



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

**FINAL DECISION**

OAL DKT. NO. EDS 10703-23

AGENCY DKT. NO. 2024-36271

**K.F. AND M.F. ON BEHALF OF V.F.,**

Petitioners,

v.

**MONTCLAIR TOWN BOARD**

**OF EDUCATION,**

Respondent.

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**Hillary Freeman**, Esq., for K.F. and M.F. on behalf of V.F. (Freeman Law Offices, LLC, attorneys)

**Katherine Gilfillan**, Esq., for Montclair Township Board of Education (Schenck, Price, Smith & King, attorneys)

Record Closed: November 3, 2025

Decided: December 3, 2025

BEFORE **ANDREW M. BARON**, ALJ:

**STATEMENT OF THE CASE**

Petitioners, K.F. and M.F. (the parents) on behalf of V.F. filed a Petition for Due Process against the Montclair Township Board of Education alleging that the District's

denial of FAPE for V.F. for 2023-24 school year was not appropriate and is a violation of her related rights under the IDEA.

Petitioners seek multiple forms of relief, including but not limited to a finding that the District failed to meet its educational obligations to provide V.F. FAPE under the IDEA for the 2023-24 school year, and that the District's determination that a 504 was not sufficient to meet her special educational needs and that petitioners are the prevailing party in this action; that petitioners are entitled to full reimbursement due to the District's failure to implement an IEP to more accurately reflect and meet her educational needs and that petitioners be reimbursed for all expert fees and costs, including but not limited to reimbursement for all expert reports, and that compensatory education be awarded to remedy the denial of FAPE and the failure to implement an IEP.

### **PROCEDURAL HISTORY**

On or about October 11, 2023, the parents filed a Petition for Due Process against the District, seeking immediate implementation of an IEP for V.F. including but not limited to related assessments, reimbursement for all fees associated with the matter, and compensatory education. Prehearing resolution meetings were unsuccessful.

The matter was transmitted to the Office of Administrative Law (OAL), and the District filed its Answer on October 30, 2023.

Mediation was waived and a formal settlement conference held on April 25, 2024, was unsuccessful.

Though the parties continued to negotiate, ultimately, they reached an impasse which resulted in the scheduling of multiple hearing dates.

Hearing dates were conducted on December 18, 2024, March 24, 2024, March 26, 2024, March 27, 2025, March 28, 2025, and April 29, 2025. The final transcript for the hearings was received on May 28, 2025. Thereafter, post hearing submissions were simultaneously filed on July 7, 2025. Oral argument and supplemental argument were

held on July 23, 2025, and on September 19, 2025, respectively. The record was re-opened for clarification of the Exhibits on November 3, 2025.

### **TESTIMONY AND DISCUSSION**

Four witnesses testified for the District, including Dr. Uma Hassan, Director of Pediatric Infectious Diseases at St. Barnabas Hospital and V.F.'s treating physician, Maria Meo Supervisor of Pupil Services, Kristen Koenigsfest, a certified school psychologist, and Tamara Villagram a counselor from MCS.

Dr. Hasan also testified for petitioners as did BCBA Dr. Lisa Spano.

The following constitutes the relevant information that was derived from multiple sources, testimony, arguments and proofs presented in this matter.

At the beginning of her testimony, Dr. Hassan was admitted as an expert in pediatric infectious disease. As V.F.'s treating physician, Dr. Hassan shared how the combination of fatigue, disrupted sleep patterns, and cognitive impairment substantially impacted V.F.'s ability to attend school and maximize her involvement in school.

While much the District argued that V.F. was somehow able to play soccer in the afternoon, Dr. Hassan confirmed that this pattern was consistent with how "Long Haulers" behave.

When asked about V.F.'s repeated inability to wake up and get to school on time, Dr. Hassan reported that this pattern was also common in children suffering from "Long Covid," chronic exertional insufficiency or chronic fatigue syndrome.

Despite the District's rejection of V.F.'s autism diagnosis by Dr. Shifrin, Dr. Hassan had also expressed concerns to V.F.'s pediatrician that V.F. was on the autism spectrum due to her awkward social interactions as well as the possibility with a reasonable degree of medical certainty that "Long Covid" was impacting V.F.'s ability to function and focus.

The District also explored the concept of ‘school refusal’ with Dr. Hassan as the sole genesis for V.F.’s situation. Rejecting this theory, Dr. Hassan confirmed her determination that V.F. ‘had a true dysfunction which prevented her from getting to school on a regular basis.’

Additional questions asked on behalf of the District did not discredit Dr. Hassan’s testimony concerning the relationship between V.F.’s condition and her need for additional intervention at school which an IEP would have provided.

Continuing to pursue the possibility of school refusal as a stand-alone reason for V.F.’s situation, Dr. Hassan explained why it was not abnormal for V.F. to be able to go on vacation yet not be able to attend school on a timely and regular basis.

In continuing to share her expertise in this field, Dr. Hassan indicated that it was in fact “very common for kids like V.F., when they have a break from their routine, to be able to thrive outside the home for a specific period of time, yet upon their return, relapse into fatigue and inability to function.” In her words: “We don’t know what takes them over, but this situation is not unique to V.F.”

