

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 17426-15

AGENCY DKT. NO. 2016-23520

A.C. AND L.C. ON BEHALF OF S.C.,

Petitioners,

v.

**BERNARDS TOWNSHIP BOARD OF
EDUCATION,**

Respondent.

Richard J. Kaplow, Esq., for petitioners A.C. and L.C. o/b/o S.C. (Law Offices of
Richard J. Kaplow, attorneys)

Cherie L. Adams, Esq., for respondent Bernards Township Board of Education
(Adams, Stern, Gutierrez & Lattiboudere, attorneys)

Record Closed: July 21, 2017

Decided: August 7, 2017

BEFORE **GAIL M. COOKSON**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On or about September 28, 2015, A.C. and L.C. filed this petition on behalf of their then nine-year-old daughter S.C. and requested a due process hearing on the issue of whether respondent Bernards Township Board of Education (District) had failed to provide her a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. §§ 1400 to 1419. The petition sought placement in an out-of-district placement with special services appropriate for this

severely impacted autistic child, as well as related services at school and at home. Petitioners have proffered Somerset Hills Learning Center, among other private schools, as an appropriate placement.

The Office of Special Education Programs (OSEP) transmitted the petition to the Office of Administrative Law (OAL) on October 30, 2015. After several attempts at resolution at the OAL did not result in a settlement, the matter was assigned to me on March 16, 2016, for determination as a contested matter. During the initial case management conference convened telephonically on March 28, 2016, I advised counsel of my mandatory protocols as set forth in my Standing Case Management Order for Special Education Cases. In accordance with that Standing Case Management Order, on which there were no objections or exceptions filed, all direct testimonies of witnesses were proffered through pre-filed written submissions and the witnesses were then presented for oral cross-examination and re-direct examination, as needed. Pre-filed direct testimonial certifications were made part of the record herein. Several additional status conferences were held.

The hearings were originally scheduled for the 2016 summer and fall but then postponed in order to allow the parties the opportunity to undertake additional evaluations that might help resolve the dispute. In addition, there were personal medical issues for petitioners. The plenary hearings were held on February 17, March 1, May 15, 23, and 26, and June 12, 2017. The final post-hearing written briefs were received on or about July 21, 2017. I allowed an additional date for oral argument on August 30, 2017, should same be needed, but I ultimately found I did not require same.

SUMMARY OF TESTIMONY

S.C. is a young girl, now age eleven years old, who is in the fifth grade in the Bernards Township special autism program – Comprehensive Behavior Analytic Program (CBAP). There is no dispute among the parties hereto that S.C. has significant developmental delays as a result of her severe autism, as well as a seizure

disorder, now under medical control.¹ Fortunately, there has been no evidence of any seizure activity over the past year. S.C. and her family had been living in Westfield when that district placed her in the Bernards CBAP as an out-of-district placement. Petitioners were pleased with the program at that time and made the decision to move into the Bernards District during the summer of 2012. S.C.'s first full school year in the program was 2012-2013, after an extended school year (ESY) program the summer of 2012.

As described by several witnesses for respondent, CBAP consists of nine classrooms with five or six students in each, organized by age and presumptive grade level. Each classroom has a 1:1 aide for each student as well as a Teacher of the Handicapped, although the aides rotate during the course of the school day in order to help the students generalize skills across different presenting aides. Each classroom is also overseen by a BCBA who provides guidance, supervision and training.

Karen Martin testified for the District. Martin is a School Psychologist and a case manager in the District, with responsibility for seven ABA classrooms in the CBAP. She has held that position since September 2006. Prior to working for the District, Martin worked as the Director of the Early Childhood Learning Center at New Jersey City University from July 1, 2002 through August 29, 2006. She is on the District's preschool Child Study Team (CST). Martin holds an undergraduate degree in psychology from Fordham University, and a Masters in Early Childhood Education and a Professional Diploma in School Psychology from New Jersey City University. Martin is certificated as a School Psychologist and a School Supervisor. I qualified her without objection as a School Psychologist with a specialty in Special Education.

Martin's responsibilities as a school psychologist include administering tests that measure cognitive abilities, generating reports based on that testing, and participating in eligibility and IEP meetings to discuss the findings of her testing and recommendations

¹S.C. takes 1.25 ml of Fluoxetine, 1 mg of Risperidone, and 125mg of Lamictal each morning, at 1:00 p.m. daily she takes 0.25 Risperidone, and at bedtime daily she takes 0.75 Risperidone and 3mg Melatonin.

that she has for the student's educational program. Martin is also the case manager for S.C. As case manager, she is responsible for ensuring that S.C.'s IEP is implemented, that S.C.'s teachers and related service providers are reporting on S.C.'s progress, and that the IEP is updated on an annual basis. Martin oversees the development of the IEP and coordinates IEP and other meetings, as well as consults with service providers on a regular basis on behalf of S.C.

Martin described in her direct testimony the assessments conducted of S.C. by the Westfield school district prior to her enrollment in Bernards. The last IEP developed for S.C. by Westfield was dated April 26, 2012. This was the IEP in place when S.C. transferred to the District. Westfield's April 26, 2012 IEP set forth placement in a self-contained autism program where S.C. received one-on-one instruction using discrete trials and applied behavior analysis (ABA) methodologies. The IEP also set forth an extended school year (ESY) program, a personal aide, individual and group speech and language therapy, individual and group occupational therapy, and individual physical therapy services.

After enrollment in the District, Martin convened an IEP meeting on July 9, 2012. She stated that the following was discussed at that time: the then-current IEP, ESY related services, behaviors, medication, reinforcers, adaptive skills, academic skills, speech, and social skills. The team discussed the thirty-day curriculum assessment that is conducted by staff on new students to help develop the student's individualized goals. An occupational therapy evaluation was also recommended by the occupational therapist to further assess S.C.'s fine motor skills and to help develop her goals and objectives. At the meeting, petitioners reported that S.C. had had no prewriting strokes, used a fork and spoon to eat as well as her fingers, is predominately left-handed but sometimes uses her right hand, could not put on her underwear by herself, could not button or zip her clothing, and needed guidance with toilet wiping and washing her hands. For S.C., the thirty-day review meeting took place on August 9, 2012.

The revised IEP placed S.C. in the CBAP with similar service components to her prior IEP. The IEP also provided for in-school parent training to be pre-arranged with

the teacher from October-May. In-school parent training is an opportunity for the parents to come into school to receive individual training from their child's teacher or related service providers to work on specific skills in the school environment. The teacher/related service provider models specified strategies to be implemented with the parent present. The strategies are described to the parent as the teacher/related service provider is working with the student. After modeling the strategies, the parent works with the student implementing the specified strategies. Feedback is provided to the parent on the implementation of the strategies.

In the CBAP classroom, Martin stated that data is collected on each instructional program at least once per week to assess the skill being taught and monitor progress. Data is then inputted into the District's computerized data system that creates a detailed graph of the learner's performance on a skill. Progress reports are generated by the classroom special education teacher on a quarterly basis and sent to parents. The progress report contains columns for the Skill Domain, Goal, Objective/Program, Sets Mastered, Current Set (specific objective), Pretest Data (data taken before teaching) and Current Set's Most Recent Data. If data points do not show an increasing trend within three to four weeks of teaching, sets may be modified to include changes to the set and/or teaching procedure to assist the student in making progress. Comments regarding changes to sets are included in the Comment column of the progress report.

An annual review IEP meeting took place on May 30, 2013. In terms of strengths, S.C. was able to safely and independently ambulate throughout the school hallways with good balance. She was able to transition well into her new school environment. She was able to follow classroom routines with little to no prompting, and mastered and maintained her motivational system. S.C. was able to maintain eye contact while in session and conversation with adults and was able to answer social questions. S.C. was learning the prerequisite skills to enable her to correctly sequence block placements on Handwriting Without Tears templates to produce upper case line letters. S.C. was able to request her wants and needs, respond to greetings, and answer simple "wh" questions and social questions. The 2013-2014 IEP maintained

placement for S.C. in the CBAP classroom with appropriate level of related services and supports.

After the summer 2013 ESY, petitioners expressed concerns about regressions in skills by S.C. Martin convened a meeting of the CST on September 13, 2013, in order to discuss those concerns. L.C. indicated that S.C. lost all of her spontaneous speech and was engaging in more stereotypic behaviors. L.C. also expressed that over the summer, S.C. was perseverating and engaged in tantrums. In response to petitioners' concerns, home parent training was added to S.C.'s educational program in order to address behaviors in the home. Specifically, there would be three hours per week of home parent training from September 23 through December 20, 2013, to address specific self-help skills and promote independence and productive activity in the home. The team agreed that the home parent training program would be reviewed before December 2013 to review progress and goals and determine whether home parent training would continue.

A reevaluation planning meeting took place on March 10, 2014. The District requested parental consent to conduct an occupational therapy evaluation, a speech/language evaluation, and a multidisciplinary evaluation, which petitioners provided. Martin also testified with respect to the Verbal Behavior Milestones Assessment and Placement Program (VB-MAPP) that was administered during the spring of 2014 by Nicole Moinhos-Cataldi, S.C.'s classroom for teacher for the prior two years, and Kristen Martinez, S.C.'s speech therapist. Martin testified that the VB-MAPP is a criterion-referenced, comprehensive assessment tool designed for children with autism, and other individuals who demonstrate language delays. This assessment of verbal behavior covers requesting, labeling, independent play, social skills, visual perception and matching-to-sample, linguistic structure, group and classroom skills, academic skills, etc. The assessment is used to assess present levels and guide future programming. S.C. achieved an overall score of 84.5 out of 170 on the Milestones Assessment with performance falling primarily in Level 1 and scattered skills in Levels 2 and 3. The Milestones Assessment is broken down into three levels: Level 1 (0-18 months), Level 2 (18-30 months), and Level 3 (30-48 months). At Level 1, the child is

tested for Mand, Tact, Listener Responding, Visual Perceptual Skills, and Matching-to-Sample, Independent Play, Social Behavior and Social Play, Motor Imitation, Echoic, and Spontaneous Vocal Behavior. Level 2 adds Listener Responding by Function Feature and Class, Intraverbal, Classroom Routines and Group Skills, and Linguistic Structure. Level 3 adds Reading, Writing, and Math.

The VB-MAPP results illustrated S.C.'s strengths and weaknesses with regard to language and related skills. S.C.'s strengths included good verbal imitation, labeling, matching, scanning, articulation, and motor imitation skills. S.C.'s weaknesses included reading, writing, math, linguistics, attention, spontaneous language, prompt-dependency, social and independent play skills, and generalization. S.C. achieved a score of 63 out of 96 possible points on the Barriers Assessment and 38 out of 90 possible points on the Transition Assessment. These results indicated that S.C. would continue to benefit from a high number of teaching trials with carefully arranged contingencies, like the programming she was receiving and continues to receive in the CBAP.

Martin administered the BDI-2 assessment along with Emma Lamparello, S.C.'s physical therapist, and Martinez. The report was completed on May 1, 2014. S.C. had difficulty attending to the materials and understanding the directions. She sometimes engaged in motor and vocal stereotypy during the testing and required prompting, redirection, and reinforcement. She would often repeat the last answer even when the answers were presented in a different order.

Overall, on the BDI-2 S.C.'s functioning fell within the significant developmentally delayed range. S.C. achieved a total developmental quotient score of 50, which fell in the less than first (<1%) percentile. On the adaptive domain (subdomain personal responsibility), which measures the ability to use information and skills acquired in other domains, S.C. achieved a score of 55, which fell in the .1 percentile. On the personal-social domain (subdomain self-concept and social role), which assessed abilities and characteristics that allow a child to engage in meaningful social interaction, S.C. scored a 55, which fell in the .1 percentile. On the communication domain (subdomains

receptive and expressive communication), which measured how effectively S.C. received and expressed information and ideas through verbal and nonverbal means, S.C. scored a 55, which fell in the .1 percentile. On the motor domain (subdomain perceptual motor), which assessed her ability to control and use the large and small muscles of the body, S.C. scored a 55, which fell in the .1 percentile. On the cognitive domain (subdomains reasoning & academic skills and perception & concepts), which measures intellectual skills, S.C. scored a 55, which fell in the .1 percentile.

A reevaluation eligibility determination and annual review IEP meeting was scheduled for May 12, 2014, to review the recent evaluations and develop S.C.'s program for the following year. Martin described the process as similar to those discussed above, including a review of her strengths and weaknesses. For physical therapy, S.C. was able to safely and independently ambulate throughout the school hallways with good balance and speed. S.C.'s stair ambulation continued to need to be monitored and worked on so that she could navigate throughout the school environment. Additionally, S.C.'s gross motor skills continued to need improvement. For occupational therapy, S.C. was able to sustain reasonably good sitting posture while doing seatwork despite lower muscle tone in her trunk. S.C. needed to work on developing the skills for writing her name, fastenings, and self-help skills. For speech therapy, S.C. was able to verbally communicate basic wants for preferred items and needs. S.C. imitated a large repertoire of phonemes, a variety of words, multi-syllabic words, basic phrases, and sentences. S.C. needed improvement with expanding spontaneous language.

