannino's November 23, 2019 evaluation of N.M., and was received by the District in January 2020. Colannino evaluated N.M. to determine her current levels of academic functioning, and as part of her evaluation, she obtained input from N.M. and petitioner and conducted the Gray Oral Reading Test - 5 (GORT 5), Comprehensive Test of Phonological Processing – 2 (CTOPP 2), Test of Written Language – 4 (TOWL-4), Word Identification and Spelling Test (WIST), and the WIAT-III.

According to the reported results of the GORT 5 administered by Colannino, the rate, accuracy and fluency at which N.M. read fell in the average range (50th percentile),

while her comprehension and oral reading skills also fell in the average range. On the WIAT-III, the following composite scores were in the average range: Oral Language (SS 100), Total Reading (SS 99), Basic Reading (SS 98), Reading Comprehension and Fluency (SS 104), and Mathematics (SS 94). The composite scores on the WIAT-III are a combination of various subtests. In the Pseudoword Decoding subtest, N.M. fell in the average range (SS 94). In the Math Fluency composite, N.M. was below average proficiency (SS 83). This composite score includes subtests in Math Fluency Addition, Math Fluency Subtraction, and Math Fluency Multiplication, all of which are designed to measure written mathematics calculation speed and accuracy. According to the report, N.M. was asked to complete as many problems as she could for each subtest within a sixty-second time limit.

N.M.'s Written Language skills were measured by the TOWL-4. Colannino found that, overall, N.M.'s written language score fell in the 57th percentile (SS 109). On the CTOPP-2, N.M. scored in the average range in some areas but below average in the Phonological Awareness composite (SS 80, 9th percentile), and poor in the areas of Rapid Symbolic Naming (SS 79, 8th percentile) and Alternate Phonological Awareness (SS 70, 2nd percentile). On the WIST, which measures word reading, spelling and phonics skills, N.M.'s Fundamental Literacy Ability Index fell in the average range (SS 94, 35th percentile). This consists of two subtests, which also fell in the average range: Word Identification Skills (SS 91, 27th percentile); and Spelling (SS 95, 37th percentile). Colannino administered a supplemental subtest, Sound-Symbol Knowledge, for which N.M. performed below average (SS 86, 18th percentile).

Petitioner also relies on two psychiatric evaluations conducted by Amy Carnall, DNP, APN (Carnall), with reports dated March 16, 2018 and November 11, 2019. When N.M. first presented to Carnall in March 2018, while she was in the seventh grade, she was referred by petitioner for a psychiatric evaluation for what the report describes as "escalating generalized anxiety." Petitioner had reported challenges with separation and generalized anxiety that school year, and N.M. reported issues with some of her peers at school. On November 11, 2019, N.M. and petitioner returned to Carnall for another psychiatric evaluation. She opined that N.M.'s "school-based anxiety" had escalated and Carnall diagnosed N.M. with school phobia, chronic PTSD,

panic disorder, generalized anxiety disorder and adjustment disorder. N.M. never treated with Carnall, and Carnall never communicated with anyone at the District concerning N.M.

The final grades on N.M.'s report cards in middle school were generally in the A to B range, with final grades for eighth grade between A+ and B. N.M.'s progress notes that year demonstrate that she achieved all of her study skills and social/emotional/behavioral goals.

Testimony

Respondent's Witnesses[4]

Lauren McKenna

McKenna is a learning disability teaching consultant (LDTC) at the Chatham Middle School, where she has worked for fifteen years. As an LDTC, McKenna evaluates students and conducts IEP meetings. She was N.M.'s case manager from sixth through eighth grade. McKenna was not part of the team that initially classified N.M., as that occurred prior to N.M. entering middle school. She conducted an educational re-evaluation and subsequently prepared a report dated May 14, 2019 that forms the basis, in part, for the District's proposed declassification. (J-7.)

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[4] Petitioner's counsel challenges the admissibility of the expert testimony of McKenna, MacIntosh-Haye, and Schwartz in his brief because they were never proffered as experts by respondent's counsel. While technically they were not proffered as expert witnesses, this was clearly a procedural oversight. Their reports and CVs were provided days prior to the hearing, when they were identified as the District's expert witnesses; and at the hearing they were questioned about their respective professional experience and qualifications, as well as their professional and expert opinions (even by petitioner's counsel), without objection. It was only after respondent rested that petitioner's counsel raised this issue as part of a motion for summary decision, which was denied on the record. An expert witness is "a person who, through education or experience, has developed skill or knowledge in a particular subject, so that he or she may form an opinion that will assist the fact-finder." Black's Law Dictionary (7th Ed., 1999). In considering the record, including these witnesses' CVs (J-61, J-67, J-68) and testimony, these witnesses have the requisite education and experience in their respective areas from which they formed opinions in this matter that assisted me, as the fact-finder in this hearing. I therefore consider them expert witnesses in their respective fields: McKenna as an expert LDTC; MacIntosh-Haye as an expert School Psychologist; and Schwartz as an expert Speech-Language specialist. Had respondent's counsel proffered them as such, I would have accepted them as expert witnesses in these areas over any objection.

In the sixth grade, N.M. received in-class resource support, including redirection and prompting, and she met with McKenna as needed. In the sixth grade, N.M. would ask for help to organize her locker and materials, but this stopped as time went on. McKenna, however, continued to monitor N.M. Counseling was added to N.M.'s program and placement at the annual review IEP meeting in June 2017, at the end of her sixth-grade year, as a result of parental concerns and Tomasini's report.

In seventh grade, N.M. expressed some social concerns and petitioner reported that N.M. showed stress and anxiety at home. N.M. reported feeling overwhelmed with make-up work after she was absent for several days, and McKenna assisted her in laying out a plan to complete her work and reach out to teachers for extensions. McKenna testified that N.M. achieved her social-emotional and study skills goals for the 2017-2018 school year in seventh grade.

McKenna testified that during N.M.'s eighth grade, she received in-class resource for English, Math, Science, and Social Studies. McKenna described the most notable accommodations provided to N.M. in eighth grade to include three-days' notice of, and study guides for, upcoming tests/quizzes, which was provided per petitioner's request. N.M. did not require specialized/individualized study materials, and received what other students in class received. Extended time was also available to her, and she could choose to attend supplemental learning skills after school.

McKenna attended a re-evaluation planning meeting on April 3, 2019, and later conducted an Educational Re-Evaluation of N.M. She met with N.M. over the course of three days, reviewed her records, conducted a classroom observation and interviewed N.M. McKenna also reviewed the private reports provided by petitioner, including Gerson's, which was considered as part of N.M.'s initial classification, and Carotenuto's neurodevelopmental evaluation.

To determine whether a student has a SLD, McKenna testified that she compares and considers the data collected on a psychological evaluation and her educational evaluation, and looks for discrepancies in the areas identified in the Code. Here, she compared N.M.'s FSIQ of 111 to the cluster scores on the achievement tests.

On the WJ-IV, N.M.'s score fell within the average to high-average range. McKenna prepared a chart that compares N.M.'s scores on the WIAT-III (from March 2016), the WJ-IV (from May 2017) and the WJ-IV (from May 2019). (J-54.) McKenna testified that N.M.'s scores show linear progress, including growth in Reading Fluency, and consistency in her math scores.

McKenna attended the Eligibility Determination IEP meeting on June 18, 2019. At the meeting, she and MacIntosh-Haye summarized their reports and explained that based on the data collected, there was no discrepancy between N.M.'s cognitive abilities and academic achievement. McKenna also testified that N.M. was performing commensurate to her same-class peers, using minimal accommodations, and that D.M. appeared to agree with the proposed declassification at the meeting.

On June 23, 2019, petitioner was provided a progress report for IEP Goals and objectives indicating that N.M. met all goals and objectives in both areas of study skills and social and emotional goals for her eighth-grade year.

For ninth grade, N.M. was recommended for a Concepts English class, which is smaller and more structured than an English 9 class. McKenna testified that, while it is a general education class, it "mimics" an in-class support class. Although N.M.'s teacher recommended Concepts English, petitioner requested that she be placed in English 9.

