



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

**FINAL DECISION**

OAL DKT. NO. EDS 05889-22

AGENCY DKT. NO. 2022-34529

**M.D. ON BEHALF OF S.T.,**

Petitioner,

v.

**ESSEX COUNTY VOCATIONAL –  
TECHNICAL BOARD OF EDUCATION,**

Respondent.

---

**M.D.**, petitioner, pro se

**Courtney Gaccione**, Esq., for respondent

Record Closed: September 15, 2023

Decided: October 19, 2023

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

**STATEMENT OF THE CASE**

Petitioner M.D. on behalf of S.T. filed a due-process petition (Petition) asserting that Essex County Vocational-Technical Board of Education (Respondent or the Board) failed to comply with the terms of the IEP for the 2021–2022 school year and that S.T. was denied a free and appropriate public education (FAPE).

Petitioner seeks compensatory education.<sup>1</sup> Respondent denies the allegations.

### **PROCEDURAL HISTORY**

The parent, M.D., filed a request for due process on or around June 16, 2022. The contested case was transmitted to the Office of Administrative Law (OAL), where it was filed on July 18, 2022. The first prehearing conference took place on August 4, 2022, and a hearing was scheduled for October 7, 2022. The petitioner subsequently filed a Request for Emergent Relief in which the petitioner essentially made the same claims, and sought the same relief, as they appear in the Petition for due process. Oral argument on the application for Emergent Relief was held on August 26, 2022, and the application was denied in its entirety.

The hearing began via Zoom on October 7, 2022, as the petitioner had requested the hearing be conducted virtually to accommodate S.T., who was attending college out-of-State. As the second witness was testifying, M.D. reported that she was having difficulty with her computer and asked that the hearing be adjourned to a later date, and that it proceed in person. The petitioner's request to adjourn was granted and the hearing was rescheduled for December 13, 2022 and December 14, 2022, in person, dates that the parties had agreed to in advance. On December 3, 2022, M.D. requested another adjournment of the hearing due to a personal matter, and the hearing was adjourned to January 10, 2023 and January 11, 2023. In the late afternoon of January 9, 2023, the petitioner left a message at the OAL requesting another adjournment, but the request did not reach the judge until the morning of January 10. Respondent's counsel and witnesses, all of whom were unaware of the petitioner's most recent adjournment request, appeared for the hearing on January 10, 2023, at which time the petitioner, who did not appear for the scheduled hearing, requested, by telephone, an adjournment of the January hearing dates due to various personal reasons. To accommodate the petitioner's request, the January hearing dates were adjourned and peremptory hearing dates, for an

---

<sup>1</sup> When the petitioner filed the Petition, she also sought an appropriate placement and program, and transition plan. At the hearing, M.D. withdrew her request for placement and program, and a transition plan, as S.T. is now attending a university.

in-person hearing, were scheduled for February 23, 2023 and February 24, 2023. The hearing took place on these days, and the parties were given an opportunity to present post-hearing summations. The petitioner indicated that she intended to request transcripts of the hearing, and she was instructed to make any requests for transcripts by March 3, 2023, and to inform this tribunal once she received the requested transcripts. The parties were informed that they had thirty days from the date of receipt of these transcripts to file post-hearing summations, and that the record would close at that time.

Counsel for the respondent requested additional time to file post-hearing briefs when the transcript for one of the hearing dates had not been received. Subsequent requests for that transcripts were made by respondent counsel and that transcript was finally received on or around August 14, 2023. The parties were instructed to submit any post-hearing briefs by September 8, 2023. One was filed on behalf of the respondent on this date, but none was received from the petitioner. The petitioner was subsequently informed by e-mail that if she intended to file a closing brief, she was required to do so no later than September 15, 2023. None was received, and the record closed on September 15, 2023.

### **FACTUAL DISCUSSION**

S.T. began high school in 2019 as a general education student at Essex County West Caldwell Tech, which is part of the Essex County Schools of Technical Schools Vocational School District (the District). In March of her freshman year, S.T. first became eligible for special education services under the classification category of Other Health Impaired (OHI), because of her ADHD diagnosis. She remained eligible for special education throughout high school, and her mother filed this Petition on her behalf at the end of her senior year. Although S.T. met all graduation requirements by the end of the 2021–2022 school year, and while she attended the graduation ceremony, she refused to accept her diploma. Petitioner indicated that she believed that by refusing to accept the diploma, she preserves her right to file for Due Process.