In the classroom, S.C. made meaningful progress behaviorally and in academic areas such as waiting, verbal acknowledgement, and sorting. S.C. was able to follow classroom routines with little prompting each day. Non-productive behaviors significantly decreased during academic tasks due to the implementation of a motivational system with response cost. S.C. was able to stay on task at her desk without engaging in non-productive behaviors that in the past impeded her learning. At home, S.C. was able to independently follow a schedule to prepare a snack with little prompting from her parents. S.C. continued to need to learn to identify familiar people

in the school and family, learn calendar skills, and vary her comments. She needed to be able to follow multi-step directions, learn to wait for a length of time without engaging in stereotypy, and follow an independent activity schedule. The IEP proposed at that meeting for the 2014-2015 school year maintained the same classroom placement and level of related services. Martin stated that it was her opinion that the proposed goals and objectives were appropriate for S.C.²

Prior to the IEP meeting scheduled for April 30, 2015, Martin arranged for a meeting with the petitioners and the physical therapist, due to the latter's unavailability for the IEP meeting. During the meeting, Lamparello explained that S.C. met all of her physical therapy goals and that she was recommending that S.C.'s physical therapy be reduced to a consultation. Petitioners disagreed with the recommendation and expressed a concern that they do not observe S.C. performing the gross motor skills that Lamparello reported S.C. could do at school. Petitioners also expressed concerns about S.C. safely navigating the school environment, especially the stairs. Martin stated that due to petitioners' concerns, the District agreed to continue with the previous recommendation of physical therapy one time individually through the end of the school year to work on stair ambulation and ball skills goals. During ESY, physical therapy would be decreased to two times per month. Starting in September, S.C. would receive physical therapy services two times per month for twenty minutes. Parent training with the physical therapist was also offered.

During the April 30, 2015, IEP meeting, Martin testified that it was reported that S.C. was making progress in managing fasteners; that she was able to imitate a large repertoire of age-appropriate sounds, syllables, words, phrases, and sentences; that she had made improvements in expressive and receptive language skills; but that S.C. often demonstrated difficulty learning new targets and required multiple presentations. With regard to self-care skills, S.C. could complete a number of steps to brushing teeth and washing hands independently. She could also sit in a group at the lunch table without

² As detailed in the testimony, adjustments and modifications were made to that year's IEP in the fall and winter of 2014, including to toileting and home instruction. It was also during that prior summer that S.C. was diagnosed with absence seizure disorder. Martin testified that the school obtained parental consent to reach out to S.C.'s neurologist if needed.

negative behaviors and put away her personal belongings with a prompt. The IEP was implemented with maintaining her placement in the CBAP, similar level of related services, and continued to set forth adapted physical education, behavior supports/strategies, in-school parent training, and home parent training.

Subsequent to the April IEP meeting, the District and petitioners communicated with regard to some physical therapy safety concerns, as well as proper utilization of home parent training. As a result of those communications, Martin stated that physical therapy was increased from two times per month to one time per week, and fifteen hours of home parent training were added as make-up hours.

Martin also testified that petitioners first brought up the issue of S.C.'s use of headphones in school in June 2015 when her mother remarked on an excessive use of them during a particular field trip. L.C. also reminded the school that the child's doctor did not want S.C. becoming dependent upon the headphones and recommended fading them and utilizing alternative strategies to her noise sensitivity. Martin conveyed to L.C. that Tortorelli recommended that the petitioners keep the headphones at home so that they would not be available to S.C. L.C. apparently also requested that Tortorelli not be S.C.'s teacher the following school year, which request was passed along to Alyson Read, Supervisor of Special Education for the District.

Martin stated that Joe Leone was the special education teacher assigned to take over S.C.'s classroom starting in September 2015. At the end of August 2015, petitioners requested that S.C. be placed in Darby's classroom instead. The request was made to Read but denied as she did not feel it was an appropriate class placement for S.C. at that time. Leone resigned in March 2016. Kaitlyn Shaefer became S.C.'s classroom teacher starting in March 2016. The District arranged for both Leone and Shaefer to be present and teaching the classroom in March 2016 in order to assist the students in their transition to a new classroom teacher and ensure consistency. Martin stated that S.C. did not have any issues transitioning to the new classroom teacher. For the 2016-2017 school year, S.C.'s teacher has been Katherine Puopolo. Michele Lenzi also replaced Sarokoff as the behaviorist overseeing S.C.'s program after

petitioners requested a change.

In preparation for the now-current school year, Martin detailed that on April 18, 2016, Lenzi and Vohden completed the Assessment of Basic Language and Learning Skills-Revised (ABLLS-R) assessment of S.C. The ABLLS-R is an assessment tool that is used to help guide the instruction of language and critical learning skills for students with autism. Before the ABLLS-R was administered, she communicated with L.C. that the assessment was being undertaken to support the development of goals and objectives and that the ABLLS-R breaks the skills down into smaller components. Sections of the Assessment of Functional Living Skills (AFLS) would be used to assess independence and essential life skills. While at first agreeable, L.C. soon objected to S.C. having to undertake a challenging assessment and preferred to speak with her attorney about it. Martin explained that the ABLLS-R was a classroom-based assessment that was needed to help develop S.C.'s goals and that parental consent was not required for this assessment.

Martin's direct testimony provided a summary of S.C.'s performance on the ABLLS-R. S.C. has a variety of preferred items but requires frequent reassessment for items that actually serve as reinforcers and she struggles to perform tasks without high levels of motivation. She demonstrates the ability to follow one-step directions involving both gross motor actions as well as routine classroom directions. She further demonstrates strong identical matching skills, basic noun/verb identification skills, and basic noun/verb labeling skills; however, she is inconsistent in her ability to perform skills fluently and needs to work on more advanced skills within these areas. Additionally, even though she was able to identify items in a field and label various items/pictures, she demonstrates difficulty generalizing learned skills to novel instructors, stimuli, and environments. S.C. is sometimes able to use carrier phrases when requesting, but is unable to do so in labeling contexts.

In addition, S.C. demonstrates few spontaneous requests in the absence of preferred items being present or an instruction to make a request. She is able to imitate a variety of words and phrases as well as gross motor actions, but demonstrates

more difficulty with imitating fine motor actions and imitating the precision of motor movements. S.C.'s play and leisure and social interaction skills are characterized by solitary play and a lack of engagement with peers. She participates in small groups, but has a difficult time learning new concepts and making discriminations in settings other than 1:1. S.C. is learning beginning skills in the areas of math, reading, and writing. She is able to perform various eating and dressing skills independently, but requires assistance to complete certain grooming and toileting skills. S.C. demonstrates the ability to perform a variety of gross and fine motor activities, but needs to work on more refined activities in order to continue to progress in these areas.

During the May 12, 2016, IEP meeting at which S.C.'s program placement, ESY, and related services remained the same, petitioners expressed concerns about S.C.'s ability to navigate in the community environment as well as her skills at dressing, writing, and hand washing. The team recommended parent training sessions to address these concerns. With respect to community navigation, a training session was undertaken in June 2016 to a shopping center and a drug store. Martin stated that the session demonstrated S.C.'s ability to navigate safely in her outside environment. Additional training sessions were held to assist petitioners in the carry-over of ABA skill instructions at home. Adjustments were made as needed or requested between petitioners and the occupational therapist Kwalwasser.

Martin reported that the petitioners also expressed concerns with S.C.'s motor stereotypies at home. With regard to those concerns, it was discussed that motor stereotypy during work time would be addressed using a response cost. The team reported that the data indicate that non-compliance and oral stereotypy have occurred below 10% of the intervals for the school year and would like to discontinue data collection on those two behaviors as they are not interfering with her learning and S.C. is able to be redirected. The team agreed to collect data on non-compliance and oral stereotypy at other times of the day during unstructured activities, such as lunch.

While the IEP team felt that S.C. made progress on her 2015-2016 goals and objectives, they were not certain if S.C.'s seizure activity and medications are

contributing to her difficulty learning and maintaining skills. S.C. presents with a moderate intellectual disability and, despite her best efforts, experiences significant difficulty learning some skills and maintaining the skills that she acquires. Accordingly, the CST recommended that an independent neuropsychological evaluation be completed by Dr. Daniel DaSilva. This type of evaluation would provide critical information regarding the impact of S.C.'s seizure disorder on her learning and ability to make educational progress. This evaluation was eventually undertaken by Dr. Randy Bressler in the fall of 2016.

Martin was of the opinion that the District provides a rigorous ABA-based program for S.C., which constitutes FAPE in the least restrictive environment. She does not agree that S.C. requires an out-of-district placement to receive a meaningful benefit from her education. Martin also concluded that S.C. is making progress, albeit slow, on her goals and objectives. On cross-examination, Martin explained that she works to ensure that an IEP is properly implemented through a combination of meetings, updates, and observations. Teacher aides in S.C.'s classroom are trained by Alyson Read at initial staff trainings and in-service professional development days. Read and the teachers, but not the aides, meet monthly. Martin attends when she is able.

Martin acknowledged that S.C. is severely impacted by her autism, as verified by both Westfield and Bernards testing, and has exceptional special needs. For example, S.C. can still not repeat the names of the teachers and aides in her classroom even though it has been several years. S.C. has sometimes not been able to be tested for full-scale IQ on the Wexler III, and on other tests scores below 1%. Martin agreed that she has never seen S.C. write her name although she has some precursor skills such as making horizontal, vertical or circle strokes. She cannot color between lines. S.C. has difficulty maintaining eye contact and is not familiar with time or date concepts. She does not initiate peer interaction. Martin understands that S.C. can count objects up to ten, and recognizes upper and lower case letters, but can only match or associate upper to lower for a few letters.

It has been reported to Martin that S.C. can request to use the bathroom but has still not mastered her IEP goal of requesting toileting, as compared to “timed toileting,” i.e., prompted or scheduled trips to the bathroom. S.C. can wash her hands independently. The District is starting now to prepare the parents and S.C. for the changes that will come with puberty.

As is consistent for any ABA program, goals stay in her plan until they are mastered but they can look to be very small component of an ultimate goal. Martin conceded that S.C. has not progressed very far or quickly but she denied that her progress has stagnated. Skills have been further broken down and modified for S.C. but the District has not given up on her. The CBAP is helping S.C. make progress on her timetable, in the way that works for her.

A token board and system of rewards is in place for S.C. in the classroom. There is also a behavioral intervention plan for her multiple stereotypies such as noncontextual vocalization, mouthing, and tensing her body. Presently, her stereotypies are at a low level. S.C. ambulates on her own but always has a 1:1 aide with her. There is no concern about flight from S.C. On further examination, Martin described seeing S.C. on a regular albeit informal manner, such as in the hallways or through informal contacts with her teachers or therapists.

Martin confirmed that S.C. receives ESY services for the standard partial summer of five weeks. The day is shorter than the normal school year from 9:00 a.m. to 1:00 p.m., and only four days of the week. The level of staffing remains the same and the programming is basically the same. Some related services are provided depending on the recommendations of the therapists in order to prevent regression. As requested by the parents a couple of years ago, several hours of parent training in the home were added to S.C.’s IEP to also address regression. The teacher or a BCBA would work on the home training goals and then train a paraprofessional to take over those sessions. This school year, home training has been suspended at the petitioners’ request because of the mother’s personal medical circumstances, including hospitalizations.

Alyson Read testified on behalf of the District as the Supervisor of Special Education. Read has served in that position since February 2010. Between September 2005 and February 2010, Read was a Speech Pathologist for the District. In 2003, she received a Bachelor of Science degree in Special Education from The College of New Jersey and in 2006 a Master of Arts degree in Speech-Language Pathology from Montclair State University. In 2009, Read earned a Masters degree from Caldwell College in Applied Behavior Analysis. At Caldwell University, she obtained a Ph.D. in Applied Behavior Analysis in 2014. Read holds a BCBA, and certificates as a Supervisor, Speech-Language Pathologist, Speech Language Specialist, and Teacher of the Handicapped. I qualified her without objection as an expert in ABA and Speech Pathology.

As the Supervisor of Special Education at the District, Read coordinates and supervises the activities of the District's child study team members, speech-language specialists, and other special services personnel to ensure compliance in the areas of referral evaluation, IEP development and implementation, and effective and efficient provision of programs and services for students with disabilities in the least restrictive environment. Read also is responsible to ensure compliance with federal and state law, regulations, and District policy.

Read has supervised S.C.'s IEP since she entered the District with the 2012 Extended School Year. Read described S.C. as a child who mostly plays by herself, and requires prompting for verbal interactions with peers. Prompts are often difficult to fade. S.C. can generalize across instructors but has difficulty generalizing to novel stimuli, environments, etc. She has limited eye contact even when provided with prompting. She has difficulty maintaining skills.