The questioning then focused on V.F.’s need for home instruction. While advocating for home instruction for a period of time, Dr. Hassan also conveyed by letter to District officials that it was important for V.F. to have the ability to come to school when able for in person instruction and to have the ability to participate in school functions and after school activities

Most important according to Dr. Hassan was V.F.’s need for access to social and emotional support including but not limited to access to school mental health professionals, social skills groups and opportunities. to engage with other students.

Unfortunately, while the District did offer mental health counseling access, it was when V.F. was not in school, or while attending some of her required core courses. The District did not offer alternatives and criticized V.F. for not being able to sustain a relationship with any of the outside private counselors arranged for by her parents.

While supporting the concept of home instruction due among other things to the excessive number of V.F.'s school absences and frequent lateness, Dr. Hasan reiterated it was also her preference that V.F. get back to a regular school routine as part of her healing process.

District Supervisor of Pupil Services Maria Meo testified to her role in overseeing the child study team (CST) for 9<sup>th</sup> through 12<sup>th</sup> grade. While credible in her presentation, Ms. Meo was unable to add much to the District's case in support of its position that it provided FAPE to V.F.

For example, Ms. Meo was not present for V.F.'s transition meeting into 9<sup>th</sup> grade.

Though Ms. Meo explained the "three prongs" V.F. had to meet in to be deemed eligible for special education and related services, she also acknowledged that when V.F.'s parents requested additional assessments, there would not have been any harm in doing additional assessments.

Ms. Meo also advised that learning social skills in the school environment enables students to understand how to build relationships, and having specially designed instruction, which constitutes the third of three prongs for determining the need for special education, would have helped and made V.F. feel more comfortable in the District's educational environment.

Despite the existence of V.F.'s disability that adversely impacted her academic performance, Ms. Meo did not specify why in consideration of V.F.'s poor attendance record, V.F. would not benefit from specially designed instruction.

V.F.'s case manager and school psychologist Kristin Koenigsfest also testified to support the District's determination that an IEP was not necessary.

Ms. Koenigsfest was familiar with V.F.'s multiple diagnoses, her struggle to function and how far she had fallen behind after missing multiple days of school. She

testified that V.F.'s medical condition prevented her from attending school but that specialized instruction was unnecessary.

Though the team recommended school-based counseling, there was little or no discussion about V.F.'s inability to take advantage of this important service.

The team to which Ms. Koenigsfest was part of decided not to classify V.F. based on the same information relied upon by the 8<sup>th</sup> grade middle school child study team. When some new tests/assessments were finally performed, the high school CST determined there was no need for an IEP, yet there was little if any explanation or analysis of the reports that gave rise to this decision. The determination letter itself did not specify or indicate the information on which the assessments were based or why V.F. did not need more intervention in the form of an IEP.

While Ms. Koenigsfest came across as genuine and sincere, she could not adequately explain why the team rejected the report from Dr. Shifrin which found evidence of V.F. being on the autism spectrum. This further indicates that regardless of what was put before it, the team was going to limit its opinion that V.F. could get by with a 504 plan even while on extended home instruction, and that classification, further assessments and/or an IEP was not going to be an option.

Also testifying for the District was school counselor Tamara Villagran. Though experienced, Ms. Villagran had never worked with a student suffering from the symptoms of "Long Haul Covid," and autism. Ms. Villagran's testimony did not shed much light on whether V.F. understood the need for counseling, or whether and how the school-based counseling sessions, many of which took place when V.F. was not even in school, helped V.F. overcome her educational, medical and mental health challenges.

District employee Dr. Shivoyne Trim testified in her capacity as director of Pupil Services. Dr. Trim, who was qualified as an expert in psychology and special education programming, testified that V.F. did not require specially designed instruction, (the third prong of classification before an IEP is offered) because V.F. was bright. Though sincere

in her presentation, there was insufficient explanation by Dr. Trim for the outright rejection of Dr. Shifrin's diagnosis that V.F. was somewhere on the autism spectrum.

Dr. Trim also did little to dispel or support the team's finding that the "Long Covid" diagnosis was medical only and had no impact on V.F.'s educational performance or ability to learn.

What stood out in particular, which Dr. Trim was fully transparent about was the fact that around the time V.F.'s parents sought classification and an IEP, the District had been reviewed by the New Jersey Department of Education due to its high number of students that had been classified. Dr. Trim shared that the Department of Education required the district to participate in a remediation program due to what was deemed an 'over-classification' of special education students.

With 504's not included in this category, the implication, is that the District's refusal to classify, and/or conduct further assessments that might lead to classification of V.F., was directly or indirectly influenced by the need to avoid another classification while still under a State remediation program.

Petitioners' expert Dr. Lisa Spano testified. After conducting an evaluation on February 28, 2024, Dr. Spano, a BCBA, concluded and opined that V.F. had severe deficits in the areas of in-school participation, executive functioning and time management, planning and organization, attention, sensory processing, emotional regulation, sleep patterns, self-awareness and social skills.