On cross-examination, McKenna testified that N.M.'s IEP for seventh grade references language contained in Tomassini's report, and McKenna agreed with the portion of Tomassini's report stating that "it is apparent that N.M.'s deficits tend to occur at the basic reading level rather than with higher-order, more abstract tasks such as math word problems and written expression. Given the presence of a learning disability, caution is advised in assuming that her inattention reflects an attention deficit. Because she faces some greater challenges than the average student and especially when her consequent anxiety levels rise, it can be anticipated that she will experience periods of confusion that interfere when applying her abilities to capacity."

McKenna testified that she did not reference dyslexia in her report, but that she examined those areas that directly correspond to the SLD categories outlined in the Code. She did not find a SLD in reading, which is the area that dyslexia would fall under. Based on the results of her testing, as compared to psychological evaluation, there was no discrepancy warranting classification. McKenna agreed that N.M.'s IEPs do not specifically address phonological awareness or math in the Goals or Objectives.

On re-direct, McKenna testified that the Child Study Team reviews and considers all outside reports, but that they are not required to accept the recommendations contained in these reports. McKenna explained that a child can be diagnosed with dyslexia and not have a SLD if there is no discrepancy in testing. She also testified that the scores in the cluster areas in the eight areas of eligibility under the Code, not the subtests, serve to classify a student. Math Fluency is not a cluster, and is therefore, not an area of eligibility for special education.

Jennifer Schwartz

Schwartz is a speech language therapist for the District, who conducted a Speech and Language Evaluation of N.M. and subsequently prepared a report as part of her re-evaluation. (J-8.) As a Speech Language Specialist, Schwartz works with students to provide speech-language therapy, serves as a case manager for speech-only students, and attends IEP meetings.

Prior to conducting her evaluation, Schwartz reviewed the 2016 report of Carotenuto and the 2017 report of Tomassini. Schwartz first met N.M. on May 8, 2019. While no one expressed any speech/language concerns to Schwartz, she was asked to evaluate N.M. in connection with her re-evaluation per petitioner's request. Schwartz testified that N.M. told her about her involvement in extra-curricular activities, including the glee club, where she served as president, that she was running for student government, was involved in cheerleading, and had received her silver award in girl scouts. She testified that N.M. did not express any anxiety regarding school.

Schwartz's evaluation was conducted over the course of two days. N.M.'s scores on the CELF-5, including her core language score, were in the above-average range, and Schwartz did not perceive any deficits that would warrant additional testing. Schwartz did not recommend speech language services because N.M. did not present with any deficits nor did she meet the Code criteria for what would qualify her for services.

Lydia MacIntosh-Haye

MacIntosh-Haye has been a school psychologist with the District for twenty-five years. She was on N.M.'s child study team in grades six through eight. As a certified school psychologist, MacIntosh-Haye conducts assessments of students, consults with teachers and parents, conducts individual and group counseling sessions, and does case management.

As part of N.M.'s triennial review, MacIntosh-Haye conducted N.M.'s Psychological Re-evaluation and prepared a report following her evaluation that took place over the course of three days in April 2019. (J-6.) Prior to conducting her evaluation, MacIntosh-Haye reviewed Gerson's report and Tomasini's report. As part of her assessment, she interviewed N.M. and petitioner and conducted a classroom observation of N.M. She administered the WISC-V to assess intellectual functioning, and had the parents complete an Achenbach assessment, which addressed N.M.'s social/emotional development. N.M.'s teachers also completed a Conners-3 scale, to provide information about N.M.'s functioning in the classroom, and N.M. completed a Revised Children's Manifest Anxiety Scale assessment.

In her report, MacIntosh-Haye listed the results of the WISC-V scores that she obtained in April 2019 as compared to the results of this test obtained by Gerson in March 2016. She noted that N.M.'s overall level of intellectual functioning was in the high-average range, while all of her intellectual composite scores were at least in the average range. MacIntosh-Haye testified that while N.M. scored five points lower on her FSIQ as compared to the results obtained in 2016, the score still fell within the high-average range, and a five-point discrepancy was not a meaningful or statistically

significant difference. She testified that both profiles were reasonably comparable. N.M. had a very high score in working memory. She did show a ten-point difference in the Verbal Comprehension scores, scoring 108 (70th percentile; average) as compared to 118 (88th percentile; high average) in 2016. She testified that this was not significant as one does not look only to the actual score, but to the range and confidence interval.

MacIntosh-Haye testified that there was nothing significant identified in the results of the Achenbach checklists. There was no indication of anxiety based on the information obtained from the parents, and there was also nothings clinically significant identified in the information obtained from N.M. However, MacIntosh-Haye testified that N.M. was borderline clinically significant in the areas of attention deficit and attention deficit hyperactivity problems. While this area may call for some monitoring, MacIntosh-Haye did not believe that this hampered N.M. in any way because she questioned N.M. about it and N.M. indicated that at times she felt distracted but that she was able to refocus on her own or with the assistance of a teacher, and be productive. Based on the results obtained on the Conners-3 rating scale, which measures functioning in the classroom setting, MacIntosh-Haye testified that further investigation of anxiety or depression was not indicated.

MacIntosh-Haye testified that N.M. spoke with her about her friends and some issues that she was having with one of her friends. She expressed satisfaction in her academic performance in Math and expressed having some difficulties in Civics.

At the declassification meeting, MacIntosh-Haye summarized the results of her tests, and testified that N.M. was declassified based on the results of the psychological assessment, with the intellectual ability component, and her educational evaluation, that showed her academic achievement was commensurate with her intellectual ability. Teacher reports on how N.M. functioned in the classroom and the results of the speech and language assessment were also considered in the decision to declassify N.M.

On cross-examination, MacIntosh-Haye testified that she did not administer the WIAT-II, as Gerson did, and that she never administers that test. She testified that N.M. performed just about the same on the WISC.

Stephanie Lukasiewisz

Lukasiewisz was N.M.'s eighth grade Civics teacher and she was assigned to her for Supplemental Learning Skills after school. She has taught in the District for ten years and while she is a general education teacher, she is also certified in special education, and certified to teach Social Studies in grades six through twelve.

Lukasiewisz described N.M. as sweet, cooperative and a good self-advocate. She recalled that in eighth grade, N.M. organized a "post-it kindness" project on her own, where she anonymously left post-its with positive notes on every locker in the school.

N.M. received grades in the "B" range in the class, and Lukasiewisz testified that she had no academic concerns regarding N.M. In her class, N.M. received: copies of notes on Google Classroom; extended time on assignments, which she only used on occasion; graphic organizers; and some periodic prompting. N.M. was organized and did not exhibit any stress or anxiety.

As part of her Supplemental Learning Skills, Lukasiewisz offered to stay after school with N.M. about once a week for supplemental assistance. During that time, N.M. mostly completed her homework on her own, and she did not ask for any re-teaching of instruction. Lukasiewisz was not asked to assist N.M. in the areas of phonological awareness or math.

Lukasiewisz attended the June 18 declassification meeting. She recalls that petitioner expressed some concerns about the declassification but that Lukasiewisz and Raguseo reassured her that N.M. had a great skill set and would be fine as she had made great progress, and that the high school had a number of resources available to her even outside of special services. She testified that at the conclusion of the meeting, petitioner seemed to be in agreement with the declassification.

Gina Bakaj

Bakaj was N.M.'s eighth grade Language Arts teacher, who has taught in the District for eighteen years. She also provided information that was used in the Conners-3, conducted as part of MacIntosh-Haye's Psychological Evaluation, resulting in an "elevated/more concerns than typical" score in the area of Learning Problems/Executive Function.

Bakaj described N.M. as a typical eighth-grade girl. She testified that N.M. did not exhibit attention issues in the classroom, she did her homework, and organization was not an issue. As the year went on, N.M. became better at asking questions and requesting support when needed. N.M. never seemed upset, and she had friends in the class. Bakaj described N.M. as a good student, and a good reader and writer, who received A's and B's in her class, with a B average for the year. Bakaj testified that she had no concerns about N.M.'s reading fluency, and she did not recall N.M. ever using extended time on assessments.

Bakaj recommended N.M. for Concepts English 9, which is a general education English class with two teachers, similar to N.M.'s eighth grade class that had both a special education and general education teacher. Bakaj testified that she recommended Concepts English 9 because the model used in eighth grade was effective, and would suit N.M. well in the ninth-grade transition year.

Michael Raguseo

Raguseo was N.M.'s in-class resource teacher in seventh and eighth grade. He is a special education teacher who is also a reading specialist, and has worked for the District for fifteen years.