Read summarized the related services that S.C. is presently receiving. Currently, S.C. receives services from the following special services personnel: Emma Lamparello, Physical Therapist; Nichol Vohden, Speech Therapist; and Cynthia Kwalwasser, Occupational Therapist. She stated that she is familiar with the services provided by these personnel to S.C., the goals and objectives of these programs, and S.C.'s progress in each of these areas. Read explained that upon S.C.'s enrollment in

the CBAP, the District reviewed her Westfield IEP and also conducted thirty-day assessments in order to develop an appropriate IEP for S.C. going forward.

Lamparello's assessment revealed that S.C. presented with deficits in her gross motor and balance skills. S.C. experienced difficulty with stair ambulation, which interfered with her ability to safely navigate her school environment. Lamparello recommended that S.C. receive individual physical therapy services one time per week for thirty minutes and developed the physical therapy-based goals and objectives set forth in the August 9, 2012, IEP. The IEP also set forth group adaptive physical education (APE) five times per week for thirty minutes. S.C. also has a separate motor program within the classroom but overseen by Lamparello that involves stair ambulation. Examples of skills included for S.C. jumping, hopping, one-foot standing balance, and skipping. Read opined that the goals and objectives were appropriate to meet S.C.'s needs at the time.

Each spring, the goals and objectives for all academic and social skills areas, as well as related services, are reviewed and modified for the forthcoming school year. In 2013, Lamparello reported to the CST that, in terms of strengths, S.C. was able to safely and independently ambulate throughout the school hallways with good balance. Her gross motor skills were gradually improving. In terms of needs, Lamparello reported that S.C. needed to work on stair ambulation so that she could safely navigate throughout her school environment. S.C. also needed to work on balance, strength, and motor planning skills. During ESY 2013, Lamparello worked with S.C. on the objectives of jumping forward six to twelve inches and descending stairs utilizing a step-over-step, alternating pattern of lowering each foot while holding onto one handrail. At the end of ESY, she was independent for both objectives. Lamparello noticed gradual progression toward goals by S.C. during the 2013-2014 school year.

In the spring of 2014, Read stated that S.C. was due for her triennial evaluations. The gross motor subdomain of the BDI-2 assesses the development of the large muscle systems used in locomotion skills, such as stair ambulation, jumping, hopping, catching and throwing a ball, and skipping. S.C. received full credit for running ten feet

without falling, kicking a ball forward without falling, walking up stairs without assistance, walking backward five feet, jumping forward with both feet together, and walking forward two or more steps on a line on the floor, alternating feet. She did not receive credit for throwing a ball five feet with direction, imitating bilateral movements of an adult, bending over and touching the floor with both hands, and walking down stairs without assistance and alternating feet.

Although the items of the gross motor section of the BDI-2 were completed, a score could not be calculated as S.C.'s age exceeded the norm of five years of age, which is used for this subdomain. Although her age exceeded the norm, given S.C.'s present levels of performance and abilities, the team felt the administration structure of the BDI-2 would be easier for S.C. to comprehend when compared with other standardized testing. The administration of the BDI-2 includes parent interview, observations, and structured tasks. It addresses all areas: Adaptive, personal-social, communication, motor, and cognitive. Even though the gross motor subdomain could not be scored, other areas were. The team felt that all areas should be at least tested to provide a more detailed picture of S.C.'s abilities.

During the May 2014 IEP meeting, Lamparello reported that S.C. was somewhat cooperative during therapy sessions, except when performing stair ambulation and/or tasks that may challenge her balance. During those activities, apprehension was observed and assistance and support was required. S.C. was able to broad jump forward a distance of 24 inches, jump down from an exercise step, independently walk the entire length of a balance beam, and hop on either foot. She was making improvement in standing on one foot. S.C. was able to independently gallop, kick a stationary ball forward, and catch a medium sized ball when thrown from five feet away. S.C. continued to need to work on stair ambulation, balance, strength, and motor planning skills. Improvement was also noted in navigation of the school playground, but in response to petitioners' desire to see S.C. be more independent on the playground, the team offered parent training later that month.

Read reported that S.C. continued to make some progress in her gross motor

skills during ESY 2014 and the 2014-2015 school year. In April 2015, Lamparello met separately with petitioner L.C., along with case manager Karin Martin, ahead of the regular IEP meeting due to scheduling issues. Lamparello reported S.C.'s strengths included she was able to safely and independently ambulate throughout the school hallways with good balance and speed. Additionally, S.C. was able to perform many other gross motor skills, such as jumping, hopping, and galloping. In terms of needs, S.C. requires visual and verbal cues to perform various gross motor tasks, especially those that involved higher level motor skills. Lamparello suggested that any apprehensions S.C. still had during stair ambulation be addressed through behavior protocols in the classroom and that physical therapy services not be offered for the coming school year although goals and objectives would still be addressed by the classroom teacher and in APE, with consultation by Lamparello.

Petitioners expressed a concern that they do not observe S.C. performing the gross motor skills at home that were observed in school. They requested that physical therapy services continue once a week and that they receive parent training concentrated on playground activities. L.C. stated that S.C.'s medical issues were increasing and regression may occur, noting recent seizure activity. L.C. stated that she wanted to come into school to observe S.C. performing these activities. Lamparello offered a parent training that would include the gross motor skills that were in question. Further, petitioner informed Lamparello that they had tested S.C. on all of the physical therapy skills and she could not perform the skills. S.C. was unable to stand on one leg for ten seconds, could hop in place no more than three times, could not hop for five feet consecutively, could not throw or kick a ball, and that catching a ball was inconsistent. Petitioners requested that these goals should remain in the IEP. Petitioners also expressed their concerns with S.C. safely navigating in the environment and ball skills.

To respond to these concerns, Lamparello told L.C. the recommendation for ESY could be changed back to individual, weekly physical therapy sessions and that in September, they could include individual sessions two times per month. For the goals, the two goals that S.C. did not achieve regarding stair ambulation and ball skills would be included. Behavioral issues with the stairs were part of daily classroom

programming and ball skills would be worked on during APE. The CST agreed to include in the finalized April 30, 2015 IEP, individual physical therapy two times per month during ESY 2015 and individual physical therapy one time per week during the 2015-2016 school year. Petitioners consented to this amendment.

During the spring 2016 IEP meeting, Lamparello again reviewed S.C.'s strengths and weaknesses. S.C. still needed to be monitored on stair ambulation. Her ball skills also needed improvement. Even presently, the focus of physical therapy is on stair ambulation and ball skills, but other mastered skills are also reviewed. S.C.'s apprehension during stair ambulation is mostly observed if it is performed without the support of the handrail and on two particular staircases within the school building. When apprehension becomes severe, S.C. will stop walking up or down the stairs, but once she reaches for the handrail and/or other support is provided, she will continue the movement. Redirection and the use of rewards or reinforcers are utilized to assist with this. Lamparello recommended S.C. continue receiving individual physical therapy services one time per week for 30 minutes during the 2016-2017 school year. For 2016 ESY, Lamparello recommended individual physical therapy one time a week for 20 minutes.

As of the hearings, Lamparello was of the opinion that S.C. generally has made progress over time on each skill she worked on in physical therapy and that she has made significant gains in her gross motor skills. She is physically capable of ascending and descending stairs, but will occasionally stop moving and need to hold onto the rail for support because of her occasional apprehension. Lamparello recommended that direct physical therapy services be eliminated from S.C.'s next IEP.

Nichol Vohden, who did not testify, has worked as S.C.'s Speech Language Therapist since February 2015. Read also provided an overview of her work with S.C. and S.C.'s progress on speech therapy goals and objectives. Speech and language goals are targeted within each speech session by the speech therapist and instructor. Additionally, they are targeted throughout the day by the classroom teacher and

instructors. In March 2015, Vohden and S.C.'s classroom teacher evaluated S.C. using the VB-MAPP.

Vohden completed the Echoics portion of the VB-MAPP. The results indicated that S.C. has weaknesses in the areas of reliance on prompts, failure to maintain skills, failure to learn new skills, and difficulty with writing, reading, and math skills. S.C. achieved a score of 43 out of 96 on the Barriers Assessment. Using a Likert scale of 0 to 4, S.C. was rated for each barrier using specific criteria. A score of 0 indicates there are no significant barriers in the targeted area and a score of 4 indicates significant barriers in the targeted area. As stated in the VB-MAPP report, this score indicated that S.C. would continue to benefit from a higher number of teaching trials with carefully arranged contingencies and prompt fading strategies.

Vohden reported on S.C.'s levels in speech during the annual review IEP meeting that was held on April 30, 2015. In terms of S.C.'s strengths, Vohden reported that she was able to imitate large repertoire of age-appropriate sounds, syllables, words, phrases, and sentences. S.C. continued to need to target receptive and expressive language skills, including an emphasis on spontaneous language and intelligibility of speech production. S.C. continued to benefit from teaching techniques such as fading, shaping, prompting, prompt-fading, motivational systems, incidental teaching, and discrete trial instruction. S.C. was working on imitation of sentences to describe what she is doing. For letter-sound correspondence, S.C. was working on labeling the /m/ and /a/ sounds when shown the corresponding letter and asked "what sound?"

Vohden treated S.C. for speech therapy from February 2015 to April 2015 when the 2014-2015 IEP was in effect. S.C. made progress spontaneously stating, "excuse me," with a blank audio model and with an audio model within view that says, "ex." S.C. also made progress producing "excuse me" with proper articulation when in the presence of a person in her way of a preferred activity (such as a video). Regarding Verbal Imitation of Phrases and Sentences, S.C. made progress imitating "three" when counting back to the instructor her tokens on her token board and was targeting

imitating sentences using the word “I” in varied presentations and activities (e.g., responding to “What are you doing?”). Regarding letter-sound correspondence, S.C. still had difficulty labeling the /a/ and /m/ sounds.

Vohden recommended that S.C. continue receiving individual speech language therapy two times a week for thirty minutes for the remainder of the 2014-2015 school year, ESY 2015, and the beginning of the 2015-2016 school year. She also recommended a speech language consultation once a week for the remainder of the 2014-2015 school year and the beginning of the 2015-2016 school year. On June 2, 2015, Vohden met with L.C. for a parent training along with S.C.’s classroom teacher. During the parent training, joint-book reading and strategies to promote expressive language were demonstrated. Ideas for language activities at home were also discussed. A reading list of recommended books, strategies during joint book reading to promote expressive language, and language activity ideas for home were provided to L.C. during the training and were sent home with her.

As described by Read, Vohden kept petitioners updated on S.C.’s progress on her goals and objectives in speech therapy throughout the next school year. Emails were sent to L.C. on roughly a monthly basis to update her on some instances of spontaneous language and speech intelligibility. Progress summaries were sent home on a quarterly basis, which show the progress made on her specific speech goals. On November 9, 2015, Vohden shared with L.C. exciting news that for the first time S.C. requested for more popcorn and more water without any prompts or models. S.C. said “I want more popcorn please” and “I want more drink.” S.C.’s statements were clear and intelligible.

In March 2016, Vohden worked with Michele Lenzi to complete the Assessment of Basic Language and Learning Skills – Revised (ABLLS-R), as described by Lenzi in greater detail below. The results of the ABLLS-R were used to develop goals and objectives for S.C. for school and home programming for May 2016-May 2017. Areas of weakness on the test included but were not limited to: requesting missing items needed for a task, requesting with head movements or saying yes/no, requesting for

help, expressive labeling of functions of objects, receptive identification of feature, function, and class, play and leisure skills, and social interactions. For example, although S.C. received full credit for expressive labeling of at least twenty common actions on the test, it took many different pictures to find twenty actions that she could accurately label. S.C. exhibited difficulty labeling many pictures of actions. Vohden and Lenzi generated the following goals to address the areas of concern in speech: requesting missing items, requesting assistance, expressive labeling of verbs in pictures, expressive labeling of functions of objects, yes and no, receptive identification of feature function, and class, peer imitation, and turn-taking.

At the spring 2016 IEP meeting, Vohden reported on S.C.'s progress and the some of the methods they are using for speech progress with S.C. Throughout the year, S.C improved intelligibility of "I want" sentences with and without use of a visual sentence strip to request highly motivating foods, toys, and high-frequency non-motivating items like the bathroom and a tissue. Intelligibility also improved on production of "I need" sentences to request high-frequency items around the room. Her speech intelligibility also improved during production of "I want more," "more please," "help me," and "open please" during structured activities given verbal cues. Visual sentence strip and a pacing board are used in addition to verbal cues to help S.C. articulate more intelligibly. Vohden reported how S.C. benefits from visual, auditory, and verbal prompting to produce spontaneous utterances. She also benefits from contrived, set-up situations to produce language spontaneously. Withholding desired items was a beneficial cue for S.C. to request what she wants.