In the Petition, M.D. alleges that: S.T. started the 2021–2022 school year without an updated and finalized IEP; the current IEP was amended without notice or a meeting;

the transition plan was inappropriate and not implemented; the IEP, including its Goals and Objectives, was not appropriate; the District did not consider S.T.'s needs; S.T. was denied an extended school year (ESY); that petitioner and S.T. were not truly members of the IEP team; and S.T. was denied a FAPE for the 2021–2022 school year. While the Petition seems to request “an appropriate placement and program,” as well as a transition plan and compensatory education, the parent later clarified that since S.T. was now attending college, and did not intend to return to the District, she was only seeking compensatory education, although the type or form of compensatory education sought was never made clear by the petitioner.

The District called four witnesses to testify at the hearing: Dr. Patricia Clark-Jeter (Dr. Jeter), Director of Student-Related Services; Cynthia Toro (Toro), School Social Worker, Suzanne Sabatino (Sabatino), CTE Evaluator/Transition Coordinator, and Jennifer DaSilva (DaSilva), School Counselor. M.D and S.T. also testified.

Based on the testimony the parties provided, and my assessment of its credibility, together with the documents the parties submitted, and my assessment of their sufficiency, I **FIND** the following as **FACT**:

M.D. and S.T. were invited to attend a virtual IEP meeting for May 27, 2021, near the end of S.T.'s junior year. The purpose of the meeting was to complete an annual review, address transition planning and to discuss the IEP for the 2021–2022 school year. M.D., S.T., and a State representative were present during this meeting, which lasted about three hours. The proposed Draft IEP for the 2021–2022 school year was reviewed at this meeting.

Taliah Joyner (Joyner), social worker and S.T.'s case manager at the time, provided petitioner with a copy of the Draft IEP. Sabatino collaborated with Joyner to come up with requested transition services needed to attain post-secondary goals that were included into the Draft IEP. The District was aware that S.T. planned to attend college after graduating high school.

The Draft IEP for the 2021–2022 school year provides for in-class support in Global Studies (i.e., Social Studies); counseling services twice per month; certain accommodations to address her ADHD; and transportation. The IEP notes that petitioner wanted S.T. to participate in counseling to address social and emotional skills, and it notes that she had previously participated in group and/or individual counseling. S.T. performed well in her math class Junior year, and she was recommended for AP Calculus. While she did well in math, the IEP notes that she needs redirection on occasion and could be a distraction to others. S.T. was also recommended for AP English. The IEP contains specific Goals and Objectives in the areas of mathematics, English, science and visual and performing arts, and counseling. M.D. requested extended time in S.T.'s visual and performing art classes, which was provided and incorporated into the IEP. Continued OT therapy was not recommended. M.D. had requested OT and PT evaluations, which were completed in April 2021, and the IEP provides S.T. with TheraPutty, introduces hand-strengthening exercises, and it contains recommended exercises for S.T. to complete in PE or during her free time.

The Draft IEP provides for the following accommodations in the educational setting: oral reminders; positive reinforcement; prior notice of test; extra time on written work; extra time on projects; extra response time; immediate feedback; review sessions; visual reminders; and repeat instructions. The Draft IEP also contains a Transition Plan containing a list of courses she is taking, and her reported interests, and a list of coordinated activities/strategies.

The Draft IEP notes that the IEP team did not feel that S.T. required ESY services based on several factors considered and addressed in the IEP. Jeter testified that the District's "summer enrichment" program is offered to all special education students, and S.T. was offered an opportunity to participate in this program but declined.

M.D. did not reject the Draft IEP at the May meeting. On June 16, 2021, Joyner sent M.D. an electronic copy of the Draft IEP, and asked that she review and advise if she wished to make any changes. There is no evidence that M.D. ever rejected the Draft IEP, or requested any changes. Jeter testified that since the petitioner never objected to the IEP, nor did she make any additional requests, it was adopted fifteen days later.