Raguseo met N.M. in the seventh grade, when he was a co-teacher for her social studies class. He was very complimentary of N.M. in his testimony and appeared to know her very well. He described N.M. as very sweet and polite, who works well in groups, and functioned as a leader in group assignments. Raguseo described N.M. as

being passionate about singing and participating in chorus and musical. N.M. did not need reminders to follow along in the class and there were no issues with due dates. She did her homework, had her agenda, was organized, and cared about school. He did not observe N.M. make errors due to inattentiveness, carelessness or limited motivation.

Raguseo testified that the accommodations that N.M. used the most in seventh grade included providing study guides and interim due dates on long-term assignments, both of which were provided to all students in the class.

Raguseo was also N.M.'s in-class resource teacher in her science class in eighth grade. He testified that N.M. did not struggle with any reading or writing in that class. She never seemed anxious to him, and she advocated for herself. She was open with him and went to him when she needed assistance. She did not utilize extra time in that class, and received a final grade of an A- for the class.

Raguseo attended the June 2018 eligibility meeting, which he described as a very positive meeting. Raguseo testified that petitioner seemed to agree with the declassification, and that he believed N.M. was ready to be declassified because of how well she was doing.

Melissa Varcardiponi, LCSW

Varcardiponi is a licensed clinical social worker, who has been employed by the District for eleven years. As a school social worker, Varcardiponi develops IEP plans, conducts at-risk assessments, provides school-based counseling, prepares behavioral intervention plans, and completes social assessments as part of the Child Study Team.

Varcardiponi testified that she first met N.M. at the start of seventh grade after counseling was added to her IEP. The IEP in effect at the time called for Varcardiponi's services three times per month, for thirty minutes each session. She could also see N.M. on an impromptu basis, which she did a couple of times.

Varcardiponi testified that N.M. first went to her after petitioner reported that N.M. was feeling frustrated about her academic workload, and was looking for better organizational and coping skills. At the start of her counseling sessions, N.M.'s concerns were academic in nature—she wanted to improve her study habits and grades. Varcardiponi testified that N.M. recognized that what she was doing was not working and she wanted to improve her academic approach and performance, particularly in math and social studies. Varcardiponi helped N.M. develop a plan to improve her performance in these subject areas and N.M. implemented those strategies and was more successful. Varcardiponi testified that her counseling sessions with N.M. when she was in the seventh grade were about managing academic workload with extracurricular activities, as she had play, dance and other afterschool activities to juggle.

Varcardiponi testified that N.M. expressed very little anxiety, and she never expressed any social/emotional concerns with her peers. In early 2018, N.M. reported her stress level at a two out of ten, due to an issue at home and stress around the holidays, and she reported the "positives" of school to include her friend group, her teachers, and the play. N.M. had expressed anxiety in the sixth grade due to drama with a friend group, but in the seventh grade she joined a new friend group and peer relationships improved.

"Social, emotional and behavioral" goals were added to N.M.'s IEP for the seventh grade. (J-40.) These included N.M. verbally identifying situations where she experienced frustration or anxiety from academic situations or social interactions and to be able to implement strategies to deal with her frustrations. In the seventh grade, those identified anxieties were related to academic performance. Varcardiponi reported that N.M. met her social/emotional/behavioral goals "satisfactorily" in November and January of seventh grade, and that by April she had "achieved" her goals. Once achieved, those goals were replaced by others, as reflected in the eighth grade IEP. (J-38.) N.M.'s new goal was to be able to effectively communicate thoughts, emotions and potential concerns towards school and overall success, and to accurately identify her own emotions/feelings, and strategies for dealing with those emotions/feelings. Varcardiponi testified that N.M.'s confidence was much greater in the eighth grade, she

worked more independently and set her own academic goals. Varcardiponi described N.M. as a leader.

Varcardiponi participated in the June 2019 eligibility meeting. She testified that everyone at the meeting seemed to agree that N.M. no longer met the criteria for special education. She recalled that petitioner had asked what would happen next and she was told that in ninth grade, N.M. would continue to be in classes with two teachers, but that she would no longer be in Learning Skills class, which petitioner did not want.

Dr. Vincent D'Elia

D'Elia oversees the child study team, the school counselors and all areas in the District that are not strictly related to curriculum and academics. He has worked in the District for ten years, and holds an M.A. is educational psychology, a Ph.D. in psychology, and certificates as a school psychologist, supervisor, principal and chief school administrator. (J-65.)

D'Elia participated in N.M.'s initial eligibility meeting in July 2016, when N.M. was first found eligible for special education and related services under the category of SLD. D'Elia also attended the annual review meeting in June 2017 because the parent advocate also attended, and the October 2018 IEP meeting, which took place because the parents requested an after-school supplemental reading program. This resulted in litigation. D'Elia testified that the District had not seen any evidence of a need for such a program, and the compromise reached with petitioner involved providing some Learning Skills after schools, since they believed N.M. could use some assistance with organization skills and homework.

D'Elia attended the June 2019 eligibility meeting. He testified that petitioner seemed happy that N.M. had developed great skills, advocates for herself and was continuing into general education classes. Petitioner no longer wanted Learning Skills classes and seemed fine with the declassification.

Days after the June 2019 meeting, D'Elia spoke with Gerson about the evaluations, per petitioner's request, and Gerson indicated that he did not believe N.M. should be declassified as there were discrepancies in her learning that require special education and an IEP. D'Elia testified that Gerson told him that he thought N.M.'s most recent IQ was an underestimation of her abilities. D'Elia disagreed and explained to Gerson that part of determining eligibility for special education was whether there was a substantial impact on N.M.'s education, and, here, there was not. D'Elia testified that he suggested to petitioner that she consider having N.M. evaluated again by Carotenuto, who had once indicated that N.M. showed some soft signs of attention deficit, and he informed her that the child study team would reconsider and perhaps reclassify N.M. if Carotenuto determined that N.M. has disabling attention deficit.

Carmela A. Zack

Zack is a special education teacher who taught N.M.'s eighth grade learning skills class. Zack has taught in the District for fifteen years and is certified in elementary education, K-8, and as a teacher of the handicapped. Zack also provided MacIntosh-Haye with information concerning N.M. in her classroom for the Conners' Teacher Rating Score in the Psychological Evaluation.

Zack testified that she had no concerns about N.M. as a student. She met her in September 2018, where she was one of eight students in the learning skills class, but attended the class part-time because she also had chorus. In the learning skills class, the students had a check-list of what they needed to do. She would give a "mini lesson" and provide reinforcement or one-to-one assistance as needed. During this class, the students were able to complete their assignments or assessments that required additional time, and they could also see other teachers for extra help.

Zack described N.M. as very attentive, friendly and generous in assisting others. She testified that N.M. asked for assistance when needed, and recalls providing N.M. with assistance in Math, English and Civics at times, mostly to check her work and when N.M. asked for her input. Zack testified that N.M. did not appear frustrated or

anxious, and that she seemed to have good peer relations. Zack described N.M. as a typical eighth-grade student.

For N.M.'s October 2019 IEP, Zack reported that N.M. is diligent, self-initiating (creates her own study materials), has a positive attitude and has good rapport with her peers. Her goals in the IEP addressing study skills were to work independently, complete homework and classroom assignments; and to learn two new learning strategies and demonstrate them when completing her assignments. Zack testified that N.M. achieved her study skills goals, and she did not recommend a learning skills class for ninth grade because N.M. had become more independent, and was a self-starter and self-advocate. Zack testified that, for ninth grade, she felt N.M. would be more successful in a structured study, which is less restrictive than a learning skills class, but where a teacher would still be available if needed.

Zack testified that N.M.'s focus and attention were much improved by the end of eighth grade, and if N.M. needed redirection, it was only because she was socializing. N.M. reported in her monthly self-assessments that she wanted to improve her study habits, spend more time on homework and work harder.

Petitioner's Witnesses

Michael Gerson, Ph.D., A.B.P.P.

Gerson is a psychologist with board certification in family psychology. (J-78.) He was qualified as an expert in child psychology and child testing for psychological and learning disabilities, and diagnosing psychological and learning disabilities in children. Gerson prepared a Consultation report dated April 6, 2016 following an evaluation of N.M. while she was in the fifth grade. (J-1.) Gerson is not a school psychologist and has never served on a Child Study Team.