Vohden also explained that programs that target receptive and expressive language skills are targeted throughout the day. Vohden ultimately recommended that S.C. continue receiving individual speech-language therapy two times a week for 30 minutes and an individual speech-language consultation one time a week for 30 minutes. For ESY, she recommended that S.C. receive individual speech therapy two times a week for 30 minutes. A parent training session was conducted on May 12, 2016, to demonstrate use of the pacing board and evidence-based language solutions to improve speech intelligibility and spontaneous language at home. Read summarized

with respect to speech therapy that S.C. made progress on her speech goals and objectives/programs during the 2015-2016 school year. S.C. improved her speech intelligibility on production of specific phrases and sentences. S.C. has continued to make progress in the first and second quarters of the 2016-2017 school year.

Read also conveyed data and progress reports with respect to occupational therapy provided to S.C. Cynthia Kwalwasser began working with S.C. as her occupational therapist when she entered the District in summer of 2012. She conducted an occupational therapy evaluation of S.C. in July 2012. During the OT evaluation, S.C. had difficulty understanding verbal instructions and frequently required demonstration, some hand-over-hand instruction, and additional time to respond. Kwalwasser noted that S.C. performed better on tasks that were familiar to her. Most of the time during testing, S.C. was cooperative and tried her best to engage in the tasks presented. S.C. engaged in stereotypy intermittently, including visual inattention, making clacking sounds with her tongue, banging with her fingers, moving her hands/arms out to her sides, slight approximations of whistling, and some movement of her head side to side. As Kwalwasser continued to work with S.C., she seemed to become more comfortable in her new school setting.

S.C.'s postural control appeared slightly compromised secondary to what appeared to be low to low normal muscle tone in her trunk when sustaining upright sitting during seatwork. S.C. was able to wheelbarrow walk on her arms/hands at least 10 feet with her trunk in relatively good extension. Lower muscle tone seemed evident at her hips, knees, elbows, wrists, and fingers. S.C.'s balance appeared impaired and motor planning was very challenging. S.C. was able to roll and catch or stop a ball when wide-leg sitting, but had difficulty catching and throwing from a standing position. Kwalwasser observed mixed hand usage with gross and fine motor tasks. S.C.'s overall bilateral coordination presented as delayed during both gross and fine motor performances.

S.C.'s coloring motions were repetitive, side-to-side motions; she did not demonstrate the ability to imitate rounded, more circular strokes. S.C. was unable to

pick up scissors and hold them properly. S.C. was able to string beads. S.C. appeared unfamiliar with how to button or unbutton buttons or fasteners. She was capable of holding her fork in a relatively mature pattern. However, S.C. was successful drawing fewer test items than 99% of the students her age as per the sampling of students included in the standardization process; her visual-motor performance was more typical of a child 2 years, 7 months of age.

Based on her evaluation, Kwalwasser determined that S.C. had the following areas of strength: (1) a very sweet, pleasant personality; (2) an ability to learn using an ABA approach; (3) a willingness to attempt tasks presented and persist when additional time is needed to complete the task; (3) an emerging hand preference; and (4) the ability to use precision pinch (more formally referred to as pincer) grasps.

Kwalwasser noted the following areas of delayed or deficient performance: (1) lower muscle tone contributing to deficient postural control in sitting and difficulty engaging in movements that required midline crossing and trunk rotation; (2) lower muscle tone in hands; (3) difficulty fully disassociating shoulder, arm, wrist, hand, and finger movements during fine motor performances; (4) delayed development of bilateral coordination; (5) deficient visual motor control and significant difficulty sustaining visual attention during tasks; (6) deficient visual perceptual skills; (7) delayed development of age-appropriate prehension (grasping) patterns; (8) difficulty using scissors; (9) delayed drawing skills; (10) delayed catching, throwing, and other upper extremity skills; (11) mixed hand usage; (12) imitates horizontal and vertical strokes but cannot copy and cannot imitate or copy circular strokes; and (13) inability to be tested using standardized procedures. Overall, it was noted in this 2012 evaluation that S.C.'s fine motor skills were significantly impaired.

For the 2012-2013 school year, Kwalwasser worked with S.C. on the fine motor skills goals of acquiring art skills. Several sets were implemented to achieve objectives in coloring and prerequisites to handwriting. In the instructional area of self-care and home living, sets were introduced to address washing hands, tooth brushing, and timely consumption of foods. At the May 2013 IEP meeting, Kwalwasser noted that S.C. has

made slow progress on circular strokes and pre-handwriting strokes with templates. She still needed to work on fasteners, hand washing and brushing teeth. Kwalwasser recommended increasing OT to twice weekly.

Kwalwasser continued to provide S.C. with occupational therapy services during ESY 2013 and the 2013-2014 school year. On February 12, 2014, Kwalwasser met with L.C. and S.C.'s teacher for a parent training session. During the training, Kwalwasser discussed the utility of a stylus for S.C.'s programs and L.C. asked questions regarding S.C.'s "handedness" and lack of preference for using her left or right hand. They also discussed how the District was encouraging S.C. to write with her right hand and self-feed/hold utensils in her left hand since that was S.C.'s preference. Bilateral coordination activities that could be done at home were also discussed, as well as S.C.'s self-help skills, specifically as they related to tooth brushing. Kwalwasser suggested activities would help teach S.C. the skills she needs to enable her to spit out water and toothpaste during tooth brushing.

During the 2014 triennial evaluation, Kwalwasser found that S.C.'s poor memory impacted her ability to follow directions, learn new skills, or even to produce a letter previously learned upon verbal request or from a visual or demonstrated model. Bilateral coordination was not well integrated. On the 2014 Battelle assessment, S.C.'s performance yielded results that were significantly below age level. On the fine motor subdomain, S.C. achieved a raw score of thirty-nine. A percentile rank was not available. For the perceptual motor subdomain, S.C. achieved a raw score of nineteen, which fell in the less than first (<1%) percentile. Her visual motor perception skills were so low that they were unable to be scored. Similar results below the first percentile were obtained on the Visual Motor Integration test and a motor coordination test, although with respect to the latter, some very slight progress over two years was noted.

S.C. has been taught by rote to produce line letters like L, F, E, T, and H, and the letter O in her handwriting programs. Following much practice, and significant support in the form of a template, place to write with boundaries, or a gentle wrist prompt, S.C. sometimes produces letters with diagonals and curves as in her first

name. Pathways are often needed to help support S.C. when writing letters. When asked to write her name, S.C. rarely remembers how to form her letters properly, or else she does so, producing crude, quickly done approximations in large format.

Read stated that these results were utilized to develop future programs and goals and objectives for S.C. in the area of occupational therapy in May of 2014. Kwalwasser recommended that S.C. work on developing the skills needed for writing her name, to manage clothing fastenings, to work on gaining self-help competencies such as independent tooth brushing (including spitting as needed to rinse her mouth during and after completing tooth brushing), and dressing and undressing skills, the latter to be incorporated into the home training program. It was recommended that S.C.'s occupational therapy services increase to three times per week for 20 minute sessions. For ESY, it was recommended that S.C. receive individual occupational therapy 2 times per week for 20 minute sessions.

In the instructional area of leisure skills, sets to works on computer skills were introduced. In the 2014-2015 school year, S.C. worked on sets concerning mouse navigation, clicking the mouse, and navigating the task bar. On November 11, 2014, Kwalwasser participated in a meeting with L.C. and S.C.'s teacher regarding toileting and hygiene, which had shown improvement in mastery and verbalization. She maintained regular contact with petitioner L.C. On April 9, 2015, Kwalwasser updated L.C. as to S.C.'s progress in her writing name program. Kwalwasser was concerned that S.C. was taking a long time to learn to write her name more independently and was writing in larger format. Her retention of letter formation and sequencing was progressing very slowly. L.C. did not want to give up on S.C. actually writing her own name.

Kwalwasser reported on S.C.'s present levels, strengths, and areas of need during the annual review IEP meeting. S.C. could brush her teeth and wash her face independently at school. She made progress in managing fasteners, including large and small buttons on button-down shirts, and was learning to manage pant fasteners. At that time, S.C. was working hard to learn her first name. S.C. was able to write the

first three letters of her name and was working on the fourth letter. Writing her name was an important goal for petitioners; however, S.C. did not possess the prerequisite skills for handwriting. S.C. was writing with the skills of a young preschooler paired with significant difficulty retaining letter recognition and letter formation. Read acknowledged the petitioners' concerns that S.C. might not achieve skills that would lead her towards any real level independence by age twenty-one.

Managing fasteners was an area of growth and achievement. S.C. mastered buttoning and unbuttoning with large buttons and with half-inch diameter buttons. She was able to fasten and unfasten the buttons of a button-down shirt while wearing it and was working on managing pant fasteners while wearing them. She also succeeded in managing pant fastenings of varying types (belts, snaps, zippers, flat buttons, pedestal buttons.) S.C. mastered the skill of brushing her teeth and was able to "spit" when this aspect of rinsing is demonstrated. This was a challenging task for her to learn. She also mastered washing her hands independently.

Progress on OT goals continued during 2015 ESY and the 2015-2016 school year, although writing her name still languished. During the 2016 IEP meeting, Kwalwasser reported on her strengths and weaknesses. In terms of present levels, S.C. was working on learning to use small office tools, basic hygiene including washing her hands, preparing a snack, managing fasteners, and writing her name. She is a student who requires revisiting of previously mastered skills to be sure they are maintained. In the area of handwriting, and some aspects of self-care, she had difficulty retaining what she had learned the previous day, despite considerable practice. Read acknowledged that the progress on OT goals indicates that, at this point in time, letters do not have much meaning for S.C. and do not appear to generalize much beyond the sets worked on as a part of her classroom programs, goals and objectives.

After reviewing in greater detail the progress S.C. has made in these related service areas, Read opined that S.C. has continually demonstrated that she benefits from the ABA programming she receives in the CBAP. As a result, Read is of the

opinion that an out-of-district placement would be inappropriate as the District can and has been providing FAPE to S.C. in the least restrictive environment.

On cross-examination, Read explained that she does not direct S.C.'s IEP but is there to support the teacher and staff decisions. There are approximately ninety children in the District's ABA programs. Read was questioned on the meaning of "mastering sets" in S.C.'s case if she could not generalize the skill at home or repeat it consistently. Read acknowledged that S.C. has a lot of difficulty with skills relating to pre-writing and pre-math academic areas and even some areas of self-help. She admitted that S.C. is still working on hand-washing and teeth-brushing skills, even though she has been in the CBAP for five years. In response to my questioning as to whether an out-of-district placement has been considered for S.C., Read stated that the CBAP is providing appropriate instruction to her on her areas of weakness, such as visual motor coordination and generalization.

Read also acknowledged that S.C. cannot tell time yet because she cannot identify numbers. Further, S.C. has not mastered toileting independently as demonstrated by the accident she had on Dr. Bressler's couch. Read admitted that ESY takes place over fewer days with fewer hours than the regular school year, but the District is consistent with all other public schools in that regard. The ABA 1:1 program remains the same in ESY and most services are offered at or near the regular scheduled amount. Read remarked that home parent training has been offered to petitioners during the "down" month of August. On further direct examination, Read put emphasis on the access that S.C. obtains in a public school setting to peers, peer mentors, related services, adaptive physical education, and swimming.

Katherine D. Puopolo was presented by the District as a witness herein as S.C.'s current classroom teacher. She also instructed S.C. during the ESY in 2016. Puopolo has been employed by the District since 2011 when she started as an instructional aide in the ABA program. She has since been employed as a Special Education teacher in a self-contained classroom prior to her position in the CBAP. Previously, Puopolo was the Director and then Coordinator of the Somerset Hills YMCA Special Needs Program,

and in a special education program in Ohio. Puopolo has obtained her Bachelors degree in Psychology in 2004 and her Masters degree in ABA Education in 2015, both from the University of Cincinnati. She will be sitting for the BCBA certification exam in the near future.

Puopolo reiterated that the principles of ABA are used in the small CBAP classroom that S.C. is in throughout the entire day. She supervises all aides in the classroom, who rotate every thirty minutes between the five students. Each aide might have responsibility for specific programs with which they have greater familiarity or expertise. All aides in the District must, at a minimum, have a substitute teacher certificate. All of the aides are highly qualified and receive ongoing training, support, and supervision from both her and the BCBA that oversees the classroom. Most of S.C. instruction is given individually in a 1:1 setting, but there is small group session in the morning, lunch, and specials such as adaptive physical education and music. In addition, fourth grade general education students come into S.C.'s classroom twice per week to play games or do crafts with the children.

Puopolo trains teaching methods based on the principles of ABA such as prompt, prompt fading, reinforcement, errorless learning, error correction, incidental teaching, discrete trial instruction, modeling, and scripts, among other things. She also trains them on data collection and graphing procedures, and on student specific information as well, such as behavior plans/collection. Puopolo provides hands-on training in session that included instructions, modeling, and then providing feedback. She receives training and feedback herself from the BCBA, who will also give specific program instructions as needed.