At the start of the 2021–2022 school year, the District transitioned to a new software system to manage and store the IEPs. Toro became the new case manager and counselor and she had to manually transfer over all the information from S.T.’s IEP into the new software system in September. While reviewing the IEP, she spoke with M.D. by telephone, and e-mailed her about scheduling a meeting to discuss the IEP. While Toro testified that the IEP that was drafted in May 2021 may not have been in final form until she transferred its content into the new computer system, she, and other District witnesses, testified credibly that the services and accommodations in that Draft IEP were in place at the start of the 2021–2022 school year. Toro also testified credibly that she informed M.D. of this early in the school year, and that M.D. did not suggest making any changes to the IEP after she asked M.D. if she requested any changes.

Transition Services were also addressed in the IEP for the 2021–2022 school year. The District was aware of S.T.’s interest in pursuing a college degree. The IEP contains contact information for the New Jersey Division of Vocational Rehabilitation Services (DVRS); it lists school staff who were to be S.T.’s liaison to post-secondary resources; and it states that the case manager will assist in the DVRS process. It contains activities/strategies related to measurable post-secondary goals, expected date of implementation, and the persons or agencies providing the services in the various areas.

As part of transition planning, Toro and Sabatino met S.T. in late September 2021 or early October as an introductory meeting and to discuss S.T.’s goals and post-graduation plans. Toro began counseling with S.T. in October, and counseling took place twice a month throughout her senior year, consistent with the IEP. S.T. confirmed that her plan was to go to college and live away from home, and that she wanted to focus on graphic design. Academically, S.T. was a successful student, even taking Honors and AP coursework, and she was on track for post-secondary education.

There was a brief delay in providing S.T. with counseling services at the start of the 2021–2022 school year. This brief delay was due to Joyner’s leave and the need to secure a replacement at the start of the school year. Therefore, while the IEP indicates that counseling was to start on September 13, it started later in the month or in early

October. There is no evidence that this brief delay had any impact on S.T., and there is no credible evidence that the other services and accommodations listed in the IEP were not offered and provided to S.T. throughout the school year.

The IEP, in its new format, was e-mailed to M.D. on November 12, 2021, and a hard copy was given to S.T. Toro attempted to schedule another IEP meeting with petitioner to go over the IEP but petitioner declined to attend any additional IEP meeting, and while the petitioner did not sign the IEP in its new format, she also did not reject or object to it. The District witnesses testified credibly that, despite the November date on the IEP, the supports and services in the IEP from May 2021 (with the exception of the counseling delay) were in place at the start of that school year.

During the bi-monthly counseling sessions, Toro encouraged S.T. to prepare her college applications and essay. The District provided various supports to students, including S.T., with the college application process. S.T., as well as other students, were provided a Checklist to assist in preparing for college, and she had access to Naviance. The District also holds conferences with students, and they are informed of college fairs that are available to them. The District sponsors a financial aid and FAFSA night to help students and parents fill out financial aid forms; and they hold individual meetings to assist students with their plans for college. Seniors also have meetings with counselors to work on college preparation plans. The District also hosted a meeting through the SEPAC (Special Education Parent Advisory Counsel), which informed parents of students with IEPs about the services provided by the DVRS, and DVRS presented to the parents on a fall evening.

A meeting was scheduled for S.T. to meet with her school counselor, DaSilva, in October to assist with the college application process. S.T. missed that appointment. About a week later, Sabatino e-mailed S.T. to reschedule that meeting, and sent her the link to the counselor's calendar to reschedule. S.T. did not reply, and in late October, Toro informed DaSilva that she had met with S.T. for counseling that morning and that she assisted her in scheduling an appointment with her for November 1. S.T. again failed to appear for the meeting, until her counselor finally pulled her out of class for the meeting. S.T. met with the counselor to begin the college planning process that fall, and S.T.

indicated at that time that she was applying to three specific colleges. They discussed teacher recommendations, Naviance, the Common App and the application process. In early December, DaSilva followed up with S.T. on the status of the Common App, asking if she required assistance in completing it. S.T. did not reach out for any assistance with the college application process, and she did not appear receptive when they did meet.

During her senior year, S.T. performed well academically. She was described by District witnesses as performing “at a very high level.” She took several honors classes and AP classes. Prior to her senior year, she was recommended for a summer program in honors pre-calculus so that she would have the option of taking AP calculus senior year, but S.T. opted not to complete that summer program.