Gerson testified that in March 2016, N.M.'s parents described her as struggling with learning, transposing numbers and reversing b's and d's. He interviewed N.M. and petitioner, and administered the WISC-V, WIAT-III, and the Aggregate Neurobehavioral

Student Health & Educational Review, which is a questionnaire completed by the parent, and a teacher, that examines behavior and various aspects of learning.

Gerson testified that he found N.M. to be very bright but that she had difficulty in the area of language-related learning. When he conducted the WISC-V in March 2016, N.M. obtained a FSIQ of 116, which falls at the eighty-sixth percentile, the high-average range. However, on the WIAT-III, N.M. demonstrated very weak Decoding/Word Attack skills, as seen in her subtest Word Reading score which was at the 45th percentile, and her Pseudoword Decoding subtest score which was at the 39th. Gerson testified that the WISC-V and WIAT-III scores should be "pretty equal," and that there is a language-related learning disability when the WIAT-III scores are discrepant from ability. Later, Gerson also testified that there "could be a learning disability" as evident in N.M.'s subtest score on Spelling (27th percentile), and her composite score in Basic Reading (39th percentile), which are so discrepant from her ability. In math, Gerson testified that N.M.'s scores on math fluency addition and math fluency subtraction were "more than adequate."

Gerson opined that N.M.'s IQ of 116 is actually an underestimation of her true potential because, with her language-related learning disability, N.M. is not going to be able to do well on language-oriented tests and at least half of the WISC-V is language-oriented.

Gerson has not conducted any assessments of N.M. since the fifth grade. He has not observed her since, nor has he reviewed her pupil file, IEPs, progress reports, or grades.

Gerson described N.M.'s learning disability as being unable to read the parts of words well, but that she understands what she reads because she determines the context of the paragraph. That explains why N.M. is better at Reading Comprehension and Broad Reading rather than Word Attack. While she is understanding what she reads, she is not reading effectively. Gerson opined that as N.M. gets older, it will become "much more difficult and unlikely" that she could continue with her ability to understand context, and this reading difficulty will impact her learning.

Gerson described the difference in Verbal Comprehension Scores obtained by MacIntosh-Haye's Psychological Re-evaluation in April 2018 (108) and the score he obtained in March 2016 (118) as a "modest discrepancy," and testified that he would have expected N.M. to score closer to 118 in 2019.

When asked to comment on McKenna's Educational Re-evaluation, Gerson testified that N.M. was very weak in Basic Reading and he was surprised that N.M. was doing so well academically considering she tested so poorly in this area. He testified that N.M.'s score in Letter-Word Identification demonstrates that N.M. has problems with words in isolation, and with parts of words. He testified that the results of McKenna's Educational Re-Evaluation are consistent with those that he and Tomasini reported years earlier, and that if N.M. was classified based on his report, she should continue to be classified in light of the results of the Educational Re-evaluation.

Gerson acknowledged that N.M. scored in the high-average range for the Reading Comprehension despite her difficulty reading words and decoding them. Her reading, decoding and spelling difficulties are evident in the results of several subtests on the WIAT-III: Pseudoword Decoding (39th percentile), Word Reading (45th percentile); and Spelling (27th percentile). While Gerson agreed that these three subtest scores were technically within the average range on a national norm, the scores were concerning to him because he considered the percentiles low for this metropolitan area, and particularly for a school district such as Chatham, as he believes the public school norms are higher in New Jersey as compared to other states.

Gerson opined that, based on McKenna and MacIntosh-Haye's reports, N.M. is eligible for special education under the category of Basic Reading Skills (SS 95; 31st percentile), Letter-Word Identification (SS 93; 33rd percentile), Word Attack (SS 92; 31st percentile); and Reading Recall (SS 93; 31st percentile). Gerson described these scores as a "discrepancy" and "weakness" given her FSIQ of 111 at the time. He did not, however, identify them as "severe" or "significant" discrepancies.

Gerson did not diagnose N.M. with ADHD and he testified that while there are indications of attention issues, such as those identified on the Conners' Teacher Rating Scale, N.M.'s attention issues are secondary to the learning issues. Gerson testified that D'Elia stated that he would have the District evaluate N.M. for ADHD, and that she may be able to continue to receive services under this diagnosis. Gerson considered this a "very practical" recommendation that would allow N.M. to get help in reading. He described the reports done by the District as thorough and "reasonably done," but that he and D'Elia reached a different conclusion based on these reports.

Amy Carnall, DNP, APN

Carnall has a doctorate of nursing and is a Nurse Practitioner at Clarity Psychiatric Care. (J-11.) She was qualified as an expert in assessing and evaluating pediatric patients for developmental and psychiatric issues taking place in the home or school setting. She authored two reports: one from March 2018; and another dated November 2019. (J-4, J-10.)

Carnall first met with N.M. on March 16, 2018, when she was in the seventh grade. N.M. had been referred to her by her educational advocate, Andrew Morgan (Morgan). Carnall conducted a psychiatric evaluation and found that N.M. suffered from school-based anxiety. Based on what N.M. and D.M. reported, Carnall also diagnosed N.M. with post-traumatic stress disorder, generalized anxiety disorder, social anxiety induced by fear of academic setting, separation anxiety, depression NOS, adjustment disorder with academic inhibition and social pragmatic learning disorder, and learning difficulty. Although she recommended that N.M. follow-up with her office in one month, N.M. did not return to her office until November 2019. Carnall's initial report also concludes that N.M.'s "regression, isolation, depression, and increased panic coupled with anxieties can only be explained by the neglect of the accommodations set forth in the child's IEP," however, at the hearing she was unable to identify any accommodation set forth in the IEP that had been neglected. The only record reviewed by Carnall was N.M.'s June 20, 2017 IEP (for seventh grade), and she did not verify any of the allegations made by D.M. or N.M.

Carnall met with N.M. a second time on November 11, 2019, when N.M. was in the ninth grade. Carnall testified that her role was to conduct a psychiatric evaluation of N.M. based on the information provided to her by N.M., her mother, and Morgan. She testified that N.M.'s school-based anxiety had escalated, and she diagnosed her with school phobia, chronic PTSD, panic disorder, generalized anxiety disorder and adjustment disorder. Carnall explained that her diagnoses are based on the "patient's perception," and not on what "might necessarily be happening from other standpoints."

Carnall opined that N.M. should not have been declassified due to her anxiety as this would put her at risk for suicide, even though she later agreed that N.M. has not expressed any suicide or harm ideation. While she testified that she believed the counseling services listed in the IEP were not being provided and that the District is not upholding the accommodations in the IEP, Carnall did not speak specifically to what the District did or did not do.

In preparing her November 2019 report, Carnall never spoke with anyone at the District, nor did she request N.M.'s student records. The report was based only on what N.M. and her mother reported to her.

Amanda Colannino

Colannino is a certified learning disabilities teacher (LDTC), who is also certified as a teacher of the handicapped and Wilson Dyslexia Practitioner. She is currently employed as an LDT Consultant for a private school and has her own practice where she administers educational evaluations of students in grades K-12 and provides tutoring, after having worked eight years for a school district. (J-13.) She was qualified as an expert LDTC, and more specifically in teaching students with learning disabilities and reading-based learning disabilities. Colannino prepared an Educational Evaluation Report dated December 5, 2019 after evaluating N.M. (J-12.)

N.M. was referred to Colannino by Morgan. Colannino testified that she found N.M. to be very bright and that she had some very strong strengths but also some "profound weaknesses" in the areas of phonological awareness and math computation.

She also found areas of regression as compared to previous testing. She testified that the results of her testing were consistent with Tomasini's findings. She testified that Tomasini's report quoted a statement that the Woodcock Johnson put out describing how "dyslexia is often overlooked as errors that are attributed to carelessness, inattention and limited motivation." During Colannino's assessment, however, N.M. did not exhibit inattentiveness, carelessness or limited motivation.

Colannino testified that she reviewed N.M.'s October 19, 2018 IEP (not the earlier ones) and the reports of MacIntosh-Haye and McKenna, and that based on these, N.M. should continue to be classified under Basic Reading Skills and Math Calculations.