As the classroom special education teacher, Puopolo develops S.C.'s programs to correspond to the goals and objectives in S.C.'s IEP. The aide running the program collects data regarding S.C.'s performance on each program. The aide then inputs the data into the computer system, which generates a graph. Puopolo monitors the data collected on each program. If after approximately two to three weeks of running a program a student does not make progress, the teaching procedure or program is

modified in order to develop a new approach for the student to master the skill. Similarly, if the student has mastered the set, either a new set is created or the program is mastered. This depends on each student and where they are in that program.

Puopolo described the token economy system used in her classroom with S.C. to reinforce behaviors pursuant to her protocols. She also described the full-day activity book used with S.C. to help her self-navigate through her programs. Puopolo has taken over the role as home-parent instructor as of September 2016. She collaborated with her predecessor, Delli Bovi, and the behaviorist to discuss skills and programs that were being addressed during the home parent training and to ensure consistency between home and school over ESY. Delli Bovi helped to develop the home parent training goals and objectives for the 2016-2017 school year. Puopolo is also available for home visits but such have not been requested by petitioners during the recent school year. Puopolo communicates with petitioners weekly by email on both S.C.'s behaviors and the activities she took part in for that week. Puopolo testified that S.C. has been making progress on her goals and objectives this year.

On cross-examination, Puopolo reiterated the classroom aide rotation routines and how other classrooms are used for the setting to work on skill generalizations. She concurred that generalization may not be occurring in the home. Puopolo reviewed the ABA standards for considering a set to be mastered and also acknowledged that S.C. still needs verbal prompts a majority of the time to complete skills. She went through the levels of achievement S.C. is at with respect to writing her name, coloring, making lines on a paper, and counting objects. Puopolo disagreed with petitioners' counsel that a scribble he obtained from S.C. was representative of her current ability to attempt to write her name. She also commented that the number of prompts Fiorillo observed with S.C. was not normal and was a rare occurrence even during that observation. Puopolo agreed that S.C. has no phonetic or reading skills but is working on articulation and imitating words and sounds. S.C. does not socially communicate but this spring the group of children in her classroom were starting to spontaneously engage with each other. S.C. is a happy child in her classroom.

On further examination, Puopolo testified that S.C. has made progress with toileting, technology skills, counting, stair navigation, clothing fasteners, and spontaneous language during the current school year. S.C. has strengths in the areas of self-help skills, language imitation, counting, receptive discrimination of safety signs, and her perseverance during lessons. She definitely needs 1:1 ABA discrete trial instruction to continue to make progress on her goals and objectives.

Michele Lenzi has been employed by the District as a Behaviorist since July 2013. She graduated from Caldwell University in 2004 with a Bachelor of Arts in Psychology, and thereafter remained a student or candidate at Caldwell for several more degrees or certifications. In 2005, Lenzi obtained her Post Baccalaureate Certification in Applied Behavior Analysis. Then in May 2008, Lenzi received a Master of Arts in Special Education. She earned a BCBA in 2009 and a Post Masters Supervisor Certification in December 2014. Lenzi has filled several positions in her employment history with the District, as she progressed through her educational program. Before her present position, Lenzi was an instructional aide, a provisional teacher, and then a Teacher of the Handicapped. All of these positions were within the CBAP. I qualified her as an expert in Applied Behavioral Analysis.

Lenzi gave a brief overview of the role of a BCBA in a school. As a BCBA, she has studied the science of understanding individual behaviors. Generally, Lenzi assists the classroom teacher in developing programs specifically targeted to students' individual needs. She analyzes data collected on the programs, and review and revise programs as necessary. Lenzi trains the special education teachers and aides in methods based on applied behavior analysis, prompt and prompt fading procedures, data collection, and data graphing, both through instructional resources and hands-on demonstrations. She provides a written description of the strategies to be implemented and describes the strategies to the staff as she is modeling instruction with the student. Thereafter, she provides feedback to the staff on the implementation of the strategies. Training takes place both on teaching positive skill acquisition programs and on procedures and protocols to decrease non-productive behavior.

Lenzi has been assigned to S.C.'s case since mid-October 2015, taking over for Dr. Randi Sarokoff. She reviewed the child's case with Dr. Sarokoff at the time of that transition. Lenzi was not familiar with the reasons that the supervisory change was made for S.C. As her BCBA, Lenzi provides training and support to S.C.'s classroom teacher and the instructional aides that work with her regarding S.C.'s instructional programs. She assists in implementing, monitoring, and adjusting S.C.'s programs to ensure skill acquisition and maintenance of learned skills.

Lenzi described the general principles and techniques of ABA instruction for children with autism, which is used in the CBAP at Bernards. ABA methods are used to increase appropriate behaviors and to teach new skills, maintain behaviors, generalize or transfer behavior from one situation or response to another, and reduce interfering/non-productive behaviors. Techniques she described include behavior chaining, discrete trial instruction, errorless learning/teaching, functional communication training, incidental teaching, modeling, prompt/prompt fading instruction, reinforcement systems, schedule following, script/script fading procedures, shaping, small group instruction, and video modeling.

As the BCBA, Lenzi would assist the classroom teacher in developing individual programs based on the goals and objectives in her IEP. For the 2015-2016 school year, the goals and objectives were derived from S.C.'s performance on the VB-MAPP that was administered by her classroom teacher and speech therapist at the end of the 2014-2015 school year, prior to the IEP meeting and prior to Lenzi's involvement with S.C., however, she stated that the goals and objectives were appropriate based upon her working with S.C. since. The corresponding program for S.C., or any child in the CBAP, is focused on domains, then skills within those domains, and then sets consisting of the steps to master a skill. The sets are broken down into the smallest piece necessary for each child. Domains include, but are not limited to, expressive language, receptive language, fine motor skills, gross motor skills, self-help, pre-vocational, etc.

Lenzi also provided this forum with testimony on an overview of how sets are

introduced, taught, scored, and then superseded by new sets. Data is also collected on the generalization probe sought to be elicited by the sets; for example, learning to discern an emotion from a set of pictures and then learning to identify it in herself. New sets are always interspersed with those already mastered to prevent regression. Lenzi testified as to how all of the ABA techniques are used in S.C.'s program. S.C. is also taught to follow an activity schedule. Currently, S.C. is learning to independently follow a picture schedule containing five (5) mastered independent activities rotated on a daily basis placed within one to three feet from her with the instructor standing one to three feet behind her. The schedule is presented on a laminated sheet, in a vertical list format, with an "all done" picture at the end of the list. S.C. follows a schedule by completing the following steps: points to picture, gets activity, completes activity, cleans up activity, removes picture of activity, places picture in a discard bin, and repeats steps until all activities are completed. When S.C. gets to the "all done" picture, she removes the picture from the list and hands it to an instructor. After handing the instructor the "all done" picture, she receives a preferred snack.

Similarly, Lenzi went into detail concerning S.C.'s use of a full-day schedule and the method by which an instructional aide takes and records data on her progress. Lenzi reviews the data charts. If the data show that S.C. is not progressing, i.e., if the data remain the same or indicate a decrease in performance for two (2) data points, the teacher will consult with her and together they will decide on a different teaching procedure in order to promote success. Lenzi might also observe the aide during the instruction to S.C. or instruct using a potentially new method with S.C. herself. Lenzi then explained how to read the data charts and the coding contained thereon for the domain, skill, set and any modifications made in order to assist S.C. in succeeding at a goal. The charts also identify the sets that S.C. mastered at the specified criteria and the date such was achieved.

Lenzi stated that the charts also collect data on S.C.'s ability to generalize a mastered skill in different settings or for different people. Generalization of skills is very important for students with autism. It is important to be sure that the skills taught are actually part of the student's repertoire. For a skill to be considered generalized, it must

occur across various settings, people, and stimuli as well as over time. This is a crucial component of skill acquisition and if it is not occurring, then a skill should not be considered mastered. Children with autism have difficulty generalizing newly learned skills to settings, people, and stimuli that differ from training conditions. S.C. demonstrates difficulty readily generalizing new skills to conditions that differ from training/teaching conditions. It is for this reason that generalization is specifically programmed for within S.C.'s educational programs. There are several varying strategies being utilized at the CBAP to assist S.C. with the generalization of skills. For a skill to be maintained and performed all of the time, the student needs to be able to use the skill in more than the discrete trial.

Depending on the skill, Lenzi testified that S.C. is typically able to generalize skills to novel stimuli, people, and settings within the school environment when generalization is programmed for within the skill acquisition program. For example, S.C. is able to generalize labeling pictures of items to novel pictures when multiple exemplars are used during teaching. She is also able to generalize answering various personal questions to novel people within the school environment. While S.C. has demonstrated the ability to generalize spontaneous language/requesting skills across highly preferred/motivating items, she still demonstrates difficulty using spontaneous language/requesting across different people and settings for items that are not highly preferred/motivating.

It is not disputed that maintenance of acquired skills is a struggle for S.C. S.C.'s cognitive level is very low, and it affects her ability to retain mastered skills. In order to ensure that S.C. maintains skills that she previously acquired, strategies to promote maintenance have been introduced into S.C.'s program. Because S.C. has difficulty maintaining skills, Lenzi recommended shifting the focus of instruction to functional skills. Lenzi stated that a review of S.C.'s progress reports during the 2015-2016 school year indicates that she made progress on her programs. While S.C.'s progress has been slow, it is Lenzi's opinion that it is commensurate with what is expected for a student with autism and a low cognitive profile, like S.C.

As one of the BCBA's for the CBAP, Lenzi described how the reinforcement system is engaged as part of behavioral plans for each student. The reinforcement systems include a token board wherein S.C. can earn tokens for different types of responses or behaviors, especially for not engaging in targeting non-compliant behaviors or stereotypes. Once S.C. received ten (10) tokens, she was able to earn access to a chosen preferred activity from her choice book. The preferred activities included going for a walk, going to the playground, playing with her star wand, among other preferred activities. S.C. is provided with two (2) minutes to engage in her preferred activity before she returns to her desk.

The behavioral protocols for S.C. have been modified over the years as her motor stereotypy, oral-motor stereotypy, and non-compliance changed and/or improved. Pursuant to petitioners' request, in January 2015, S.C.'s behavior protocol was updated to reflect that the response cost (removing a token) would remain in effect only to address non-contextual vocalizations, biting, and mouthing inappropriate objects. Prior to the May 2016 IEP meeting, Lenzi changed the protocol again to state that the motivational system with response cost will be terminated when target behaviors are at or below ten percent (10%) of the intervals scored or less and/or engaging in the non-productive behavior zero (0) times in a day for ninety (90) consecutive days. The ten (10) token motivational system will then remain in effect. This change was made to reflect a criterion for reduction in non-productive behaviors that are recorded using a frequency count. According to Lenzi, the token board with the response cost has been effective in reducing S.C.'s behaviors of biting, mouthing inedible objects, and non-contextual vocalizations. Petitioners have not allowed any other unwanted behaviors to be part of the response cost procedure.

Data is collected by the instructional staff on non-contextual vocalizations, motor stereotypy, oral motor stereotypy, and noncompliance. Data are collected using partial interval recording for twenty (20) minutes, two (2) times a day. This means that data is collected during one twenty (20) minute period in the morning and one twenty (20) minute period in the afternoon. Partial interval recording records the presence of the target behavior at any point during the interval. So, since the length of the interval is

fifteen (15) seconds, a timer is set for fifteen (15) seconds and the observer records if behavior occurred at any point during the fifteen (15) second interval. This continues at fifteen (15) seconds intervals until the twenty (20) minutes have elapsed. Data are also collected on biting and mouthing inappropriate objects using a frequency count for every instance of the behavior throughout the day except during lunch, recess, adaptive physical education, and swimming. Lenzi testified that a review of S.C.'s data over the 2015-2016 school year shows that all behaviors have decreased. S.C.'s behaviors are low and do not interfere with her learning.

Lenzi also provided a general overview of some of S.C.'s abilities. S.C. can express some wants and needs and has some self-help skills. Lenzi characterized S.C.'s ability to initiate spontaneous demands or requests as less than "frequent" but more than "rarely." She has difficulty with expressive language but has stronger receptive language skills. S.C. tends to engage in solitary play and needs prompting to engage with peers. She has trouble with generalizations and maintaining skills but has strong imitation skills. Lenzi explained that prior testing indicates that S.C. has cognitive abilities below 1%, which obviously affects the rate of any cognitive progress, but she agrees that the child is capable of learning. As stated during Martin's testimony, Lenzi administered the ABLLS-R to S.C., together with the related service therapists, prior to the May 2016 IEP meeting to identify language and other critical skills that warrant intervention on her behalf. Her written testimony goes into greater detail on S.C.'s strengths and weaknesses on the ABLLS-R and how the CST collaborated on incorporating them into her new goals and objectives. Some modifications to behavior protocols were proposed but not implemented because of this pending due process challenge.