In April 2022, Toro started to fill out a Summary of Performance (SOP) document for S.T. since she was graduating that year. After drafting the SOP document, she reached out to petitioner to schedule a SOP meeting. The meeting was scheduled for June 6, 2022. Ten days prior to the meeting, Toro sent M.D. documents in anticipation of the meeting. On the morning of the meeting, she also sent the SOP report and the two-page document identifying possible compensatory education offered by the District. When M.D. suggested at the SOP meeting that she did not have enough time to review the SOP document that had been sent to her earlier in the day, Jeter offered to reschedule the meeting to allow her more time to fully review the documents she had received, but M.D. declined. Toro also sent the documents to S.T. Also, while M.D. had requested that a representative from the DVRS also attend the SOP meeting, and Toro advised M.D. that she was required to sign a release or provide DVRS directly with additional information, M.D. failed to do so and DVRS declined to appear because they had not received the required paperwork from M.D. The June 6, 2022 meeting was attended by S.T., M.D., Jeter, Sabatino, Toro, Dr. Spencer (who reviewed the educational assessment), Ms. Diaz (who reviewed the psychological assessment), and a teacher. The SOP meeting, which typically lasts about forty minutes, lasted about an hour and twenty-four minutes, and the petitioner had an appropriate and full opportunity to participate in the meeting, as well as in the prior IEP meetings.



The SOP report was dated June 6, 2022, and it notes that S.T. is expected to graduate in June, and that she plans to pursue a Bachelor's degree in fine arts at a specific out-of-State college. In the PLAAFP (Present Levels of Academic Achievement and Functional Performance) section, it states that S.T. can become easily distracted, and lose focus and attention, and that with positive redirection she quickly gets back on task. It notes that she is "capable of doing the work when motivated," and it summarizes her progress in several areas. It indicates that she met graduation requirements and identifies a list of post-secondary educational supports that she would benefit from, including extended time on tests and assignments; provide outlines and test study guides; provide lecture notes, and others. It also specifically indicates that her case manager encouraged her to contact the College Office of Disability and request Section 504 accommodations for academic supports; and that the case manager encouraged her to pursue a DVRS referral in the event they can assist S.T. with employment and training. Contact information for DVRS was also provided. S.T. and M.D. signed this SOP document on June 6, 2022.

A Student's Record of Performance for S.T. was also provided for the meeting, as well as a Compensatory Services Document, which lists the types of compensatory services offered by the District and whether the student will receive any. During the meeting, compensatory services were discussed, and the District offered services, but M.D. and S.T. did not agree to any of these. M.D. was asked whether she wanted other services, but she did not identify any. The compensatory services offered included the Bridge Program, which is an extra year in high school; the after-school enrichment program, which is comparable to tutoring that would be provided after graduation and into college; and Rising 10th through 12th compensatory, which is a program that runs for a month in the summer where she could learn more about an area of her choosing; and Learning Academy, which is another summer program on different topics of interest, such as chemistry of cooking, or financial literacy.

At the SOP meeting, Sabatino learned where S.T. planned to go to college, and after the meeting she made several attempts, by calling and by e-mail, to reach out to the college to establish a connection with their office of disability services. She never received a response. Sabatino was informed that petitioner had already been in contact

with the college's office of disability services. Sabatino testified credibly that, typically, a college's office of disability services communicates directly with the student to secure the supports recommended for the student as reflected in the SOP document.

Later in June, Toro e-mailed M.D. about the compensatory services, and whether she was still going to decline the offered services. Toro notes in the e-mail that even though S.T. was not deemed in need of compensatory services by the CST, the District was offering its students with IEPs an opportunity to engage in these programs. The petitioner never responded to Toro's e-mail, and neither M.D. nor S.T. ever reached out to her again to say that they changed their minds and wanted additional services.