Colannino testified that when she assessed N.M., she had difficulty reading nonsense words. Her first "red flag" was when she saw that N.M.'s basic reading skills score was a 93 (31st percentile) on the assessment conducted by the District, and while this score is in the broad average range, it was close to the 30th percentile, which is considered at risk for a learning disability. With this information, Colannino administered the CTOPP 2, which further examines basic reading skills. The results of this assessment are documented in her report, and N.M.'s Phonological Awareness composite score was in the 9th percentile, with a SS of 80, which is below average.

Colannino testified that she also administered the WIST, to further assess N.M.'s ability to read nonsense words. Here, N.M. obtained an SS of 86 (18th percentile), which is below average, in the Sound-Symbol Knowledge category. The other areas tested in the WIST, including Word Identification and Spelling, however, were average.

Colannino testified that because N.M. is so intelligent, she was able to perform in the average and above-average range on the assessments conducted by the District and has been able to compensate for her deficits. However, those deficits are catching up to her and she is now regressing. Colannino opined that if N.M.'s phonological deficits are not "fixed" it will become increasingly difficult for her and she will no longer be able to compensate for her deficits the way she has been.

A 21-point difference from N.M.'s 111 FSIQ would qualify as more than a 1.5 standard deviation. Colannino testified that there were areas in the testing that amounted to at least a 1.5 standard deviation, and other areas that were borderline, when considering N.M.'s FSIQ of 111. These included: Word Identification (SS 91), a subtest on the WIST, with a 20-point discrepancy; Sound Symbol Knowledge (SS 86), a subtest on the WIST, with a 25-point discrepancy; Phonological Awareness (SS 86) on the CTOPP 2, with a 31-point discrepancy; Alternate Phonological Awareness (SS 70) on the CTOPP 2, with a 41-point discrepancy; and Math Fluency (SS 83) on the WIAT, with a 28-point discrepancy. Colannino testified that the Math Fluency on the WIAT would qualify as a deficit in Math Calculation under the Code because it measures the ability to calculate basic math, such as multiplication and subtraction.

Colannino agreed that the assessments conducted by the District were appropriate but that they should have conducted additional tests, such as a section of the Woodcock Johnson that tests phonetic coding. Students with dyslexia typically show weakness in this area. Tomasini tested this area in 2017, and N.M. had a SS of 91 in the Phonetic Coding cluster. Colannino testified that, given the results of Tomassini's report, the District's assessment should have included the Phonetic Coding and Phoneme-Grapheme Knowledge portions of the WJ-IV. The Phoneme-Graph cluster SS was 102, which included in part a Word Attack subtest with an SS of 96. Colannino also testified that N.M. showed regression in her FSIQ and in her Reading Comprehension score when comparing the 2016 and 2019 testing results.

On cross-examination, Colannino explained that Tomasini diagnosed N.M. with SLD with an impairment in reading, and that Tomassini's report suggests that there could be a presence of dyslexia. She was unaware of how the District determines the existence of a "severe discrepancy," and agreed that the reports administered by the District did not show a severe discrepancy if a severe discrepancy is defined as constituting at least a 1.5 standard deviation. She testified that while the District's reports do not show a severe discrepancy under this standard, the reports are not sufficiently comprehensive to identify a learning disability. She agreed, however, that the WJ-IV administered by McKenna is accepted as an industry standard.

In reviewing the cluster scores on her assessment as they relate to SLD categories, Colannino conceded that basic reading, reading comprehension, oral expression, and listening comprehension do not translate to a severe discrepancy (using a 1.5 standard deviation). She testified that the WIAT-III does not test "Math Calculations" but looks at "Math Fluency" through its three subtests. The WIAT-III also has a Mathematics composite score, which did not show a severe discrepancy. Colannino testified that the TOWL-3 was "solidly in the average range," and that N.M.'s writing expression would not qualify as a severe discrepancy.

Colannino opined that N.M. should receive extra support in reading using an Orton-Gillingham program to address/improve phonological awareness skills; and remediation in math to shore up her basic math calculation skills. She specifically recommended a reading program created by Wilson, "Just Words," that is for students with N.M.'s profile. She conceded that not every student with dyslexia needs an IEP but they do require a specialized reading program.

Respondent's Rebuttal Witnesses

D.M.

D.M. was referred to Carnall by Morgan. She testified that she took N.M. to Carnall due to her stress, anxiety, meltdowns at home, homework issues, and self-deprecating behavior. N.M. had previously seen another private counselor about once a week for a couple of months until sometime in 2018.

D.M. testified that she was surprised to hear that the District was declassifying N.M., although she had previously received the District's reports in advance of the meeting. While N.M.'s grades were "fine," at home she was having meltdowns and too much work. D.M. and tutors helped N.M. with her homework. At the meeting, she did not sign the IEP agreeing to N.M.'s declassification because she wanted to process it. Two days after the meeting, she wrote to D'Elia noting that she was really impressed with N.M.'s development and progress and that she attributes her growth to the support that she received and interaction with her teachers. Those supports include extra time

on tests, ability to rewrite essays and redirection. However, she agreed with Gerson that despite her making good progress, N.M. should not be declassified because there is still a significant disparity between her WISC-V and the WJ-IV, which she believes "still shows there is a reading disability."

D.M. testified that on June 27, 2019, D'Elia offered to perform another neuropsychological assessment of N.M. to determine whether she could continue to be eligible for special education, but under a diagnosis of ADHD, while keeping the current IEP in place. Although she testified that she was confident that N.M. would qualify under ADHD because she had been diagnosed with that in the past, she filed for mediation on June 29 because she believed the declassification would take effect within ten days of the June 18 eligibility meeting. Petitioner denied that she had an agreement with the District that they would conduct the neuropsychological assessment while keeping the IEP in place, yet her email to McKenna on the morning of June 28, 2019 states that she had a call with D'Elia and that "we are going to keep the IEP in place pending a neuropsychological assessment." D.M.'s email to McKenna also made ninth-grade placement requests for N.M., including pulling her out of the Concepts History class because she preferred another teacher. D.M. also rejected the Learning Skills class, and requested that N.M. be moved out of the proposed Concepts Language Arts class and into a "mainstream" class.

Lauren McKenna

The first time McKenna received Colannino's report was in January 2020 and D.M. did not request an IEP meeting after receiving this report. McKenna opined that based on the data collected by Colannino, N.M. is still not eligible for special education and related services because N.M. did not show any significant discrepancy in the eligibility categories found in the Code.

The severe discrepancy model used by Chatham is a 1.5 standard deviation between intellectual ability, as determined on the WISC-V, and academic achievement, as reflected in the composite scores on the WJ-IV that relate to the areas identified in the Code.

McKenna testified that an LDTC could use either the WJ-IV or WIAT to check for a SLD. When McKenna conducted the WJ-IV, the predominate scores were in the average and high average range. Since N.M. did not show significant inadequacies in any of these scores, and since there were no indicators in the testing that required further exploration, she did not see a need for further testing. Also, if there was a concern from her teachers about N.M.'s functioning or academic performance in the classroom that could have warranted additional testing, however, that was not the case here as teacher feedback was all positive.

McKenna also does not agree with Colannino's recommendation that N.M. remain eligible for special education services under the classification of SLD in Basic Reading Skills because N.M.'s basic reading skills, based both on McKenna's and Colannino's assessments, were in the average range and without any severe discrepancy. McKenna does not agree with Colannino's conclusions that were based on the additional testing she conducted because she was looking at "very finite skills" within the area of reading. McKenna testified that while one may see relative weaknesses when looking at these finite skills, N.M. has shown the ability to read words in the broader sense. McKenna testified that N.M. is using her compensatory skills to make up for any weaknesses she has, which is one of the goals of special education--to use the skills, resources and tools available to overcome any weaknesses in order to perform.

McKenna testified that despite Colannino's testimony that N.M. would qualify for SLD under Math Fluency, Math Fluency is not one of the areas identified in the Code. Therefore, any severe discrepancy noted in that area would not qualify as a SLD. Also, based on how N.M. performed in Math, she does not require any remedial services. She was in Algebra 1 in the eighth grade and was recommended for Geometry freshman year, which is not a remedial class. She did not receive modifications in her eighth grade IEP, and she was capable of grade-level curriculum.

For the ninth grade, N.M. was recommended for Geometry, Concepts English 9, Concepts US History, and Biology. Concept classes are general education classes that

provide additional levels of support in the classroom, such as a second teacher or paraprofessional, and classes tend to be smaller. D.M. did not want N.M. to continue to take learning skills, and she requested a specific ninth-grade history teacher, knowing that would take her out of the Concepts History class. D.M. also informed McKenna in June that, based on her conversation with D'Elia, they were keeping N.M.'s IEP in place pending a neuropsychological assessment.