Lenzi also described the home parent training component of S.C.'s IEP. She worked collaboratively with Gina Delli Bovi, a certified special education teacher employed by the District who provided the instruction to petitioners, to develop its goals and objectives for the 2016-2017 school year. The purpose of the home parent training program is to train parents in implementing strategies and programs in the home and community settings on how to address problem behaviors, specific adaptive skills and

promote independence and productive activity. The training focuses on home and community skills, self-help skills, and independence. The purpose of home parent training is to transfer instructional control of specific skills from the instructor to the parents so that skills can be implemented by the parent in the home or community in the absence of an instructor. S.C.'s progress reports reflect the progress made on programs run through home parent training when data were collected. In-school parent training has also been made available. In fact, after the May 2016 IEP, L.C. met with Schaefer and Lenzi and worked with S.C. on preparing a snack and washing hands, and also discussed the steps and modifications which would transfer to the home. Another June session took place for L.C. to get trained on behavioral reinforcements and response costs.

In Lenzi's professional opinion as a BCBA, S.C.'s educational, social, emotional, and behavioral needs are appropriately met in the District's program. S.C. has received an appropriate educational program in the least restrictive setting and achieved progress commensurate with her cognitive level. The CBAP is modeled after private programs for individuals with autism based on the principles of ABA and is structured similarly to these programs, with the same behavior analytic procedures and strategies. In fact, Lenzi was of the opinion that an out-of-district placement would deprive S.C. of the opportunity to interact with typical peers and be more restrictive. Currently, S.C. is educated in the same school building as typical peers. Additionally, two (2) times a week, peer mentors come to S.C.'s classroom. The peer mentors are typical children who spend time with S.C. and her classmates.

On cross-examination, Lenzi acknowledged that S.C. cannot write her first name and can only write letters at all with the assistance of an aid such as a stylus or a magna doodle. However, she also was of the opinion that S.C.'s lack of writing ability will not prohibit S.C. from gaining some independence as an adult. The skills being taught to S.C. are broken down to their simplest components and infused into the IEP objectives. Even after a component skill has been mastered, judged by an 80% success criteria, that skill is still used and practiced in order to maintain the skill. There was no doubt in Lenzi's mind that S.C. has difficulty with maintaining skills and not

regressing. S.C. is also very gradually improving on multi-step directions.

Lenzi was questioned on the central issue in this challenge to S.C.'s placement, namely, whether the fact that the same objectives and skills are still being taught to S.C. after five years is indicative of the ineffectiveness of the teaching methodology being used in the CBAP. In other words, if the child is still struggling with the same pre-writing skills, then does that not mean that the District's CBAP is failing S.C. and not providing a meaningful education. Lenzi disagreed and maintained that S.C.'s lack of mastery does not equate to the program being inappropriate for her. This child has difficulty with certain skills and might always have such difficulties. Her non-productive or negative behaviors have decreased. Lenzi acknowledged, however, that the level and intensity of the prompts required for S.C. have not decreased over time, and that S.C. can still not follow a required sequence of activities. She further acknowledged that there has been no attempt to collect data on S.C.'s performance levels more than a single time per week.

On further direct examination, Lenzi stated that meaningful progress for any individual student must be measured against their unique cognitive abilities and rate of skill acquisition. She was aware that the parents wanted the school to keep working on handwriting skills with S.C. Lenzi explained that the CST is recommending that the focus for S.C.'s education be on functional skills rather than strictly academic ones.

David W. Sidener, Ph.D., testified on behalf of the respondent regarding an Independent Educational Program Review and his Report regarding same, dated December 9, 2016. He was retained by the District to conduct an Independent Educational Program Review to assess S.C.'s current placement in the CBAP classroom in the Mt. Prospect Elementary School. Dr. Sidener obtained a Bachelors of Social Work from Temple University in 1992, a Masters in Education from Temple University in 1999, and a Ph.D. in Psychology (Applied Behavior Analysis) from Western Michigan University in 2004. He is a BCBA-D and currently work as a Behavioral Consultant. Dr. Sidener has over thirty (30) years of experience in the field. I qualified him as an expert in Applied Behavior Analysis for students with Autism.

Through his pre-filed direct testimony and supplemental oral direct testimony, Dr. Sidener detailed his evaluation of S.C. He observed the child in November 2016 and then again in late May 2017, the latter in response to the report of Dr. Fiorile. Dr. Sidener found S.C. to be a cooperative and alert little girl. While she exhibited some low levels of stereotypy and disengagement, S.C. was very attentive during instruction and available for learning. During the observation, Dr. Sidener conducted several hard measures for five-minute intervals including “on task,” “occasions for responding (OCR),” and “behavior-specific praise (BSP).” He also used a five-point scale to measure teacher effectiveness. Each of these are described in more detail in his expert report.

Dr. Sidener calculated that S.C. was on task 80% of the time, which is a high degree of being prepared to learn and higher than typically-developing kindergarteners. During his OCR observations, Dr. Sidener found that the teacher and instructors were highly engaging, prompting and rewarding not just the academic task but also eye contact and social cues. The OCR was measured as being high to very high at 25-37 where 15 is average, which means that the teacher is providing a rich and stimulating learning environment. The BSP and other measures of praise were similarly high and appropriate for teacher-directed activities such as discrete trial instruction. This indicates that the instructor is attending to S.C.’s good behavior and creating a friendly and positive classroom environment. The five areas of effective teaching were scored as at or above criterion.

Dr. Sidener also reviewed S.C.’s IEP goals and objectives, and her progress reports. He described them as covering a wide range of skills and employing many different strategies. His one recommendation would be to employ a more functional approach to work with things or activities that specifically motivate S.C. within the other programs. In his evaluation of her progress reports, Dr. Sidener noted that S.C. had 77 different physical therapy objectives over an eighteen-month period that showed satisfactory progress, gradual progress or were mastered. About fourteen objectives showed inconsistent progress and two were not initiated. The academic or ABA progress reports also indicated mastery of many individual learning objectives although

he noted that S.C. has had difficulty in many areas. He calculated that S.C. had mastered or made progress in well over half her instructional objectives. However, the staff have attempted many strategies that have not been successful. Dr. Sidener did not characterize this as a negative because it indicated both that S.C. has difficulty learning with some typical strategies but also that the staff is flexible in making necessary modifications.

All in all, S.C. is making progress. While Dr. Fiorile noted that S.C. had plateaued on some objectives, Dr. Sidener stated that happens with every child in every program at some point. That is the purpose of having BCBA's on site to make necessary modifications to programs. Dr. Sidener concluded that S.C. is in an effective ABA classroom program which is overseen by qualified BCBA's, staffed by talented and dedicated instructors, with a genuinely individualized IEP for S.C. Data is collected in a science-based framework. In addition, parent training is being offered to petitioners in order assist with generalizations and carry-over of skills, as well as behavior improvements.

On cross examination, Dr. Sidener explained that an out-of-district placement might be appropriate for S.C. if she was in a district that did not have as excellent an ABA program as the Bernards CBAP. During his eleven years at Garden Academy, many districts sent children there but Bernards did not. He found the staff collaboration refreshing in the CBAP classroom but, as stated earlier, he would like to see more token rewards and manding being used to help S.C. choose more of her own activities and rewards. Dr. Sidener did observe S.C.'s attempts at handwriting an "S." He did not observe her scribble her name but neither was he surprised by counsel's exhibit. While two years sounds like a long time to teach a skill, it is not for a severely disabled child.

Dr. Sidener, like Dr. Bressler, noted that S.C.'s levels of performance were extraordinarily low; that she had exceptional difficulties in many areas, and that in many areas her progress appears to be inconsistent, meaning that there were many areas where no progress whatsoever could be demonstrably shown. He testified that although the District's goal over the last four years had been aimed at lowering the need for

constant prompting by the instructors, in fact the level of prompting required and used with S.C. has not been reduced appreciably and is still substantial. S.C. is able to learn but not necessarily able to learn everything one would like to teach her. These are hard-won battles for S.C. as she learns at a very slow pace.

Carol A. Fiorile was presented as an expert witness by petitioners. Dr. Fiorile is also a BCBA-D. She has served as a consultant for over ten years and has worked with children on the autism spectrum for twenty-two years. She has been qualified in numerous court proceedings and I also qualified her as an expert in Applied Behavior Analysis. Dr. Fiorile first met S.C. in 2012 when she attended the Leaps and Bounds program in Westfield. She recommended the Bernards CBAP to petitioners. Dr. Fiorile gave an overview of S.C.'s diagnosis, stating that she is severely impacted by autism and has co-morbidity diagnosis of the seizure disorder. In December 2012, S.C. developed Epstein-Barr Mononucleosis. She became ill, and a regression was noted. Eventually S.C. did recover some skills. During the 2013-2014 school year, S.C. again regressed in skills.

At the request of the petitioners, Dr. Fiorile undertook a study of S.C.'s educational records and raw data, and conducted two in-person observations of S.C. in the CBAP on November 18, 2015, and on February 16, 2017. The observation this February encompassed one hour, which Dr. Fiorile detailed in her report. The activities she observed included letter identification and matching lower to upper case letters, labeling photo actions and emotions, following her activity schedule, counting objects. These were intermixed with a bathroom break, reward hallway walks, and other personal questions by the teacher of S.C. Each time she earned ten tokens, S.C. correctly counted them and verbally requested a reward.

Dr. Fiorile noted that instruction was fast paced, with token delivery and verbal praise. Puopolo did not record data during this time. When S.C. watched a preferred video on the computer, Puopolo did record five-second data. S.C. apparently lost interest in the video even before her allotted time had expired. Dr. Fiorile observed S.C. having difficulty following her visual activity schedule without frequent prompting

and was concerned because of the duration this goal has been in S.C.'s IEP. Before the observation had concluded, Dr. Fiorile also watched S.C. try to match classes of objects by function using photos, and attempt to play a game of Connect 4 with Puopolo. S.C. continued to exhibit difficulty with cleaning up and returning or retrieving activity boxes from the shelf as part of her activity schedule. She was unable to follow a three-step instruction to put on her coat, pack her backpack, and line up at the door. Dr. Fiorile again noted that data was not collected on these programs. She also suggested that visual prompts should be explored for multi-step directions in light of S.C.'s continued difficulty with that activity in the presence of verbal prompts.

Dr. Fiorile summarized her findings. First, she agreed with certain aspects of the testimony of the District's witnesses:

Based on Dr. Sidener's Independent Review of the Basking Ridge CBAP, I would agree that this program is based on the principles and strategies of ABA, under the supervision of a BCBA, and fulfilling the minimal requirements necessary to satisfy the criteria for an ABA instructional program. Additionally, I am in agreement with the certifications of Dr. Read, Ms. Lenzi, Ms. Martin, and Ms. Puopolo in their conclusions that S[C.] has made progress in this program, specifically in decreasing stereotypical interfering behaviors, mouthing, and off-task behaviors. Ms. Puopolo clearly demonstrated good instructional control, which was pointed out by Dr. Sidener in his report.

[P-8a at 17]

Nevertheless, Dr. Fiorile criticized the CBAP for its lack of sufficient data on S.C. She also was of the opinion that Dr. Sidener's report had not been based upon a careful review of the actual data that was available, as distinguished from the progress reports. Additionally, she concluded –

The fact that S[C.] practices this [visual activity schedule] skill every school day and she continues to fail to demonstrate mastery is a clear indication that, although the Basking Ridge program is a program based on ABA principles, the manner in which this program is implemented has proven to be ineffective for S[.]C[.]”

[ibid.]

Additionally, Dr. Fiorile opined that S.C.'s token economy should have been revised rather than remain at ten for two years; that the mastery criteria should be 90-100% and never 80%; that trials should require S.C. to practice skills ten to twenty times and not five; and that data be recorded daily and not weekly. She concluded that the CBAP is a model ABA program but it has failed to modify elements of the program on a frequent enough basis when S.C. fails to progress in programs, who has failed, therefore, to make meaningful educational progress. There has been considerable wasted instructional time in between program modifications. Dr. Fiorile recommended a twelve-month out-of-district ABA placement that could utilize specific interventions to remediate behaviors that interfere with S.C.'s ability to access learning, and at-home ABA programming to assist with home behaviors and generalizations. To the extent S.C. will lose access to non-disabled peers, Dr. Fiorile prioritized teaching S.C. functional skills to foster greater independence.

On cross-examination, Dr. Fiorile admitted that she almost always recommends an out-of-district placement for the parents who retain her expert services. She also acknowledged that she has not done a home observation for S.C. since 2012. She could not say whether it would have made a difference in S.C.'s progress if the petitioners had availed themselves of more of the parent training offered by the District. In general, Dr. Fiorile stated that she had never met a child on the spectrum who could not learn eventually to use a debit card, which requires number recognition skills. One of her suggestions to help S.C. with multi-step instructions was to use an augmented communication device that combines pictures and voice, which can then be faded to remove the voice and just leave the picture.

Randy Bressler, Psy.D. testified on behalf of petitioners with respect to an independent Neuropsychological Evaluation performed during July and September 2016 on consent of both parties. Dr. Bressler received his Doctorate in Psychology from the Chicago School of Professional Psychology in 2003, having previously received a Masters from UMDNJ in 1997 and a Bachelors of Arts from University of Delaware in 1993. He is licensed in both New Jersey and New York. Dr. Bressler was

qualified as a Pediatric Neuropsychologist.

