

*State of New Jersey*  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

OAL DKT. NO. EDS 12597-14

AGENCY DKT. NO. 2015-21687

**N.G. ON BEHALF OF S.D.,**

Petitioner,

v.

**NORTHERN VALLEY REGIONAL**

**BOARD OF EDUCATION,**

Respondent.

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**Rebecca K. Spar**, Esq., for petitioner N.G. on behalf of S.D. (Cole, Schotz,  
Meisel, Forman & Leonard, attorneys)

**Cherie Adams**, Esq., for respondent Northern Valley Regional Board of  
Education (Adams, Gutierrez & Lattiboudere, attorneys)

Record Closed: April 15, 2015

Decided: May 14, 2015

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

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On or about September 2, 2014, N.G. filed a petition on behalf of her then-fifteen-year-old daughter S.D. and requested a due process hearing on the issue of whether respondent Northern Valley Regional Board of Education (District) erred in proposing not to send S.D. to an out-of-district placement in the Cresskill High School (Cresskill) with a 1:1 aide for the 2014-2015 school year. The petition also asserted that the District had denied the mother certain rights in the procedures by predetermining placement in its own high school without appropriate parental input. The petition alleges that both the

substance and process of S.D.'s Individualized Education Plan (IEP) constituted a denial to S.D. of a fair and appropriate public education (FAPE), 20 U.S.C. § 1412, as a classified student entitled to services under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 to 1419, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504). S.D. is diagnosed as a child who is Communication Impaired. The District filed its Answer on or about October 15, 2014.

Although filed as a request for mediation only with the Office of Special Education Programs (OSEP), the matter was converted to a due process petition and was transmitted to the Office of Administrative Law (OAL) on September 30, 2014. A settlement conference convened at the OAL on October 16, 2014, before the Honorable Carol I. Cohen, A.L.J., but it was unsuccessful at resolving the issues in dispute between the parties. Accordingly, the matter was assigned to the undersigned for conduct of a plenary hearing. On October 24, 2014, I convened a telephonic status conference in order to address discovery issues and schedule hearing dates. A second case management conference was held on December 1, 2014, in order to prepare the case for hearing.

During the initial case management conference, 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, all direct testimony of witnesses are proffered through pre-filed written submissions and the witnesses are then presented for oral cross-examination and re-direct examination, as needed. Pre-filed direct testimonial certifications are made part of the record herein. The plenary hearings were held on January 14, 20, 26, and February 13 and 24, 2015. The final post-hearing written briefs were received on March 27, 2015. April 15, 2015, was reserved for oral argument if needed, on which date the record closed.

## 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, I **FIND** the following **FACTS**:

In this matter, geography plays a role in the positions of both parties so I will set forth some basic initial facts on that score as common background to what follows. Petitioner N.G. and her daughter S.D. are residents of Haworth, which is served by Haworth School District for grades K through 8, and then Northern Valley Regional High School District for grades 9 through 12. Northern Valley has two high schools in its District, located in Demarest and Old Tappan. Northern Valley is a regional high school that serves students in grades nine through twelve who reside in the towns of Closter, Demarest, Harrington Park, Haworth, Northvale, Norwood, and Old Tappan.

Based just on geography, S.D. would attend Demarest as a resident of Haworth if she was not under the care of an IEP. As discussed in detail below, while S.D. began attending schools or programs in Haworth, she had been attending Cresskill Elementary and then Middle Schools since 2009-2010 as an out-of-district placement implemented by the IEPs of Haworth. Cresskill Junior High (or Middle) School is housed in the same building complex as Cresskill Senior High School.<sup>1</sup> After eighth grade, Northern Valley became the district responsible to oversee the preparation and implementation of S.D.'s IEP.

S.D. is classified under the IDEA as Communications Impaired. N.G. presented testimony on behalf of her petition and the educational needs of her daughter. While it chronologically came later in the hearings, I provide a summary of her testimony at the outset of this decision because it provides a lot of undisputed background to the present issues, even while it also contains disputed claims. N.G. described her

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<sup>1</sup> Cresskill Junior and Senior High School is approximately 2 miles from petitioner's residence; Northern Valley Regional High School at Demarest is approximately 3 miles; and Northern Valley Regional High School at Old Tappan is approximately 5.6 miles. It is alleged in the pleadings, and not disputed, that Cresskill High School has a smaller student population, about 40% of that of Old Tappan High School.

daughter's early years and how S.D. began to fall behind her peers socially and in other developmental areas, such as toilet training. N.G. contacted the Haworth Child Study Team (CST) and S.D. was enrolled in the PIE/Valley program in January 2003. She stayed in that program until June 2004 and made progress in several areas including toileting and working for rewards. S.D. was referred at that time to a pediatric psychiatrist and developmental-behavioral pediatrician. She was diagnosed with developmental delays (PDD-NOS). For the 2004-2005 school year, S.D. was placed in the Valley kindergarten program but had difficulty with the transition and acted out at home. During that year, it was discerned that S.D. did not respond well to discrete trial and ABA methods.

For 2005-2006 school year, S.D. was placed in the Haworth Elementary School in a mainstream kindergarten classroom with a 1:1 aide. N.G. felt that her daughter immediately began to struggle socially and was increasingly susceptible to night terrors. A pediatric neurologist diagnosed her with aphasia and prescribed Klonopin to reduce the child's anxiety. N.G. relayed one particular incident from that kindergarten year when a teacher scolded S.D. for touching the classroom piano. The incident seemed to stick with her as she became afraid of the music teacher and resistant to returning to school.