McKenna testified that N.M. did not show any of the indicators for dyslexia based on the evaluation she conducted, and that there was never a diagnosis of dyslexia. Tomasini's report does not diagnose it, and only contains an excerpt from a WJ-IV bulletin that addresses dyslexia. McKenna agreed, however, that dyslexia can qualify as a SLD and that Tomassini noted markers of dyslexia in her report. Tomassini's report was not part of a re-evaluation nor was it used to establish N.M.'s eligibility.

ANALYSIS OF THE EVIDENCE

In evaluating the evidence, it is necessary for me to assess and weigh the credibility of the witnesses. Credibility is the value that a finder of the facts gives to a witness's testimony. It requires an overall assessment of the witness's testimony in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). "Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself," in that "[i]t must be such as the common experience and observation of mankind can approve as probable in the circumstances." In re Perrone, 5 N.J. 514, 522 (1950). A trier of fact may reject testimony as "inherently incredible" and may also reject testimony when "it is inconsistent with other testimony or with common experience" or "overborne" by the testimony of other witnesses. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958). It is further necessary to evaluate and weigh the expert testimony offered at the hearing. It is well settled that "'[t]he weight to which an expert opinion is entitled can rise no higher than the facts and reasoning upon which that opinion is predicated.'" Johnson v. Salem Corp., 97 N.J. 78, 91 (1984) (citation omitted).

I found McKenna, Schwarz and MacIntosh-Haye to be qualified, detailed and persuasive expert and fact witnesses. I also found the testimony by the District's employees, specifically Lukasiewisz, Raguseo, Varcardiponi, Bakaj, and D'Elia to be credible and consistent with other offered evidence. I found N.M.'s former teachers to be devoted professionals who knew N.M. well and were attuned to her needs and progress at school. The only area where I noted a discrepancy in the testimony and the record involved Zack, where the results of the Conners-3 for which she provided information indicate that she had more concerns than typical for N.M. in the area of Attention Deficit/Hyperactivity. She also testified, however, that N.M. achieved all of her study skills goals and that her focus and attention were much improved by the end of eighth grade and that N.M.'s need for redirection was usually because she was socializing in the class. Respondent's witnesses who saw N.M. on a nearly daily basis in eighth grade confirmed that at school N.M. is a very social, self-motivated and bright student who became more independent throughout the year. She also performed very well in her classes, she completed her homework assignments in a timely fashion, and the record shows that she rarely utilized any accommodations other than those that were already offered to all students in the class. Also, all of N.M.'s teachers testified credibly that she did not exhibit anxiety in the eighth grade and that, as compared to seventh grade, she improved her organizational skills and became better able to manage her academic workload. Her teachers seemed to be sincerely pleased with N.M.'s progress, and they all appeared to genuinely agree that she is ready to be declassified.

The record clearly shows that D.M. is a devoted parent who has been actively involved in supporting N.M.'s academic, emotional and social well-being. I do not doubt her testimony describing her concerns regarding anxiety and homework-related meltdowns that N.M. may have demonstrated at home. These behaviors, however, were not exhibited at school and MacIntosh-Haye testified that there was no indication of anxiety based on the information provided to her by N.M.'s parents in early 2019. Moreover, the consistent testimony of N.M.'s teachers is that she was doing well socially at school, she did not exhibit anxiety, and had become more independent and organized towards the end of eighth grade.

With respect to petitioner's expert witnesses, Colannino presented as a qualified, thorough, and generally persuasive witness. While Gerson presented as a highly qualified psychologist, and a credible witness, I place limited weight on his conclusion that N.M. should continue to be classified. Gerson never served on a Child Study Team, and he had not assessed N.M. since she was in the fifth grade, three years prior to the proposed declassification. Classified students are required to be re-evaluated at least every three years because a student's profile and needs can change significantly from one year to the next. While Gerson's report is relevant to this matter in that it provides a picture of N.M.'s abilities and weaknesses at the time that she was first classified as SLD, his report is not the best indicator of N.M.'s intellectual ability or achievement in June 2019, as his assessment was conducted three years earlier. Gerson acknowledged and accepted N.M.'s FSIQ of 111, as measured by MacIntosh-Haye in 2019, and he agreed that the evaluations conducted by the District were thorough and reasonably done. While he opined that based upon the Child Study Team evaluation reports, N.M. qualified for special education and related services under the category of Basic Reading Skills (SS 95), Letter-Word Identification (SS 93), Word Attach (SS 92) and Reading Recall (93), he did not identify these as "severe" or "significant" discrepancies, but as "weaknesses." Moreover, Gerson had not reviewed N.M.'s pupil file, IEPs, progress reports or grades, and he never observed her in an educational setting. For these reasons I give more weight to MacIntosh-Haye's testimony over Gerson's testimony concerning N.M.'s intellectual ability and needs in June 2019.

The District asserts that the Court should exclude Colannino's December 2019 report and Carnall's November 2019 report because they were acquired after the June 2019 declassification and are outside the scope of, and irrelevant to, the proceeding because the District did not have the benefit of this information at the time of declassification. I disagree that the reports should be excluded solely on the basis that they were secured and produced after the June 2019 declassification. While it is true that the District did not have the benefit of reviewing these reports in anticipation of the declassification meeting, it is unreasonable to expect petitioner to have presented her expert reports to the District before the District even informed D.M. of the proposed declassification. However, unlike Colannino's report, which contains the results of an

educational evaluation consisting largely of objective testing, Carnall's November 2019 report contains her professional opinions based almost exclusively on unsubstantiated statements made to her by D.M. and N.M. five months after the petitioner filed for due process. N.M. does not treat with Carnall, and there is no evidence that N.M. treats with any psychiatrist or other professional for any anxiety, or alleged panic disorder or school phobia. Moreover, the report contains serious allegations reported by petitioner and N.M. concerning N.M.'s experiences at school, including bullying, verbal assaults and threats, that Carnall never verified with the District. Carnall conceded that she considered as fact anything that petitioner told her, without any corroboration with the District, and she was unable to support with any level of specificity statements and conclusions made in her report. I give no weight to Carnall's November 2019 report, because I consider it unreliable since I question the veracity of the facts and allegations upon which her opinions are based. I also give little weight to Carnall's overall testimony concerning N.M.'s psychiatric state near the time of the proposed declassification as she only met with N.M. on one occasion prior to the proposed declassification—fifteen months prior. In forming her opinions and preparing her 2018 report, Carnall again relied almost exclusively on what petitioner and N.M. reported to her, without verifying any information with the District, and while only having reviewed N.M.'s June 2017 (seventh-grade) IEP. Despite Carnall's testimony, the overwhelming evidence presented shows that at the time of the proposed declassification, N.M. had not been exhibiting any unusual stress, anxiety, or any social, emotional or psychiatric issues at school.

LEGAL ANALYSIS AND CONCLUSIONS OF LAW

This case arises under the Individual with Disabilities Education Act (IDEA), 20 U.S.C. § 1401 et seq., which makes available federal funds to assist states in providing an education for children with disabilities. Receipt of those funds is contingent upon a state's compliance with the goals and requirements of the IDEA. Lascari v. Bd. of Educ. of Ramapo-Indian Hills Reg. Sch. Dist., 116 N.J. 30, 33 (1989). As a recipient of Federal funds under the IDEA, the State of New Jersey must have a policy that assures that all children with disabilities will receive FAPE. 20 U.S.C. §1412. FAPE includes Special Education and Related Services. 20 U.S.C. §1401(9); N.J.A.C. 6A:14-1.1 et

seq. The responsibility to deliver these services rests with the local public-school district. N.J.A.C. 6A:14-1.1(d). To meets its obligation to deliver FAPE, the school district must offer an IEP reasonably calculated to enable S.L. to make progress appropriate in light of his circumstances. Endrew F. v. Douglas Cnty. Sch. Dist., 580 U.S. ___ (2017);137 S. Ct. 988; 197 L. Ed. 2d 335.