In preparation for his evaluation, Dr. Bressler undertook an observation at the school, a parent interview, and then three days of testing (shortened to assist S.C. with interfering behaviors). During the evaluation, Dr. Bressler noted that S.C. was oriented only to her name, street address, and the name of her elementary school. She could not identify the time, date or year. The testing itself was so challenging and difficult for S.C. that she could not be scored on many of the performance tasks attempted. Dr. Bressler administered the WISC-V, the Woodward-Johnson (4th Ed.), and Comprehensive Test of Nonverbal Intelligence (CTONI-2) tests, among some others.

Dr. Bressler generally described S.C. as facing very complex challenges. He found the girl to be much more intellectually disabled than reported in earlier analyses, which is co-existing with her severe autism impacts. S.C.'s immaturity is also getting more obvious as she gets older because of the widening gap between her and even her autistic peers. Dr. Bressler noted that S.C. is not regressing but she is just barely progressing. He opined that educational focus should be on safety skills, self-care, and identifying basic emotions in others.

S.C. had significant difficulties throughout the testing. Her language impairments necessitated reliance on more pictures and pantomime. Dr. Bressler also used some rewards to try to give S.C. the best shot at succeeding on these measures. On one occasion, she urinated on the office couch without requesting to use the bathroom. Dr. Bressler found that S.C.'s pragmatic language skills lag well behind those of typically developing children of the same age. She labored to maintain eye contact, her tone lacked inflection, and she did not engage in social conventions in conversation. S.C. possesses marked expressive and receptive language impairments that are severely limiting. She engages in echolalia and when speaking, often used less than four words, e.g., "I want a bagel." S.C. has an exceptionally weak vocabulary and weakly developed breadth of any knowledge, and she could not execute directives involving more than two concepts.

Dr. Bressler's examination also revealed that S.C. performed far below age

expectations on spatial reasoning skills, fluid reasoning skills, and graphomotor skills. S.C. exhibited difficulties with gross motor-coordination and fluid movements as well as some static balance positions. Her problem-solving skills in the emotional arena mirrors her cognitive abilities in other domains. Similarly delayed are her abilities to engage in social play, exhibit empathy, or even exercise sound judgment and self-care. S.C.'s language and motor challenges limited the number of tests that could be administered but Dr. Bressler opined that his assessments did create an accurate picture of her global functioning. His tests substantiated earlier evaluations that demonstrated that S.C. has a moderate intellectual disability. He buttressed them with parent and teacher assessments. Collectively, these deficits undermine S.C.'s ability to engage in adaptive behaviors that are necessary for success in school and relationships, and for facing everyday stressors. Dr. Bressler summarized:

Notably, it may appear that S[C.]'s cognitive, emotional, motor, and language maturation is worsening, but this would not be a fully accurate depiction of her functioning. While S[C.] as per her parents reportedly demonstrated a regression in skill sets following a serious episode of mononucleosis (December 2012) that included prolonged fevers that spiked to 106°, S[C.]'s development across all domains has remained clinically and statistically consistent since undergoing formal testing beginning in her pre-school years[.] . . . It is important to appreciate that S[C.]'s developmental trajectory indicates that her learning will, to a great degree, be characterized by extraordinarily slow progress with phases that look as if she is re-learning. This is an artifact of a brain that is *wired* much differently than typically maturing children. . . . Given her intellectual limitations, how one views S[.] making meaningful educational gains needs to be put in context recognizing that her learning is a deliberate repetitive pathway that will often require repetition and review of foundational skill-sets.

[J-153 at 18-19 (emphasis in original.)]

On cross-examination, Dr. Bressler acknowledged that he is not an educator or a teacher of the handicapped. He also did not conduct an educational assessment of her progress over time by reviewing all the data points but did review some progress reports. Dr. Bressler agreed that the CBAP is a well-regarded program but it still

needed to be assessed as to its appropriateness for S.C.'s exceptional special needs. He also remarked that her inability to progress beyond pre-writing skills may not reflect program deficits. S.C.'s working memory could be scored but was in the extremely low ability range. Her conceptual adaptive skills are stuck at a preschool level.

Dr. Bressler reflected on some of my own questioning to say that S.C. can learn but that it will not seem like meaningful educational progress from an outside view. He expressly did not use the word "meaningful" in the sense of the IDEA. Learning will always be a challenge to her. It is hard to say if she will ever be able to write her first name because after age five, her potential has stabilized.

A.C., petitioner father, testified on his daughter's behalf. He described S.C. as a happy and warm child, who is a hard worker and enjoys attending school, dance, music and swimming. The family moved into the District during the summer of 2012 and were initially impressed with the teacher, staff and curriculum in place for S.C.

In addition to her severe autism, S.C. also has a seizure disorder. S.C. has absence seizures, typified by staring spells in which she will respond to her name only with her eyes. Fortunately, there has been no evidence of any seizure activity over the past year. Unfortunately by December of 2012, S.C. developed Epstein-Barr Mononucleosis. She became very ill for three weeks; spiking recurrent fevers, suffering from lethargy, losing her appetite and sleeping most of the day. Her skills and levels of performance largely and obviously regressed. After another bout of regression in 2013-2014, the CST and the parents incorporated some home ABA programming in order to assist S.C. with learning self-care and activities of daily living, i.e., dressing and undressing, brushing her teeth, washing her hands and showering. An independent photographic activities schedule was used to teach many of these. Repetition on some of these ADLs eventually increased S.C.'s levels of progress to a limited extent but they have remained without meaningful progress since then.

A.C. testified about another issue that developed during the end of the 2014-

2015 school year that involved the District's push to reduce S.C.'s services. The District cut home programming back to two hours a week from three and said it planned to eliminate PT. Petitioners felt strongly that neither should be changed and so advised the CST. From his perspective, the lack of data collection at home should not be a reason to reduce home programming but a reason to increase the training of the home programmer, which occurred belatedly. Petitioners also protested the proposed reduction in PT services because S.C. still had obvious safety and balance issues, which argument won the day, leaving the services in the next IEP.

A.C. also testified that the parents conflicted with the CST on issues of proper communications with them, especially in the areas of home programming, S.C.'s increased preference for eating with her left hand, and sound sensitivity. The latter resulted in a conflict between petitioners and the staff as to how much S.C. should be wearing headphones that they had provided for the bus ride to the YMCA and during adaptive physical education. Their use was extended by the staff without petitioners' permission for a period of time, until the overuse became problematic for S.C.'s ability to cope in normal situations. This issue was resolved when L.C. removed the headphones from the school environment.

A.C. feels that the CBAP has been ineffective at providing any meaningful progress for S.C. He emphasized that S.C. cannot generalize teeth brushing and toileting skills at home, and that she is still unable to read or to perform at prewriting levels. She is unable to even consistently point to the uppercase letter "A" with a mastery level of accuracy. S.C. regularly fails to successfully perform many skills that she has worked on in the CBAP nearly every single day for the past five consecutive school years, including her full-day activity schedule or multi-step directions.

FINDINGS OF FACT

Based upon due consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of

the witnesses and assess their credibility and expertise, where applicable, I **FIND** the following **FACTS** by the preponderance of the credible evidence:

1. S.C. is a child severely impacted by autism, as well as a moderate cognitive disability. S.C. also has been subject to an absence seizure disorder and a serious case of mononucleosis.

2. S.C. has shown improvement in her negative behaviors or stereotypies since being placed in the CBAP. Her negative or nonproductive behaviors are no longer interfering with her ability to access education.

3. S.C. has significant delays in all areas of academics, social play or interrelationships, gross and fine motor skills, and self-care. She remains at a pre-writing stage for written expression and pre-math stage for numbers. S.C. cannot perform multi-step directions of any length over two or three without prompting.

4. S.C. has very low working memory and it is very difficult for her to generalize almost any skill learned. Home programming and parent training has been offered in minimal hours by the District, but sometimes not taken advantage of by the petitioners.

5. The fact that S.C. requires a lot of prompting or cues to undertake a skill is more reflective of her abilities, attention and confidence than it is a reflection on the CBAP.

6. Nevertheless, what might appear as regression or stagnation to others, especially when compared to the ever-widening gap to even her disabled peers, is real progress for S.C. With the exception of Dr. Fiorile, the experts who testified herein all agree that S.C. is learning at her own pace and making progress in the CBAP.

7. The greater weight of the expert testimony is that S.C.'s IEP should be more focused on safety, self-care and skills of independence, rather than traditional academics.

8. The CBAP is an ABA-based program for children on the autism spectrum, with 1:1 aides, discrete trial methods, on-site BCBA supervision, and data collection. The latter is undertaken less frequently than in some private settings.

LEGAL ANALYSIS AND CONCLUSIONS

State and federal laws require local public school districts to identify, classify and provide a free and appropriate public education (FAPE) to children with disabilities. 20 U.S.C.A. Section 1412; N.J.S.A. 18A:46-8, -9. As a recipient of federal funds under the IDEA, the State of New Jersey has a policy that assures all children with disabilities the right to FAPE. 20 U.S.C.A. § 1412. The responsibility to provide FAPE, including special education and related services, rests with the local public school district. 20 U.S.C.A. § 1401(9); N.J.A.C. 6A:14-1.1(d). In accordance with N.J.S.A. 18A:46-1.1, the burden of proving that FAPE has been offered likewise rests with school personnel. FAPE is an education that is “specially designed to meet the unique needs of the handicapped child, supported by such services as are necessary to permit the child to benefit from the instruction. G.B. v. Bridgewater-Raritan Reg’l Bd. of Educ., 2009 U.S. Dist. LEXIS 15671, *5 (D.N.J. Feb. 27, 2009) (citing Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 189, 102 S. Ct. 3034, 3042, 73 L. Ed. 2d 690, 701 (1982)). FAPE includes special education and related services that are provided at public expense under public supervision and direction and without charge; that meet the standards of the State Educational Agency; that include an appropriate preschool, elementary and secondary school education; and that are provided in conformity with an IEP as required under 20 U.S.C.A. Section 1414(d).

Federal law is complied with when a local school board provides a handicapped child with a personalized education program and sufficient support services to confer some educational benefits on the child. Rowley, *supra*. In Rowley the Court determined that although the Act mandates that states provide a certain level of education, it does not require states to provide services that necessarily maximize a disabled child’s potential. Instead, the IDEA requires a school district to provide a basic floor of opportunity. Carlisle Area Sch. v. Scott P., 62 F.3d 520, 533-34 (3d Cir. 1995).

While our courts have consistently held that the IDEA does not mandate an optimal level of services, an IEP must provide meaningful access to education, and confer some educational benefit upon the child. Rowley, supra, 458 U.S. at 192. In order to be appropriate, the educational benefit conferred must be more than trivial. Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238 (3d Cir. 1999). The central legal issue is whether the educational services and program offered are sufficient to confer an educational benefit that is meaningful and significant and, therefore, not de minimus, in nature. Lascari v. Ramapo Indian Hills Regional Sch. Dist., 116 N.J. 30 (1989).

The educational opportunities provided by a public school system will differ from student to student, based upon the “myriad of factors that might affect a particular student’s ability to assimilate information presented in the classroom.” Rowley, supra., 458 U.S. at 198. The Rowley Court recognized that measuring educational benefit is a fact-sensitive, highly individualized inquiry, and that “[i]t is clear that the benefits obtainable by children at one end of the spectrum will differ dramatically from those obtainable by children at the other end, with infinite variation in-between.” Id. at 202.

In this matter, petitioners presented plenty of evidence that S.C. has not learned to write her name or even the individual letters of her name, or to engage in multi-step instructions such as required to pack her backpack and get in line at the door; however, they also catapult those facts as the ultimate test as to whether she is receiving any meaningful educational benefit from the CBAP. It is also not disputed that S.C. has not wholly mastered the alphabet, counting, knowing her numbers, knowing the names of her teachers or peers, or even wholly independent toileting.

I am persuaded by Lenzi’s analysis that S.C.’s lack of mastery does not equate to the program being inappropriate for her. Her non-productive or negative behaviors have decreased. This child has difficulty with certain skills and might always have such difficulties. S.C. is at the farther end of the autism spectrum and may never master the alphabet, simple math skills, or spelling her name. Significantly, Dr. Bressler’s analysis and prognosis concurs and sets forth that S.C. is not regressing; she is just not capable of progressing in ways that are as obvious to the outside world as are typically developing peers or even higher functioning disabled peers. To the extent Dr. Fiorile

disagreed with the appropriateness of the CBAP placement for S.C., Dr. Fiorile's recommendation was largely based on interventions for behaviors that the experts established and I **CONCLUDE** are not interfering with her ability to be available for learning.