S.T. testified about scheduling issues that she had at the start of senior year, concerns over the lack of bussing after extra-curricular activities and during her freshman year, and she testified generally about feeling that her needs were not met and that the high school did not prepare her to be an adult. She testified that the counseling meetings with Toro were not helpful because they did not pertain to her ADHD or anxiety, and as they did not talk about time management and her procrastination. She later conceded that she never asked Toro to address or talk about time management and procrastination. She testified critically about the staff at the school, and expressed a host of complaints about the staff generally and about how the graduation ceremony was conducted. S.T. testified that some teachers did not completely accommodate her request for extra time on assignments, but she did not provide specifics and only identified one teacher as not having provided extra time on assignments. She testified that she wanted to leave the high school after graduation and did not want to take a bridge year. She admitted to denying all compensatory services options offered at the June 6 SOP meeting.

S.T. conceded that Sabatino helped her complete the DVRS referral process, and that she, herself, failed to request letters of recommendation from District staff in time for her to be considered for a merit scholarship that she initially faulted the District for missing. She also conceded that DaSilva did meet with her early in the school year and although she made herself available to help S.T. with the college application process, S.T. never reached out to her. She testified that M.D. filed this Petition to be able to "take this to civil court," and that she was not seeking any form of compensatory education—that they just

wanted to create a record. She did not identify how these complaints relate to a denial of a FAPE.

M.D. testified about how she felt the IEP was generic and had “so many errors” (without specifying any specifically), and that she had difficulty following the new format of the IEP. She described the transition plan as vague; and she found it troubling that S.T. had to reach out to her teachers for extra time. She struggled to identify any of the supports or accommodations listed in the IEP that did not go into effect in September 2021. The only support M.D. was able to identify that was lacking during S.T.’s senior year was extra time for assignments, however, M.D. did not provide any specific support for this assertion. She testified that the compensatory services offered were not appropriate for S.T. but did not explain how, and that S.T. was denied a FAPE. The petitioner offered no evidence to demonstrate that the IEP for the 2021–2022 school year, including the transition plan, was inappropriate.

### **LEGAL ANALYSIS AND CONCLUSIONS**

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 meet 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. 386 (2017).

The purpose of the IDEA is to ensure that all children with disabilities have access to FAPE that “emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent

living.” 20 U.S.C. 1400(d)(1)(A). For a school district to provide FAPE to a disabled child under the IDEA they must develop and implement an Individualized Education Plan (“IEP”) — a “comprehensive statement of the educational needs of a handicapped child and the specially designed instruction and related services to be employed to meet those needs.” Sch. Comm. of Burlington v. Dep’t of Educ. of Mass., 471 U.S. 359, 368, 105 S. Ct. 1996, 2002, 85 L. Ed. 2d 385, 394 (1985). An IEP is to be developed by a district’s child study team in conjunction with the parents of the child. N.J.A.C. 6A:14-2.3; N.J.A.C. 6A:14-3.7(b).

Procedural violations on the part of a school district may justify compensatory education or tuition reimbursement when the procedural defects caused such substantial harm that a FAPE was denied. C.H. v. Cape Henlopen Sch. Dist., 606 F.3d 59, 66-67 (3d Cir. 2010). When a procedural violation is alleged, “an administrative law judge may decide that the child did not receive a FAPE only if the procedural inadequacies: (1) [i]mpeded the child’s right to a FAPE, (2) [s]ignificantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to the child; or (3) [c]aused a deprivation of the educational benefit.” N.J.A.C. 6A:14-2.7(k).

Regarding the petitioner’s allegation that S.T.’s IEP was not in place at the start of the 2021–2022 school year, the evidence does not support this assertion. While the District adopted a new software system and the IEPs had to be moved into the new system, a preponderance of the evidence shows that S.T.’s IEP was in effect at the start of the school year and that she was receiving the supports and services provided for in the IEP at all times, with the only exception being the brief delay in starting counseling services due to a staffing issue. However, this delay of less than one month in providing bi-monthly counseling services was minor, it had no adverse impact on S.T., and there is no evidence to suggest that the delay resulted in a denial of FAPE. The evidence clearly demonstrates that the District implemented the services and accommodations in the IEP with fidelity. While there may have been a brief delay in providing counseling services, and while there may have been one teacher who did not always provide unlimited extended time on all assignments to S.T., there is no evidence that this had any adverse impact on S.T. She certainly did very well academically and was accepted into a four-year college of her choosing. If S.T. felt that she required additional counseling or

supports, or if she was entitled to certain accommodations that one teacher may not have been fully providing, petitioner or S.T. could have raised and addressed that issue with the school during the school year. There is no evidence that they ever did, or that the District ever failed to accommodate any of their requests.