Her detailed opinion was based on a review of V.F.'s records and observation of V.F.'s virtual home instruction.

Dr. Spano requested an opportunity to come and see V.F.'s coursework and to be able to speak with district staff who were familiar with V.F.'s home instruction and school program.

For reasons unknown, the district declined Dr. Spano's request, a further indication that the request for additional assessments and/or a structured IEP was predetermined by the district.

According to Dr. Spano, who I deem a credible expert witness, and whose testimony was unbiased, V.F.'s 504 plan did not adequately address V.F.'s individualized needs, despite District's evaluation reports which clearly indicated the multitude and severity of her deficits.

Significant weight must be given to Dr. Hassan's uncontroverted medical diagnosis that V.F. was suffering from the effects of 'Long Covid' interfering with her ability to learn, together with Dr. Shifrin's uncontroverted autism diagnosis which the district also rejected without a reasonable explanation.

Before it decided that V.F. was not entitled to specially designed instruction, the District never asked its own physician for an opinion on the relationship between "Long Covid" and a student's ability to learn. Thus, **I FIND** Dr. Hasan's testimony is entitled to even more weight than all the District's witnesses.

Thus, while the District attempted to "poke holes" in Dr. Spano's testimony, she stood firm and withstood scrutiny under cross-examination that the district did not provide V.F. with a FAPE, and the 504 plan did not adequately address V.F.'s individual needs.

Dr. Spano's opinion was even more compelling because while she believed V.F. would better benefit from an out of district placement, V.F. rejected this option and wanted to remain in district since she wanted to complete her studies and graduate with her peers. This made V.F.'s case for an IEP with specially designed instruction even more compelling, so that while she was suffering from Long Covid and unable to get to school, she was entitled to the structure, benefits, goals and objectives that an IEP would have provided.



While **I FIND** all of the District witnesses, Ms. Meo, Ms. Koenigsfest and Dr. Trim to be genuine and sincere. **I FURTHER FIND** the testimony of Dr. Hassan and Dr. Spano is entitled to **greater weight** as is the autism diagnosis Dr. Shifrin.

Faced with having to explain to the State why another student needed classification the district chose to avoid classification.

Even if the District was not subject to this form of oversight, **I STILL FIND** that Dr. Hassan who was called as a witness by both sides, and Dr. Spano were better suited to determine and discuss why the 504 did not meet the district's FAPE obligations to V.F.

### **FINDINGS OF FACT**

1. V.F., age 15 at the time the hearing started, has been enrolled as a student in the Montclair School District since the 2014-15 school year.
2. She has been diagnosed with Autism Spectrum Disorder, Attention Deficit Hyperactivity Disorder, Chronic Fatigue Syndrome, and Other Specified Anxiety Disorder.
3. During the time in question that gave rise to this dispute, V.F. was also diagnosed with "Long Haul Covid." (J-6)
4. V.F. has difficulties with social, emotional, and behavioral functioning, which according to a psychiatric evaluation presented to the District, negatively impacted her learning and educational abilities.
5. In March 2021, while still in 6<sup>th</sup> grade, after noticing V.F. was turning her online camera off, sleeping during class and refusing therapy, V.F.'s parents contacted the District seeking help.
6. Pursuant to District protocol it developed an I&RS action plan with the goals of identifying why V.F. was having challenges and to put a structure in place to make her more accountable with assistance from her teachers.
7. Though little if any performance progress was made, the action plan continued into 7<sup>th</sup> grade with some minor revisions. While recommended, did not conduct evaluations.
8. V.F. is not classified as eligible for special education and related services under the Individuals with Disabilities Act (IDEA). Although the District declined to

issue V.F. a formal IEP upon entering high school, the District did continue a 504-accommodation plan which V.F. had during her last year of middle school.

9. Like most districts, it took some time for Montclair to transition to a full remote online learning platform for the remainder of the 2019-20 school year.
10. The remote online platform remained in effect for Montclair for the beginning of the 2020-21 school year, until April 9, 2021, when the District implemented a hybrid alternate day attendance system for students.
11. With permission from the District, V.F.'s parents determined that it was in her best interests to complete the remainder of 6<sup>th</sup> grade school year online.
12. At the beginning of the 2021-22 school year, as V.F. entered 7<sup>th</sup> grade, the District returned to in-person instruction.
13. V.F. returned to her home school, Renaissance Middle School where she had been enrolled but then transferred to Glenfield Middle School in February 2022 at the parent's request.
14. V.F. accumulated forty-six (46) absences during the 21-22 school year. (J-1)
15. Towards the end of 7<sup>th</sup> grade, V.F.'s parents submitted a note to the District from V.F.'s treating physician, Dr. Uzma Hassan, who is the Chief of Pediatric Medicine and Infectious Disease at RWJ Barnabas Hospital in West Orange. The note requested full-time in-home instruction for V.F. She is very familiar with the medical and mental health impact on patients like V.F. who are diagnosed with "Long Covid." (J-6)
16. **I FIND** Dr. Hassan, who testified over two days, and who was most familiar with V.F.'s overall medical history, to be **highly credible**, not just for her training and expertise, but for the obvious caring and empathetic approach she takes to patients like V.F.
17. Among other things, Dr. Hassan determined within a reasonable degree of medical certainty, including but not limited to her medical records as reflected in Exhibit 1A, that V.F. had been seen by multiple doctors with different areas of specialty, that she had a sleep disorder, was suffering from the effects of "Long Covid" and had a history of fatigue and depression in addition to being diagnosed with ADHD in April 2021.