I **CONCLUDE** that S.C. has neither regressed nor flat-lined in her program at CBAP. The District has personalized her goals and objectives, and has modified as needed the skill-sets to get to those goals on S.C.'s own timetable. While it is undoubtedly very frustrating for petitioners to watch their little girl struggle with so many aspects of life and school, the measure of a meaningful education for S.C. cannot be a traditional handwriting or mathematical yardstick.

The fact that petitioners were not able to or chose not to accept the proffered parent training does not mean that the District did not offer FAPE. I would recommend a larger component of home-ABA programming to assist both S.C. and her parents, especially during the month of August, in addition to the recommendation that they avail themselves of all parent training.

In sum, I **CONCLUDE** that the District has met its burden of proof that the IEPs proposed by the District for the 2015-2016 and 2016-2017 school years were designed to confer a meaningful educational benefit on S.C. in the least restrictive environment. I **CONCLUDE** that an out-of-district placement is not necessary for S.C. to receive FAPE.

ORDER

For the reasons set forth above, it is **ORDERED** that the relief sought in petitioners' due process petition is **DENIED**.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2016) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2016). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education Programs.

August 7, 2017

DATE

GAIL M. COOKSON, ALJ

Date Received at Agency

8/7/17

Date Mailed to Parties:

id

APPENDIX

Witnesses

For Petitioners:

Dr. Randy Bressler

A.C.

Dr. Carol A. Fiorile

For Respondent:

Karen Martin

Michele Lenzi

Dr. Allyson Read

Katherine Puopolo

Dr. David W. Sidener

Exhibits

Joint

- J-1 Westfield Psychological Evaluation
- J-2 Westfield Speech and Language Evaluation
- J-3 Westfield Educational Evaluation
- J-4 Westfield Physical Therapy Re-Evaluation
- J-5 Westfield IEP
- J-6 Transfer Student (New Referral) and Student Registration
- J-7 Invitation to an IEP Meeting
- J-8 Occupational Therapy Evaluation by Cynthia M. Rich Kwalwasser
- J-9 Amendment IEP
- J-10 Progress Report 2012-2013 Quarter 1
- J-11 Behavior Progress Report 2012-2013 Quarter 1 and 2
- J-12 Behavior Progress Report 2012-2013 Quarter 3
- J-13 Invitation for Annual Review of IEP, dated

- J-14 Expressive Language Assessment
- J-15 Memo regarding Behaviors in Home and Community by Randi Sarokoff
- J-16 Annual Review IEP
- J-17 Progress Report 2012-2013 Quarter 4
- J-18 Acknowledgement of Receipt of IEP
- J-19 ESY Progress Report for Physical Therapy
- J-20 Invitation to Assess Progress and Review or Revise IEP
- J-21 IEP
- J-22 Reducing Non-Productive Behavior
- J-23 Progress Report for IEP Goals and Objectives 2013-2014 Marking Period 1
- J-24 Progress Reports 2013-2014 Quarter 1
- J-25 Progress Reports 2013-2014 Quarter 2
- J-26 Data Binder
- J-27 Progress Report for IEP Goals and Objectives
- J-28 Reducing Non-Productive Behavior Plan
- J-29 E-mails between Cynthia Kwalwasser and L.C.
- J-30 Invitation for Reevaluation Eligibility Determination with Annual Review
- J-31 Reevaluation Planning – Additional Assessment Warranted and signed Parental
Consent
- J-32 Occupational Therapy Re-Evaluation by Cynthia M. Rich Kwalwasser
- J-33 VB-MAPP by Nicole Cataldi and Kristen Martinez
- J-34 Progress Reports Quarter 3, 2013-2014
- J-35 Progress Report for IEP Goals and Objectives
- J-36 Battelle Developmental Inventory Assessment by Karen Martin, Emma
Lamparello, and Kristen Martinez
- J-37 Reevaluation Eligibility IEP
- J-38 Progress Report for IEP Goals and Objectives 2013-2014
- J-39 E-mail from L.C.
- J-40 E-mails between A.C. and Randi Sarokoff
- J-41 Classroom Observation by Monica Mejia
- J-42 E-mail from L.C. concerning seizure

- J-43 E-mails between L.C. and Randi Sarokoff
- J-44 Request to Amend IEP
- J-45 Consent to Amend IEP without a Meeting
- J-46 Amended IEP, dated September 24, 2014
- J-47 Prescription Blank signed by Dr. Orrin Devinsky
- J-48 Parent Meeting Notes
- J-49 Minutes from Parent Meeting by Laurie Tortorelli
- J-50 Reducing Non-Productive Behavior Plan
- J-51 Toileting/Hygiene Skill Permission
- J-52 Progress Reports Marking Period 1, 2014-2015
- J-53 Invitation to Assess Progress and Review or Revise IEP
- J-54 IEP
- J-55 E-mail from L.C. to Laurie Tortorelli
- J-56 Authorization to Release/Obtain Information
- J-57 Progress Reports Marking Period 2, 2014-2015
- J-58 E-mails between Laurie Tortorelli and L.C.
- J-59 E-mails between Emma Lamparello and L.C.
- J-60 Reducing Non-Productive Behavior Plan
- J-61 E-mails between Laurie Tortorelli and L.C.
- J-62 Invitation for Annual Review of IEP
- J-63 E-mail from Cynthia Kwalwasser to L.C.
- J-64 VB-MAPP by Laurie Tortorelli and Nichol Vohden
- J-65 E-mail from Cynthia Kwalwasser to Laurie Tortorelli
- J-66 E-mail from Laurie Tortorelli to L.C.
- J-67 E-mails between Emma Lamparello and L.C.
- J-68 Progress Report for IEP Goals and Objectives
- J-69 Annual Review IEP
- J-70 Progress Reports Marking Period 3, 2014-2015
- J-71 E-mails between L.C. and Emma Lamparello
- J-72 Request to Amend an IEP without a Meeting
- J-73 E-mails between Laurie Tortorelli and L.C.
- J-74 E-mails between Cynthia Kwalwasser and L.C.

- J-75 Consent to Amend IEP without a Meeting
- J-76 Amended IEP
- J-77 Progress Report Marking Period 4 June 2015
- J-78 Occupational Therapy Parent Training Notes
- J-79 Language Activity Ideas
- J-80 E-mails between Laurie Tortorelli and L.C.
- J-81 Home Parent Training Data Notebook
- J-82 E-mails between Cynthia Kwalwasser and L.C.
- J-83 Overview of Occupational Therapy Sets
- J-84 E-mail from Cynthia Kwalwasser to L.C.
- J-85 Letter from Richard Kaplow, Esq. to Allyson Read
- J-86 Letter from Jean O'Connell to Richard Kaplow, Esq.
- J-87 E-mails between Cynthia Kwalwasser and Petitioners
- J-88 E-mails between Cynthia Kwalwasser and L.C.
- J-89 E-mail from Nichol Vohden to L.C.
- J-90 E-mails between Cynthia Kwalwasser and L.C.
- J-91 Progress Report Quarter 1 2015-2016
- J-92 E-mails between Petitioner and District concerning medication
- J-93 Reducing Non-Productive Behavior Plan
- J-94 E-mail from Nichol Vohden to L.C.
- J-95 Parent Training Agenda-Plus Notes
- J-96 Reducing Non-Productive Behavior Plan
- J-97 E-mails between Cynthia Kwalwasser and L.C.
- J-98 [not in evidence]
- J-99 [not in evidence]
- J-100 E-mail from Joseph Leone
- J-101 E-mail from Joseph Leone
- J-102 Progress Report Marking Period 2 2015-2016
- J-103 E-mail from Nichol Vohden to L.C.
- J-104 Invitation for Annual Review of IEP
- J-105 E-mails between Joseph Leone and A.C.
- J-106 Letter from Cherie Adams, Esq., to Richard Kaplow, Esq.

- J-107 E-mail from Joseph Leone
- J-108 E-mail from Joseph Leone
- J-109 E-mail from Karen Martin to L.C.
- J-110 E-mail from L.C. to Karen Martin
- J-111 E-mail from Karen Martin to L.C.
- J-112 E-mail from Joseph Leone to Petitioners
- J-113 E-mails between Joseph Leone and Cynthia Kwalwasser
- J-114 E-mail from Joseph Leone to Petitioners
- J-115 Letter from Richard Kaplow, Esq. to Cherie Adams, Esq.,
- J-116 E-mail from Joseph Leone to Petitioners
- J-117 E-mail from Joseph Leone to Petitioners
- J-118 District's Petition for Due Process
- J-119 Letter from Richard Kaplow, Esq. to Cherie Adams, Esq.,
- J-120 Progress Report Marking Period 3, 2015-2016
- J-121 E-mail from Kaitlyn Schaefer to Petitioners
- J-122 E-mail from Cynthia Kwalwasser to Kaitlyn Schaefer
- J-123 ABLLS-R Assessment Summary by Michele Lenzi and Nichol Vohden
- J-124 Goals and Objectives for May 2016-May 2017
- J-125 Home Parent Training Goals and Objectives for May 2016-May 2017
- J-126 E-mails between Kaitlyn Schaefer and Petitioners
- J-127 E-mail from Kaitlyn Schaefer to Petitioners
- J-128 Progress Report for IEP Goals and Objectives 2015-2016
- J-129 E-mail from Kaitlyn Schaefer to Petitioners
- J-130 E-mail from Nichol Vohden to Petitioners
- J-131 E-mail between Emma Lamparello and L.C.
- J-132 E-mails between Cynthia Kwalwasser and Petitioners
- J-133 IEP
- J-134 E-mail from Kaitlyn Schaefer to Petitioners
- J-135 E-mails between Michele Lenzi and L.C.
- J-136 Reducing Non-Productive Behavior Plan
- J-137 E-mails between Michele Lenzi and L.C.
- J-138 Progress Report Marking Period 4 2015-2016

- J-139 E-mail from Kaitlyn Schaefer to Petitioners
- J-140 Progress Report Marking Period 1 2016-2017
- J-141 Progress Report Marking Period 2016-2017
- J-142 Weekly Score Sheet
- J-143 Medical Card Report,
- J-144 Behavior Data
- J-145 Daily Speech Notes by Nichol Vohden, 2015-2016
- J-146 Consult Notes by Michele Lenzi
- J-147 E-mail between Katie Puopolo and Petitioners
- J-148 Mastered Programs
- J-149 Program Graphs
- J-150 Updated Program Graphs
- J-151 Name writing templates
- J-152 CV of Randy A. Bressler, Psy. D., L.L.C
- J-153 Neuropsychological Evaluation by Randy A. Bressler, Psy.D., L.L.C.

For Petitioner:

- P-1 Physical Therapy Service Records prepared by Emma Lamparello, PT
- P-2 "Big Line + Little Line" documents from the 2013-2014 school year
- P-3 Battelle Developmental Inventory Report by Cynthia M. Rich Kwalwasser, MA,
OTR/L dated 04/17/2014
- P-4 Developmental and Pediatric Assessment/Summary by Alexa Kemeny, M.D.,
Summit Medical Group dated 03/19/2015
- P-5 Hearing Assessment by Summit Medical Group, Department of Audiology dated
07/06/2015
- P-6 "My Daily Journal" documents provided to parents in September and October, 2015
- P-7 Letter by Orrin Devinsky, M.D. dated 10/22/2015
- P-8 Educational Review Report by Carol A. Fiorile, Ph.D., BCBA-D, SAS, LBA dated
11/19/2015
- P-8a Educational Review Report by Carol A. Fiorile, Ph.D., BCBA-D, SAS, LBA dated
04/08/2017

- P-8b Independent Review Report by Carol A. Fiorile, Ph.D., BCBA-D, SAS, LBA dated March 5, 2017
- P-8c Curriculum Vitae of Carol A. Fiorile, Ph.D., BCBA-D, SAS, LBA
- P-9 Psychiatric Evaluation by Charles Cartwright, M.D. dated December 1, 2015
- P-10 Letter by Orrin Devinsky, M.D. dated February 23, 2016
- P-11 Assessment Summary (AVLLS-R) Report by Michele Lenzi, MA, BCBA and Nichol Vohden, MA, CCC-SLP dated April 18, 2016
- P-12 Prescription Blank signed by Orrin Devinsky, M.D. dated August 06, 2016
- P-13 Handwriting sample by S.C., dated February 15, 2017
- P-14 Pre-filed Direct Testimony of A.C.
- P-15 Progress Reports

For Respondent:

- R-1a Curriculum Vitae of Karen Martin
- R-1b Pre-filed Certification of Karen Martin
- R-2a Resume of Allyson Read, Ph.D
- R-2b Allyson Read's Certification
- R-3a Resume of Michele Lenzi, BCBA
- R-3b Michele Lenzi's Certification
- R-4a Resume of Katie Puopolo
- R-4b Katie Puopolo's Certification
- R-5a Curriculum Vitae of David W. Sidener, Ph.D., BCBA-D
- R-5b David Sidener's Curriculum Vitae
- R-6 Independent Educational Program Review by David W. Sidener, Ph.D., BCBA-D