Petitioner seems to allege other procedural violations in her Petition, including that the IEP was amended without notice or a meeting; and that petitioner and S.T. were not active members of the IEP team. No credible evidence was offered to support these assertions. Rather, the evidence suggests that the appropriate IEP meetings took place, and that the petitioner was notified of, and attended, these meetings. The District accommodated the petitioner in scheduling these meetings, M.D. was an active participant in the IEP and SOP meetings, and there is no credible evidence to suggest that the District ever denied the petitioner an opportunity to meaningfully engage and participate in these meetings. The meetings were certainly never rushed by the District, as they were much longer than the District's typical IEP and SOP meetings. There is also no evidence to suggest that the IEP was ever inappropriately amended without the required notice. I **CONCLUDE**, therefore, that there was no procedural violation here that resulted in a denial of a FAPE.

Petitioner also asserts that the IEP was inappropriate, including the transition plan as well as the Goals and Objectives. Petitioner offered no expert testimony to support her position that this denied S.T. a FAPE, and she failed to provide any explanation as to how the transition plan or Goals and Objectives were allegedly deficient. On the other hand, the District witnesses testified credibly concerning S.T.'s needs, primarily with regard to her ADHD; how the IEP identified and addressed those needs; and how the District implemented the IEP.

The IDEA addresses "transition services" under 20 U.S.C. § 1401(34), and the New Jersey Administrative Code essentially repeats the federal standard in N.J.A.C. 6A:14-3.7(e)(12)(i). In New Jersey, IEPs prepared during and after a student's fourteenth birthday must contain updated "course[s] of study and related strategies and/or activities that . . . [a]re intended to assist the student in developing or attending postsecondary goals related to training, education, employment and, if appropriate, independent living."

N.J.A.C. 6A:14-3.7(e)(11)(ii). Those IEPs must also contain, as appropriate “a description of the need for consultation from other agencies that provide services for individuals with disabilities including, but not limited to, the Division of Vocational Rehabilitation Services in the Department of Labor and Workforce Development,” and “a statement of any needed interagency linkages and responsibilities.” N.J.A.C. 6A:14-3.7(e)(11)(iii), (iv). The Third Circuit has not defined what amount of transition planning is required in an IEP to ensure a FAPE, but has suggested that an inadequate description of transition services would be a procedural IDEA violation, not a substantive one. See Rodrigues v. Fort Lee Bd. of Educ., 458 F. App’x 124, 128 (3d Cir. 2011) (per curiam) (citing Bd. of Educ. v. Ross, 486 F.3d 267, 276 (7<sup>th</sup> Cir. 2007)). Courts have further held that “[t]he floor set by the IDEA for adequate transition services appears to be low, focusing on whether opportunities are created for a disabled student to pursue independent living and a career, not just a promise of a particular result.” Coleman v. Pottstown School Dist., 983 F. Supp. 2d 543, 566 (E.D.Pa. Nov. 22, 2013).

S.T.’s IEP contained a transition plan for the 2021–2022 school year that addressed her post-secondary plans to attend college—including informing her of the college’s Office of Disabilities. Even if the IEP’s “Statement of Transition Services” may have contained an inadequate description of transition services, that alone does not equate to a substantive violation of the IDEA. Given my consideration of the evidence presented, I am persuaded that the District provided S.T. with appropriate transition services in compliance with the IDEA, the New Jersey Administrative Code, and the Third Circuit caselaw. The District assisted the petitioner in contacting DVRS; it met individually with S.T. to address and assist with the college application process, and followed up with her on the status; during her bi-monthly counseling sessions, S.T. was encouraged to work on her college applications and essays; like other students, S.T. was provided with a college application checklist, she had access to Naviance, and there were fairs and information sessions held at the school, including ones specifically for special education students. Moreover, the District attempted to connect S.T. with her selected college’s Office of Disability services, and S.T. did connect with them. The District also held an extensive SOP meeting prior to graduation. S.T. even conceded at the hearing that District staff made attempts to meet with her early in the school year to plan for college, and that they made themselves available to help. At the SOP meeting, S.T. and M.D.