18. Following receipt of the note, in June 2022, the District updated V.F.'s profile to provide home instruction, with Dr. Hassan's records indicating V.F. was struggling. (R-11).
19. Though the District accepted the "Long Covid" diagnosis, the District concluded without its own medical review, that the "Long Covid" diagnosis had no impact on V.F.'s ability to learn.
20. Before the end of the 2021-22 school year, petitioners submitted a neuropsychological report from Dr. Joshua Shifrin, dated April 6, 2022, which determined that V.F. had a form of autism. The report was submitted to the Glenfield Middle School 504 coordinator. (J-13)
21. In his report, which was followed by a supplemental report, Dr. Shifrin recommended the District implement an IEP for V.F. under the classification, "Other Health Impaired" as well as the introduction of empirically supported methods to address V.F.'s needs in school. (J-13).
22. Among other things, Dr. Shifrin further recommended supports, accommodations, and modifications including but not limited to a behavior plan, daily progress monitoring, social skills instruction and breaking assignments into smaller parts with manageable goals.
23. The District ultimately rejected Dr. Shifrin's autism diagnosis, without submitting it to its own expert in this area. Having rejected the autism diagnosis, the District deemed it unnecessary to seek permission from the parents to send V.F. for an independent evaluation as to whether or not she was or was not autistic.
24. The combination of the District's refusal to accept the Autism diagnosis, and the acceptance of the "Long Covid" diagnosis but refusal to accept its impact on V.F.'s ability to learn **I FIND** for lack of a better term constitutes "educational malpractice."
25. **I THEREFORE FIND** that the District's failure and unwillingness to accept Dr. Shifrin's Autism diagnosis and/or further explore whether or not V.F. suffered from some form of autism that could have been incorporated into an IEP was detrimental to its position that the District met its FAPE obligations to V.F. Because the District rejected the diagnosis from a recognized mental health professional was rejected, we will never know whether or not if such a diagnosis was incorporated into an IEP, V.F. would have benefited.

26. **I ALSO FIND** the same applies to the District's failure to provide FAPE by accepting the "Long Covid" diagnosis but disputing its educational impact without a medical basis.
27. An April 6, 2022, report by Dr. Joshua Shifrin was also submitted which determined that V.F. had a form of autism.
28. Two weeks after the start of the 2022-23 school year, the parents submitted a note from Dr. Lisa Kotler of the NYU Child Study Center, diagnosing V.F. with ADHD, inattentive subtype and an adjustment disorder with anxiety.
29. Here, we have a student suffering from the effects of "Long Covid," struggling with aspects of ADHD, and some form of autism, yet the District's child study team did not offer V.F. an IEP.
30. Shortly thereafter, petitioners submitted another note from Dr. Hassan dated September 29, 2022, diagnosing V.F. with "post Covid symptoms," and requesting and recommending various accommodations for V.F.
31. While in 8<sup>th</sup> grade, under the auspices of the 504 plan, V.F. accumulated over seventy (70) absences from school, almost double the number of absences from the time Montclair returned to full-time in person learning.
32. On February 22<sup>nd</sup> and February 28<sup>th</sup> respectively, petitioners submitted two additional recommendation/request notes from V.F.'s treating physician Dr. Hassan including but not limited to a request for home instruction as and excusal from gym class. (Gym/health is a mandatory four-year requirement in order to meet State graduation requirements. Though not a core academic class, **I FIND** it is still part of a District's FAPE obligations to a student.
33. Dr. Hassan, who testified at length about the impact of "Long Covid" on V.F., having studied and researched this condition at length, would ultimately submit two more notes and recommendations requesting home instruction continue for the remainder of the 2022-23 school year. With now at least four requests of a similar nature from Dr. Hassan, as well as seventy (70) confirmed absences, by V.F., **I FIND** the District's refusal to switch from a 504 plan to an IEP even on a trial basis, coupled with the failure to reference the parts of the evaluations on which it relied upon to deny the implementation of an IEP constitutes a denial of FAPE.