New Jersey has enacted legislation, N.J.S.A. 18A:46-1 et seq., and has adopted regulations to assure all children with disabilities enjoy the right to FAPE as required by 20 U.S.C. § 1401 et seq. The IDEA requires a student's FAPE be designed to meet the unique needs of the child through an IEP which is reviewed annually. Lascari at 30, citation omitted. Moreover, classified students must be reevaluated every three years, or sooner if conditions warrant or if the student's parent or teacher requests the re-evaluation. N.J.A.C. 6A:14-3.8(a); see 20 U.S.C.A. § 1414(a)(2)(A).

A "child with a disability" under the IDEA must have a disabling condition and a resulting need for special education and related services to address it. 20 U.S.C. 1401(3). In New Jersey, for a student to be eligible for special education, she must meet the criteria for at least one of several enumerated classifications categories of disability; the disability must adversely affect the student's educational performance; and the student must be in need of special education and related services. N.J.A.C. 6A:14-3.5. The test for eligibility, therefore, is a three-pronged test in which each prong must be met in order for a student to qualify for special education services.

Here, the issue to be resolved is whether the District's determination to declassify N.M. following her triennial review in June 2019 was appropriate. The District bears the burden of proving, by a preponderance of the evidence, that its action in declassifying N.M. was appropriate under the circumstances. In this case, the District maintains that N.M. no longer qualifies for special education and related services under the category of SLD because there is no severe or significant discrepancy between N.M.'s cognitive abilities and her academic achievement, and that even if she was deemed to have a disability under the Code, her educational performance is not adversely affected. Finally, the District maintains that the testimony of N.M.'s teachers and McKenna demonstrate that she is not in need of special education and related services.

In opposing the decision to declassify N.M., petitioner asserts that she is a student with a disability who is eligible for special education and related services under the category of Specific Learning Disability (SLD), and specifically in the areas of Basic Reading Skills and Math Calculation Skills.[5]

"Specific learning disability" is one of the classification categories identified in N.J.A.C. 6A:14-3.5. It corresponds to "perceptually impaired" and means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conductions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. N.J.A.C. 6A:14-3.5(c)(12). A specific learning disability can be determined when a severe discrepancy is found between the student's current achievement and intellectual ability in one or more of the following areas:

    (1)   Basic reading skills;
    (2)   Reading comprehension;
    (3)   Oral expression;
    (4)   Listening comprehension;
    (5)   Mathematical calculation;
    (6)   Mathematical problem solving;
    (7)   Written expression; and
    (8)   Reading fluency.

    N.J.A.C. 6A:14-3.5(c)(12).

In New Jersey, school districts that use the severe discrepancy methodology must adopt procedures that utilize a statistical formula and criteria for determining severe discrepancy. N.J.A.C. 6A:14-3.5(c)(12)(iv). The evaluation must include an assessment of the student's current academic achievement and intellectual ability. Ibid. School districts are, therefore, permitted to establish the basis for determining the existence of a severe discrepancy between the student's current achievement and

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[5] Petitioner's brief also argues that the District failed to provide N.M. with FAPE during the 2017-2018, 2018-2019 and 2019-2020 school years. These claims, however, fall outside the scope of the Petition and will, therefore, not be addressed here.

intellectual ability. Here, McKenna testified that Chatham has adopted a formula for determining severe discrepancy as 1.5 standard deviations (at least a 21-point difference) between achievement and aptitude, and petitioner did not dispute this testimony. Therefore, I **FIND** that the District utilized, and was authorized to utilize, a severe discrepancy methodology using a 1.5 standard deviation between student achievement and intellectual ability in determining whether N.M. has a SLD.

Petitioner asserts in part that N.M. should remain classified as SLD in the areas of Basic Reading Skills and Math Calculation because she is dyslexic. Petitioner based its assertion that N.M. is dyslexic on an excerpt of Tomasini's report; N.M.'s testing in the area of phonologic awareness (as conducted by Tomasini and Colannino); and N.M.'s inattention and attention deficit. Based on my review of the documents and testimony entered into evidence, there is no official diagnosis of dyslexia and no expert witness testified that N.M. is dyslexic based on the results of N.M.'s testing in the area of phonological awareness or her inattention or attention deficit. Tomasini did not testify at the hearing to explain why she included an excerpt from a WJ-IV Service Bulletin addressing dyslexia in her report,[6] why she wrote that the Bulletin's description of weaknesses that can suggest the existence of dyslexia is "in concordance with the profile demonstrated by . . . N.M.'s test scores," nor why Tomasini's final diagnosis of N.M. did not include dyslexia. Colannino testified that she read Tomasini's report to suggest that there "**could be** a presence of dyslexia." While dyslexia may be suspected, it has not been diagnosed. Therefore, I **FIND** that the record does not establish that N.M. has dyslexia. Moreover, even if N.M. has dyslexia, a diagnosis of dyslexia alone does not constitute a SLD warranting special education and related services.

The results of the testing conducted by McKenna, MacIntosh-Haye and Schwartz do not reveal a severe discrepancy in any of the eight areas of eligibility in the Code, including the areas of Math Calculation and Basic Reading Skills, when using the 1.5

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[6] Tomasini wrote in her report: "According to the Woodcock-Johnson IV's Service Bulletin Number 6, 'Dyslexia (is) often overlooked as errors are attributed to carelessness, inattention or limited motivation . . . Relative weaknesses which are unexpected in comparison to the person's average to superior relative strengths can suggest the existence of dyslexia even in the absence of below average scores on standardized tests.' This description is in concordance with the profile demonstrated by . . . [N.M's] test scores." (J-2.)

standard deviation model. Colannino agreed that based on the District's testing, and using a 1.5 standard deviation, N.M. would not qualify under a SLD category of eligibility. Petitioner, however, argues that the District failed to assess all areas of suspected disability, and specifically the Phonetic Coding portion of the WJ-IV, contrary to N.J.A.C. 6A:14-2.5(b)(3), and that a severe discrepancy in both Math Calculation and Basic Reading was present in the testing conducted by both Tomasini and Colannino.

Petitioner's expert witnesses did not testify that the District's testing was improperly conducted. In fact, Gerson conceded that the District's testing was thorough and reasonably done. Colannino agreed that the WJ-IV administered by McKenna is accepted as an industry standard, but testified that McKenna should have conducted additional testing to further explore N.M.'s areas of weakness. However, I am unpersuaded by petitioner's argument that the District should have conducted further testing, and specifically the Phonetic Coding portion of the WJ-IV, because this was an area of suspected disability. When McKenna administered her assessment, N.M. performed in the average range (SS 93) in the Basic Reading Skills cluster (which contains a Word Attack subtest) on the WJ-IV. While Basic Reading may be an area of weakness for N.M., there is no severe discrepancy. Moreover, N.M. was performing well in her Language Arts and other classes and no teacher raised any concern regarding N.M.'s ability to read. I am unpersuaded that McKenna had an obligation to conduct further testing of N.M. in the area of Phonological Coding given the results of the WJ-IV, and even considering the results of Tomasini's testing two years earlier where she identified scores "in the lower end of the average range" in Phonetic Coding (SS 91). There is also no severe discrepancy between N.M.'s FSIQ of 111 and her Phonetic Coding score of 91 using a 1.5 standard deviation. Therefore, I **FIND** that the District conducted appropriate and adequate testing of N.M. in connection with her re-evaluation.

Significantly, Colannino was unaware that the District used a 1.5 standard deviation severe discrepancy model when she wrote her report, and she conceded on cross-examination that the District's reports do not show a severe discrepancy under this standard. Colannino herself agreed that it is not appropriate to use Tomasini's 2017 report to determine N.M.'s current academic achievement or ability. Colannino's

own testing concluded that N.M.'s Basic Reading Skills are in the average range as measured by the WIAT-III, with an SS of 98, only a 13-point discrepancy. She also conceded that, per her testing, Basic Reading, Reading Comprehension, Oral Expression and Listening Comprehension do not translate to a severe discrepancy using a 1.5 standard deviation.

With respect to the area of Math Calculation, petitioner asserts that a severe discrepancy is present in this area as demonstrated by the Math Fluency testing results on the WIAT-III conducted by Colannino (SS 83, a 28-point discrepancy). While this is more than a 1.5 standard deviation, I am unconvinced that "Math Fluency" on the WIAT-III is equivalent to "Math Calculations." "Math Calculation Skills," as it appears on the WJ-IV is a cluster that is a measure of computational skills and automaticity with basic math facts, and this cluster includes both Calculation and Math Facts Fluency subtests. (J-7.) "Math Calculation," as referenced in the Code, therefore, must consist of more than simply an assessment of math fluency as tested on the WIAT-III (which only assesses speed and accuracy of addition, subtraction and multiplication over a sixty-second time limit). Also, the Mathematics composite score on the WIAT-III, as administered by Colannino, was in the average range (SS 94). I **FIND** that the Math Fluency score on the WIAT-III does not provide an adequate basis for classifying N.M. as SLD.