were also offered several opportunities for additional transitional services, including an after-school enrichment program, a summer program with extra classes, and admission to the Learning Academy. The petitioner and S.T. rejected these supports. While the petitioner asserts that the District failed to do enough, S.T. successfully completed the required coursework to attend, and ultimately attended, the college of her choice. There is simply no credible or reliable evidence to support the petitioner's assertion that the transition plan or services provided were inadequate or inconsistent with the IDEA and N.J.A.C. 6A:14-3.7. Therefore, I **CONCLUDE** that the District provided S.T. appropriate transitional services, consistent with the IDEA and New Jersey Administrative Law.

I also **CONCLUDE** that a preponderance of the evidence shows that the District implemented and complied with S.T.'s IEP for the 2021–2022 school year, and provided her with a FAPE during that school year. Consequently, the petitioner is not entitled to any relief.

### **ORDER**

Based on the foregoing, I hereby **ORDER** that the relief requested by the Petitioner be and hereby is **DENIED**, and that the Petition be **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2022) 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 (2022). 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.

October 19, 2023  
DATE

  
**SUSANA E. GUERRERO, ALJ**

Date Received at Agency

\_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

jb

**APPENDIX**

**LIST OF WITNESSES**

**For Petitioner:**

M.D.

S.T.

**For Respondent:**

Dr. Patricia Clark-Jeter

Cynthia Toro

Suzanne Sabatino

Jennifer DaSilva

**LIST OF EXHIBITS IN EVIDENCE**

**For Petitioner:**

P-1 E-mails from May 23, 2022

P-2 E-mails from June 2022

P-3 Recording of Meeting

P-4 S.T.'s Historical Grades

P-5 E-mail dated December 19, 2021

P-6 E-mails from November 10, 2021 through November 18, 2021

P-7 E-mails dated November 18, 2022

P-8 Department of Education May 26, 2021 memo containing Guidance for ESY Services for Students with Disabilities as a Result of COVID-19

P-9 Emails from June 25, 2021 through June 29, 2021

**For Respondent:**

R-1 Invitation to a Meeting

R-2 2021 Draft IEP

R-3 2021 Final IEP from new system

R-4 ECST Written Notice-Progress Monitoring form signed by Toro on June 6, 2022



- R-5 E-mail I to petitioner sending Draft IEP dated June 16, 2021
- R-6 Letter from Toro dated October 11, 2021 and petitioner's consent to conduct assessments dated January 12, 2022
- R-7 E-mails from September and October 2022
- R-8 E-mail from Toro to petitioner attaching IEP dated November 12, 2021
- R-9 Summary of Performance dated June 6, 2022
- R-10 Psychological Assessment Report Scores
- R-11 Student's Record of Performance
- R-12 ECS Written Notice-Progress Monitoring with Toro's markings (front of document addressing compensatory education-back page is part of R-9)
- R-13 E-mail to petitioner and ST from Toro dated June 23, 2022
- R-14 E-mail to S.T. from Sabatino dated October 19, 2021
- R-15 E-mail to Seniors dated September 28, 2021
- R-16 E-mail from DaSilva to S.T. with invitation to meeting dated October 6, 2021
- R-17 E-mails from October 13, 2021 to and from S.T.
- R-18 E-mail to Seniors dated October 19, 2021
- R-19 E-mails between district staff concerning S.T.'s schedule dated October 28, 2021
- R-20 E-mail to all West Caldwell Tech Families dated October 29, 2021
- R-21 E-mails concerning S.T.'s appointment with DaSilva dated November 1, 2021
- R-22 Senior Individual Conference sheet
- R-23 E-mail from DaSilva to S.T. regarding fee waiver dated December 7, 2021
- R-24 E-mails between S.T. and DaSilva regarding S.T.'s transcript dated January 2022
- R-25 E-mail from S.T. regarding transcript, and DaSilva's response dated March 2022
- R-26 West Caldwell Tech Transcript Release and Request Form
- R-27 E-mail from S.T. about application deadlines, and DaSilva's response
- R-28 E-mails from July 2022 regarding final transcripts
- R-29 Active College Applications list from Naviance
- R-30 information from Naviance pertaining to S.T.