34. Again the District failed to offer or implement an IEP, which among other things would have included goals and objectives for this particular student diagnosed with “Long Covid,” **I FURTHER FIND** the failure to provide an IEP, combined with the rejection of the autism diagnosis from a recognized mental health professional, constitutes a denial of FAPE.
35. Frustrated and concerned about V.F. falling further behind with learning, petitioners approached the District’s Child Study team on March 8, 2023, again requesting an identification and potential evaluation for special education and related services under the auspices of an IEP.
36. In response to this request, the CST scheduled an Initial Identification and Evaluation Planning meeting for March 17, 2023, which had to be rescheduled for April 13, 2023. During the initial meeting, the CST determined some evaluations were warranted, which petitioners consented to.
37. Despite each of the District’s own evaluations themselves providing compelling reasons for the District to provide FAPE to V.F. through an IEP, the 504 plan remained in place.
38. The District’s Speech and Language report, prepared by Patrina Caruana, MA, confirmed that V.F. continued to struggle, even with the 504 accommodations. In fact, the highest score she received on this evaluation was a 9 out of 37 which was related to V.F.’s ability to probe her understanding of the main idea.
39. As to the District’s Occupational Therapy report, dated May 15, 2023, V.F. received scores in the Severe Difficulties range indicated that V.F. has a significant sensory processing problems.
40. The District conducted a psychological evaluation on April 26, 2023, and an educational evaluation dated May 5, 2023. (J-15).
41. The psychological report, conducted by School Psychologist Dr. Venezia, found that V.F. was rated within the “At-Risk” to Clinically Significant range on the Depression scale. The report also noted that V.F. has a short attention span, gets easily distracted and has trouble making new friends. The report did not contradict Dr. Shifrin’s autism finding reflected in Dr. Venezia’s report.
42. Dr. Sanusi conducted a psychiatric evaluation conducted was also conducted on June 16, 2023. His report reflects among other things that “V.F. tries to talk to people but it does not go anywhere.” He further stated that “V.F. would

- benefit from initiatives to help students with ADHD, Chronic Fatigue Syndrome, and Anxiety Disorder.” An educational setting that provides appropriate support, supervision and structure would benefit V.F. (J-20).
43. According to Dr. Sanusi, “V.F. may benefit from school-based psychotherapy, organizational skills training and behavior therapy, cognitive behavior therapy to address her anxiety.
44. Dr. Sanusi also felt that V.F. would benefit from participation in behaviorally oriented therapeutic programs for children with Autism Spectrum Disorder.
45. Dr. Sanusi concluded his report by stating that “close collaboration between family, school staff and treating physicians will be necessary to develop future educational/treatment approaches for V.F.
46. **I FIND** that the District failed to meet its FAPE obligations by essentially ignoring the findings and recommendations of its own independent experts in the areas of speech, occupational therapy, psychology and psychiatry, by refusing to offer and develop an IEP. **I FURTHER FIND** that even if some of the recommendations of the independent evaluators were adopted, that could only be achieved and followed by V.F.’s teachers under the auspices of an IEP, which the district continued to reject. Simply put, for V.F., **I FIND** that **no IEP means no FAPE.**
47. The psychological evaluation does not reference why Dr. Shifrin’s report finding evidence of autism was incorrect, and the educational evaluation does not incorporate Dr. Hassan’s diagnosis that V.F.’s post Covid diagnosis interfered with her ability to learn.
48. **I FIND** the District’s failure to classify V.F. as a student in need of an IEP, despite the evaluators to reference these areas of diagnosis by V.F.’s medical and mental health professionals, additionally constitutes the District’s failure to meet its FAPE obligations to V.F.
49. Following a meeting with petitioners at the end of the 2023 school year, on June 20, 2023, the Child Study Team found V.F. ineligible for classification under the IDEA.
50. A one-page letter, memorialized in Exhibit 20, which confirms the denial of eligibility. **I FURTHER FIND** that the failure to explain and discuss and incorporate what the District relied on in its written denial from the five

evaluations to reach its conclusion that V.F. was not eligible also constitutes a denial of due process and FAPE.

51. V.F. completed the 2022-2023 school year on home instruction, with the standard ten (10) hours a week of minimum instruction. **I FIND** this was not the least intrusive way to deliver a FAPE education to V.F.
52. Still without an IEP, V.F. transitioned to 9<sup>th</sup> grade and entered Montclair High School for the 2023-24 school year. The District would still only review and approved a 504 with minor revisions.
53. After less than two months in the 2023-24 school year, V.F.'s absences mounted again. Petitioners approached the District for another meeting with the Child Study Team for reconsideration of its IEP determination. (J-27).
54. On at least two occasions, V.F. received a warning letters from the district that her extended absenteeism could result in discipline and/or the need to repeat certain coursework.
55. The District again declined to implement a classification and/or award an IEP with a more structured educational program with specific goals, objectives and a description of how to meet those standards and objectives many of which State mandated requirements.
56. Another Child Study Team meeting was held on November 13, 2023.
57. The District again declined to award an IEP, nor did it agree to further evaluations that might lead to reconsideration of its IEP decision.
58. Following the meeting, the District referred V.F. to the District's therapeutic counseling program, and upon reviewing a fifth note from Dr. Hassan, formalized more home instruction for V.F. again without the benefit of an IEP.
59. This referral is problematic because many of the sessions took place before V.F. was able to physically attend school.
60. Also of concern is whether the State's monitoring of the District refused to implement an IEP because it was under review and being monitored by the State for the total number of students in the entire District who had IEP's.
61. The last witness who testified for the District. Ms. Meo, confirmed the State, which had oversight authority had expressed concerns about the number of student IEP's in the District which was put on a remediation plan, though the district denied this was a factor in the determination.