Accordingly, based upon my review and consideration of the evidence presented, I **FIND** that a severe discrepancy did not and does not exist between N.M.'s achievement and her intellectual ability in any of the eight areas identified in N.J.A.C. 6A: 14-3.5(c)(12), including Basic Reading Skills and Math Calculation.

In order to qualify for special education and related services under an SLD classification, in addition to having a qualifying disability, that disability must adversely impact the student's educational performance to the extent that special education services are required. Here, it is undisputed that N.M. has achieved good grades throughout middle school—in the A/B range. Several of N.M.'s teachers who observed her in the classroom on a daily basis in eighth grade testified that N.M. showed significant improvement that year, rarely used any accommodations not already offered

to all students, and they all considered declassification to be appropriate. Her teachers testified consistently that N.M. completed her work in a timely fashion and that she became more independent, self-sufficient, and organized throughout middle school. She also achieved all of her study skills and social-emotional goals in the IEP, and even Colannino recognized that N.M. is so smart that she has been able to use her strengths in comprehension and vocabulary to compensate for her weaknesses. McKenna explained that the accommodations provided to N.M. through her IEP, such as study guides and advanced notice of upcoming tests/quizzes, would also be made available to her in the general education setting at the high school. Moreover, petitioner rejected supplemental learning skills class for high school and asked to move N.M. out of the Concepts English class, which has more supports, and into an English 9 class in ninth grade. I **FIND** that N.M.'s educational performance is not adversely impacted by any disability to the extent that she requires special education and related services. While N.M. may have weaknesses in certain areas, her weaknesses are not an educational disability. She is a bright and hardworking student who has been able to use her significant strengths to compensate for any weaknesses, and progress nicely.

For the reasons set forth above, I **CONCLUDE** that the District has demonstrated by a preponderance of the evidence that N.M. does not meet the three-pronged test to qualify as eligible for special education and related services. Accordingly, I also **CONCLUDE** that the determination to declassify N.M. was appropriate and consistent with FAPE.
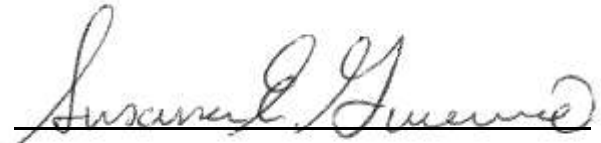
ORDER

Based on the foregoing, I hereby **ORDER** that the petition opposing the declassification be and hereby is **DISMISSED**.

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 Policy and Dispute Resolution.

     July 21, 2020

DATE   **SUSANA E. GUERRERO**, ALJ

Date Received at Agency

Date Mailed to Parties:

jb

APPENDIX

<u>LIST OF WITNESSES</u>

<u>For Petitioners</u>:

    Dr. Michael Gerson

    Amy Carnall

    Amanda Hope Colannino

<u>For Respondent</u>:

    Laura McKenna

    Jennifer Schwartz

    Lydia MacIntosh-Haye

    Stephanie Lukasiewicz

    Gina Bakaj

    Michael Raguseo

    Melissa Varcardiponi

    Dr. Vincent D'Elia

    Carmella Zack

<u>For Respondent's Rebuttal</u>:

    D.M.

    Lauren McKenna

<u>LIST OF EXHIBITS IN EVIDENCE</u>

<u>Joint Exhibits</u>:

J-1   Report by Michael J. Gerson, Ph.D., ABPP, dated April 6, 2016

J-2   Psycho-Educational Evaluation by Lisa Tomasini, Ph.D., May 2017

J-3   Not in evidence

J-4   Psychiatric Evaluation by Amy Carnall, DNP, APN-BC, dated March 16, 2018

J-5   Not in evidence

J-6   Psychological Re-Evaluation by Lydia MacIntosh-Haye, AGS, NCSP, dated April

23, 2019 to April 25, 2019

J-7   Educational Re-evaluation by Laura McKenna, MA, LDT-C, dated May 4, 2019

J-8   Speech and Language Evaluation by Jennifer Schwartz, MA, CCC-SLP, May 2019

J-9   NJHA Suicide Panel Brochure

J-10   Psychiatric Summary by Amy Carnall, dated November 11, 2019

J-11   CV of Amy Carnall

J-12   Educational Evaluation by Amanda Colannino, MS Ed, LDT-C, dated December 5, 2019

J-13   CV of Amanda Colannino

J-14   Email correspondence between petitioner and the District

J-15   The Training Institute-Workshop Brochure for Carnall

J-16   Not in evidence

J-17   Petitioner's Due Process Petition

J-18   Not in evidence

J-19   Not in evidence

J-20   Re-evaluations Eligibility Determination-Declassification

J-21   Progress Report 2018-2019 school year (8th grade)

J-22   8th Grade Report Card

J-23   Progress Report 2017-2018 school year (7th grade)

J-24   7th Grade Report Card

J-25   Progress Report 2016-2017 school year (6th grade)

J-26   6th Grade Report Card

J-27   Invitations/Notices to a transition IEP meeting

J-28   Correspondence to Parents re: evaluation reports

J-29   Invitation for Re-evaluation Eligibility Determination and IEP Development

J-30   Parental Consent for Re-evaluations

J-31   Parental Acknowledgment of Receipt of PRISE

J-32   Teacher Report – Learning Skills 8 (Zack) April 2019 update

J-33   Invitation for Re-evaluation Planning

J-34   Invitations/Notices of Annual Review IEP

J-35   Invitation/Notices of Annual Review IEP

J-36   Invitations/Notices of Annual Review IEP

J-37   Invitations/Notices of Annual Review IEP

J-38   Annual Review IEP

J-39   Annual Review IEP

J-40   Annual Review IEP

J-41   Case Process Notes (6th Grade) by McKenna re Parent Concerns and Teacher Report

J-42   Parent Consent for Release of Confidential Information –Tomasini, dated March 30, 2017

J-43   Case Process Notes (6th Grade) by McKenna, re Observation with Tomasini, dated April 20, 2017

J-44   Emails between Varcardiponi and D.M., D'Elia and McKenna

J-45   Case Process Notes (7th Grade) by McKenna, May 2018, June 19, 2018

J-46   Case Process Notes (7th Grade) by McKenna, February 23, 2018, October 20, 2017

J-47   Emails between McKenna and N.M.

J-48   Case Process Notes (8th Grade) by McKenna, April 30, 2019, October 2, 2019

J-49   Emails between N.M. and McKenna and Bakaj

J-50   Not in evidence

J-51   Not in evidence

J-52   Case Process Note (9th Grade) by D-Elia re Gerson conference

J-53   Emails between D'Elia and D.M.

J-54   N.M. – Test of Achievement Results prepared by McKenna

J-55   9th Grade Report Card

J-56   LS Student Monthly Self-Assessment

J-57   Not in evidence

J-58   Not in evidence

J-59   Not in evidence

J-60   Not in evidence

J-61   CV of Lauren McKenna

J-62   CV of Melissa Varcardiponi

J-63   CV of Carmela Zack

J-64   CV of Michael Raguseo

J-65   CV of Vincent D'Elia

J-66   Emails between Zack and D.M.

J-67   CV of Lydia McIntosh-Haye

J-68   CV of Jennifer Schwarz

J-69   CV of Stephanie Lukasiewisz

J-70   CV of Gina Bakaj

J-71   CV of Kristen Hague

J-72   LS Student Monthly Self-Assessments

J-73   Email from McKenna to D.M., dated April 9, 2019

J-74   IEP meeting attendance sign-in sheet and consent to initial implement IEP, dated
July 27, 2016

J-75   IEP meeting attendance sign-in sheet and consent to implement IEP, dated June
20, 2017

J-76   Re-evaluation eligibility determination sign-in sheet, dated June 18, 2019

J-77   Counseling self-assessments of N.M.

J-78   CV of Dr. Gerson's CV