**I FURTHER FIND** the District violated V.F.'s due process rights were violated and the District ignored its obligations to provide FAPE under IDEA, by virtue of its failure to explain in writing its basis for denying an IEP even on a trial basis. **I FIND** the District failed to provide V.F. with an appropriate educational program for the 2022-2023 and 2023-2024 school years.

**I FIND** that, having considered all the evidence and testimony under the totality of the circumstances, V.F.'s parents exhausted all efforts to work with the District. **I FIND** V.F. is entitled to an IEP to be developed by the District to meet her unique educational needs.

I further **FIND** that the District denied V.F. FAPE under IDEA. An eligibility meeting was not convened as required by law within twenty days of petitioners' request. Having reviewed the submissions of both parties, **I FIND** petitioners are entitled to reimbursement of all reasonable costs and expenses related to the private evaluations and expert witnesses identified herein. As such, I further **ORDER** that petitioners be reimbursed for these expenses, including but not limited to reasonable counsel fees the number of which will be determined in another forum. As the prevailing party, petitioners are also entitled to reasonable counsel fees.

As to the request for compensatory education, **I FIND** that petitioners and V.F. are also entitled to compensatory education as set forth below.

### **LEGAL ANALYSIS AND CONCLUSIONS**

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400–1482, ensures that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, and ensures that the rights of children with disabilities and parents of such children are protected. 20 U.S.C. § 1400(d)(1)(A), (B); N.J.A.C. 6A:14-1.1. A “child with a disability” means a child with intellectual disabilities, hearing impairments (including



deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, and who, by reason thereof, needs special education and related services. 20 U.S.C. § 1401(3)(A). V.F. has been diagnosed with ADHD and autism, but the District contested the autism diagnosis.

States qualifying for federal funds under the IDEA must assure all children with disabilities the right to a free “appropriate public education.” FAPE 20 U.S.C. § 1412(a)(1); Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176 (1982). Each district board of education is responsible for providing a system of free, appropriate special education and related services. N.J.A.C. 6A:14-1.1(d). A “free appropriate public education” (FAPE) means special education and related services that (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under 20 U.S.C. § 1414(d). 20 U.S.C. § 1401(9); Rowley, 458 U.S. 176. Subject to certain limitations, FAPE is available to all children with disabilities residing in the State between the ages of three and twenty-one, inclusive. 20 U.S.C. § 1412(a)(1)(A), (B).

An individualized education program (IEP) is a written statement for each child with a disability that is developed, reviewed and revised in accordance with 20 U.S.C. § 1414(d); 20 U.S.C. § 1401(14); 20 U.S.C. § 1412(a)(4). When a student is determined to be eligible for special education, an IEP must be developed to establish the rationale for the student’s educational placement and to serve as a basis for program implementation. N.J.A.C. 6A:14-1.3, -3.7. At the beginning of each school year, the District must have an IEP in effect for every student who is receiving special education and related services from the District. N.J.A.C. 6A:14-3.7(a)(1). Annually, or more often, if necessary, the IEP team shall meet to review and revise the IEP and determine placement. N.J.A.C. 6A:14-3.7(i). FAPE requires that the education offered to the child must be sufficient to “confer some educational benefit upon the handicapped child,” but it does not require that the school district maximize the potential of disabled students commensurate with the opportunity provided to non-disabled students. Rowley, 458 U.S. at 200. Hence, a

satisfactory IEP must provide “significant learning” and confer “meaningful benefit.” T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577-78 (3d Cir. 2000).

The Supreme Court discussed Rowley in Endrew F. v. Douglas County School District RE-1, 580 U.S. 386, 137 S. Ct. 988 (2017), noting that Rowley did not “establish any one test for determining the adequacy of educational benefits” and concluding that the “adequacy of a given IEP turns on the unique circumstances of the child for whom it was created.” Id. at 996, 1001. Endrew F. warns against courts substituting their own notions of sound education policy for those of school authorities and notes that deference is based upon application of expertise and the exercise of judgment by those authorities. Id. at 1001. However, the school authorities are expected to offer “a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances.” Id. at 1002.

In Lascari v. Ramapo Indian Hills Reg’l Sch. Dist., 116 N.J. 30, 46 (1989), the New Jersey Supreme Court concluded that “in determining whether an IEP was appropriate, the focus should be on the IEP actually offered and not on one that the school board could have provided if it had been so inclined.” Further, the New Jersey Supreme Court stated:

As previously indicated, the purpose of the IEP is to guide teachers and to ensure that the child receives the necessary education. Without an adequately drafted IEP, it would be difficult, if not impossible, to measure a child's progress, a measurement that is necessary to determine changes to be made in the next IEP. Furthermore, an IEP that is incapable of review denies parents the opportunity to help shape their child's education and hinders their ability to assure that their child will receive the education to which he or she is entitled.

[Id. at 48-9. (citations omitted)].

In accordance with the IDEA, children with disabilities are to be educated in the least restrictive environment (LRE). 20 U.S.C. § 1412(a)(5); N.J.A.C. 6A:14-1.1(b)(5). To that end, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are to be educated with children

who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment should occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 20 U.S.C. § 1412(a)(5)(A); N.J.A.C. 6A:14-4.2. The Third Circuit has interpreted this to require that a disabled child be placed in the LRE that will provide the child with a “meaningful educational benefit.” T.R., 205 F.3d at 578. Consideration is given to whether the student can be educated in a regular classroom with supplementary aids and services, a comparison of benefits provided in a regular education class versus a special education class, and the potentially beneficial or harmful effects which placement may have on the student with disabilities or other students in the class. N.J.A.C. 6A:14-4.2(a)(8).

The Third Circuit has adopted a two-part test to determine whether a child has been placed in the least restrictive environment under IDEA. First, a court must determine “whether education in the regular classroom, with the use of supplementary aids and services, can be achieved satisfactorily.” See Daniel R.R. v. State Bd. of Educ. 874 F.2d. 1036, 1044 (5th Cir. 1989). Second, if the court finds that placement outside of a regular classroom is necessary for the child to benefit educationally, then the court must decide “whether the school has mainstreamed the child to the extent appropriate,” such as whether the school has made efforts to include the child in school programs with nondisabled children wherever possible. Id. at 1048. In considering whether a child with a disability can be satisfactorily educated in the regular classroom, a court should consider: 1) the steps the school district has taken to accommodate the child in the regular classroom; 2) the child’s ability to receive an educational benefit from regular education; and 3) the effect the disabled child’s presence has on the regular classroom. N.J.A.C. 6A:14-4.2 (a)(8).

The IDEA and its related New Jersey regulations describe a continuum of placement options. 34 C.F.R. 300.115 (2009); N.J.A.C. 6A:14-4.3.

Along the continuum of placements, from least restrictive to most restrictive, home instruction is one of the most restrictive. In New Jersey, home instruction should only be

the designated placement “when it can be documented that all less restrictive options have been considered and have been deemed inappropriate.” N.J.A.C. 6A:14-4.8(a). A school district is required to provide the N.J. Department of Education with prior written notification before placing a child on home instruction and such notice is effective for a maximum of 60 days, at which time renewal of the notification may be made. In accordance with the regulations, instruction must be provided for at least ten hours a week by certified teachers on at least three separate days. N.J.A.C. 6A:14-4.8(a)(5). The District contends that it provided FAPE to V.F. in the least restrictive environment. When a student who is already receiving special services in school is switched to home instruction, the District is obligated to make sure at least the same level of services is being provided. And home instruction, without an IEP, which was continued for this student after the State shutdown ended, can result in social isolation of a most restrictive environment. See M.S. o/b/o K.E. v. Camden Bd. of Educ., EDS 00698-07, Final Decision (Aug. 3, 2007).

Petitioners contend that the District’s 504 plan was not sufficient to meet V.F.’s individualized needs and did not provide V.F. with FAPE. An IEP with specialized instruction was never offered. The District bears the burden of proof and the burden of production whenever a due process hearing is held pursuant to the provisions of the IDEA. N.J.S.A. 18A:46-1.1. For the reasons set forth herein, **I CONCLUDE** the District did not meet its burden.

There are several strong indicators that V.F. did not receive FAPE and would not have done so without the benefit of an IEP.

Unlike the District, Dr. Shifrin diagnosed V.F. with Autism Spectrum Disorder (ASD), and recommended an IEP. Yet, the district rejected the ASD diagnosis or call for further testing. Despite Dr. Shifrin’s finding, The District’s witnesses stated no further testing was contemplated because “she did not present as a child with autism.

**I CONCLUDE** that home instruction for V.F. without an IEP. was not the least restrictive environment (LRE). The District allowed for home instruction under a 504 plan only knowing that V.F. had a number of medical and mental health challenges, not the

least of which was symptoms of “Long Covid” which surfaces in the form of extensive fatigue, a feeling of being “fogheaded” and other ailments which created challenges in tolerating a full school day.

Here, District officials were adamant that no other options other than a 504 plan were necessary to meet V.F.’s educational needs. When V.F.’s parents asked two months into the 2023-24 school year for updated and/or new assessments, the District refused essentially saying despite V.F.’s significant number of absences and other related learning challenges that the 504 on home instruction fulfilled its obligations to V.F. and met her needs.

Based on the testimony of Dr. Hassan, Dr. Spano, Dr. Shifrin’s report diagnosing autism, Dr. Kotler’s letter, and Dr. Sanusi’s psychiatric assessment as well the district’s own evidence and testimony, **I CONCLUDE** the district failed to meet its burden that it provided FAPE to V.F.

Without the goals and objectives under a formal classification as would have been contained in an in an IEP, V.F. lacked the prerequisites for mastery of the curriculum and therefore was not appropriate to establish meaningful progress. As V.F.’s absenteeism continued, The District’s attempt under a 504 plan with home instruction was to meet V.F.’s needs was woefully insufficient.

After consideration of all the testimony and evidence, **I CONCLUDE** that the District did not sustain its burden that V.F. was receiving FAPE in the Least Restrictive Environment. I therefore **CONCLUDE** that petitioners are the prevailing party in this matter.

Based upon the testimony and documentary evidence, **I CONCLUDE** that the District’s 504 was not appropriate to meet V.F.’s. educational needs for the 2022-2023 and 2023-24 school years and did not provide her with a FAPE.

Finally, **I ALSO CONCLUDE** that V.F. is entitled to compensatory education. Since it is somewhat difficult to measure what an appropriate award of compensatory

education should look like, I can only make an award in this category in general terms, by creating a formula based on circumstances uniquely applicable to V.F.'s case.

At the minimum of ten (10) hours of in-home instruction per week, V.F. was receiving forty (40) hours per month of educational instruction under a 504 plan.

Over the course of a ten-month school year, for 2022--23 and 2023-2024 it is estimated that V.F. would have received approximately four hundred (400) hours of educational time per year while on home instruction.

Thus, while the District in certain circumstances may fulfill its basic minimum obligations to a student by placing the in-home instruction, according to the District's own independent evaluators, this student, V.F. required much more which clearly could not have been provided under the basic auspices of a 504 plan.

**I THEREFORE CONCLUDE**, using a percentage of the minimum number of hours of home instruction provided without the structure of an IEP, that an award of an additional eighty (80) hours of compensatory education is appropriate, which if spread out over a ten-month school year comes to eight (8) hours a month.

Further, because of the behavioral issues noted in the district's own evaluations, in addition to the recommendations and determinations of Dr. Hassan, Dr. Spano and Dr. Shifrin, as well as the fact that the school therapy sessions were only offered during times when V.F. was not in school, **I FURTHER CONCLUDE**, V.F. is also entitled to an additional twenty (20) hours of behavioral therapy, which if spread out over a ten-month school year comes to two hours per month.

Finally, at the time of hearing V.F. was not on target to graduate with her peers. Though not guaranteed, this award of compensatory education is also designed to help V.F. meet certain basic requirements in an effort to get closer to her goal of graduating with her peers.

It shall be the responsibility of the parties to design a schedule for V.F. to implement this award of compensatory education.

**ORDER**

Based on the foregoing, it is hereby **ORDERED** that the relief sought by petitioners is **GRANTED**. VF is deemed eligible for special education and related services and the District shall develop an IEP in accordance with her unique needs.

Petitioners shall be reimbursed for all reasonable costs and expenses, including but not limited to fees spent on experts and/or other related medical and mental health professionals whose reports and testimony was used in this case.

As set forth above, compensatory education is hereby awarded.

As the prevailing party, counsel may apply for reasonable counsel fees and costs in the appropriate forum.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2025) 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 (2025). 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.

December 3, 2025

DATE

Date Received at Agency

Date E-Mailed to Parties:  
Ir

  
ANDREW M. BARON, ALJ

December 3 2025

December 3, 2025

## **APPENDIX**

### **Witnesses**

#### **For Petitioners:**

Dr. Uzma Hassan

Dr. Lisa Spano

#### **For Respondent:**

Dr. Uzma Hassan

Maria Meo

Kristin Koenigsfest

Tamara Villagran

Dr. S. Trim

### **Joint Exhibits**

- J-1 Daily attendance SUMMARY
- J-2 Dr. Hassan letter
- J-3 12/12/24 email
- J-4 Dr. Kotler letter
- J-5 Section 504 Accommodation plan
- J-6 Dr. Hassan letter
- J-7 Daily attendance summary
- J-8 Dr. Hassan letter
- J-9 Dr. Hassan letter
- J-10 Referral
- J-11 Invitation for evaluation planning
- J-12 Invitation for evaluation planning



J-13 Dr. Shifrin evaluation  
J-14 Psych evaluation  
J-15 Educational evaluation  
J-16 Speech language evaluation  
J-17 Social history  
J-18 Occupational eval.  
J-19 Grace Medical eval.  
J-20 6/20/23 Eligibility determination  
J-21 3/15/23 Dr. Hassan letter  
J-22 4/11/23 Dr. Hassan letter  
J-23 Glenfield Middle School report card  
J-24 Student schedule form  
J-25 504 Accommodation plan  
J-26 Daily attendance report  
J-27 Request for CST evaluation  
J-28 Evaluation request denied  
J-29 Meo email  
J-30 11/9/23 Dr. Hassan letter  
J-31 Report card

**PETITIONER'S EXHIBITS**

P-33 Dr. Spano report  
P-33 (used twice) Program evaluation  
P-37 Dr. Spano C.V.

**RESPONDENT EXHIBITS**

R1a- Dr. Hassan records  
R-12 Referral  
R-16 Grades

R-19 Nurse's records

R-21 VF's file

R-27 Email

R-40 Villgras CV

R-41 Dr. Trim CV

R-42 CV

R-48 Dept. of Ed. Learning standards