For first grade (2006-2007), the Haworth CST determined that a mainstream classroom was not appropriate for S.D. and placed her with a new 1:1 aide in a learning language learning disabilities ("LLD") first grade self-contained classroom. N.G. arranged private tutoring over the summer and S.D. began to read. When school began in the fall, N.G. felt that S.D.'s anxiety about school returned along with her sleep issues. Because the lack of adequate sleep was impacting her focus and attention, S.D.'s pediatrician put her on Stratera. After months of being on that prescription, both N.G. and the child's language therapist compared their observations of the changes in S.D.'s personality while on that drug. Accordingly, N.G. took S.D. off of Stratera.

During the 2007 reevaluation phase, Dr. Stacey R. Tuchin gave S.D. a thorough neuropsychological evaluation which resulted in a diagnosis of Semantic Pragmatic

Language Disorder and advised that S.D. be placed in an educational program that would provide her with social pragmatics. Dr. Tuchin also determined that S.D. had average I.Q. potential. After researching many program options suggested by the Haworth CST, N.G. and the CST agreed that S.D. would attend the Forum School in Waldwick, New Jersey, for the 2007-2008 school year. N.G. believed that the Forum would provide individualized solutions consistent with the recommendations of Dr. Tuchin. Instead, N.G. felt that S.D. was regressing on the social and academic progress she had previously made. N.G. expressed her concerns to the Forum administrator who assured her that S.D. would be in a class the next year with fewer students, all girls, and all closer to her social and academic potential. Accordingly, S.D. remained at Forum for the 2008-2009 school year yet the problems persisted. N.G. found that her only solution was to arrange for supplemental private tutoring so that S.D. would make some progress.

Based on these poor experiences, N.G. continued to implore the Haworth CST to find a more suitable placement for S.D. The Merritt Memorial Elementary School in Cresskill was recommended. From her own observations of the program, N.G. agreed that its special education program was a better match for S.D. in terms of the social and academic approaches and levels, as well as the compatibility of the students. S.D. remained at Merritt for two years (2009-2010, 2010-2011) with a mixture of class types – general education, resource rooms, self-contained – and a consistent teacher over both years with whom she bonded.

For sixth grade, S.D. would need to transition to a middle school and Haworth at first presented the Valley program as its placement for her. N.G. objected and the Haworth CST agreed to continue S.D. in Cresskill's Middle School with a 1:1 or shared aide, recommended by the Merritt Elementary School staff. Even though S.D. was remaining as an out-of-district student in the Cresskill system, the transition to middle school was even more difficult for her than for most children of that age. New teachers, new friends, new building, and new subjects with classroom switches overwhelmed S.D. N.G. observed her struggling and fantasizing at home about moving to Florida. Through discussions with Merritt and Cresskill teachers and the CST, a belated

transition plan and behavioral intervention plan were implemented and strategies of success communicated and implemented both home and at school. N.G. saw S.D. making progress both in terms of her academics as well as her social and anxiety adjustments. N.G. was satisfied with the programs her daughter attended for the remainder of her middle school years (2011-2014).

In January 2013, N.G. was invited by Debra Gadino, the Haworth case manager, to attend a progress meeting to discuss how S.D. was doing. She was introduced to Steve Kuwent and Geraldine Beatty from Northern Valley Regional High School District. When her parent advocate asked why they were in attendance, she was told that Northern Valley started visiting students who were out of district to prepare for their placement in one of the Northern Valley high schools when the student reached ninth grade. From N.G.'s first contact with Northern Valley representatives, she felt that it seemed clear that Northern Valley would not consider any program or placement for S.D. other than the Step Program in Old Tappan High School. There was never a discussion at any meeting about the benefits to S.D. of going to Cresskill High School or the detriments of moving her to Old Tappan High School. Whenever N.G. would bring up her concerns about subjecting S.D. to yet another placement change, she was told that students from Haworth went to one of the Northern Valley schools and that was the end of the conversation.

N.G. visited the Step Program in Northern Valley's Old Tappan High School on February 10, 2014. She also gave permission for S.D. to spend a day there with her 1:1 aide on March 20, 2014. N.G. testified in some more detail of her observations that day. On June 12, 2014, there was an eligibility meeting to review S.D.'s classification and continued eligibility under the IDEA. N.G. stated that it was only when the meeting was mostly concluded that she glanced at the last page of the prepared report and saw that Northern Valley had already determined that S.D.'s placement would be in its Step Program. She hoped, as had usually been the case in the past with Haworth, that there would be an open discussion at the IEP meeting and the ultimate decision would be based on what was appropriate for S.D. Seeing in print that Haworth and Northern Valley had unilaterally decided without her participation or that of S.D.'s teachers or her

Cresskill case manager greatly upset N.G. She decided then not to consent to moving from eligibility to an IEP meeting without first consulting with an attorney.

The IEP meeting was originally scheduled for July 15, 2014, but several key participants were absent and certain individuals present did not seem to N.G. to have any personal knowledge of her daughter and her needs. When the Cresskill case manager was suddenly called away, it became futile to continue the IEP meeting. It was rescheduled for July 18, 2014, notwithstanding the inconvenience to N.G.'s own work obligations. On July 18, the draft or proposed IEP document consisted of the same information with some additional teacher input. S.D.'s case manager, Revital Sholomon, said Cresskill was willing to place S.D. in its high school in a program similar to her Middle School program. She described a combination of self-contained classes for Language Arts, Math and Study Skills, replacement resource classes for Biology and History, and general education classes with social skills and speech language services and a 1:1 aide. The only change suggested by the Cresskill team was the elimination of the weekly individual speech language session. S.D. would continue to have one session per week of small group pull-out services and one session per week of infused services.

N.G. also testified about the comments made by others during the IEP meeting of July 18, 2014, notwithstanding that those individuals did not testify herein and whose statements are therefore hearsay. I **FIND** that the respondent's objections to paragraph 118 of N.G.'s pre-filed direct testimony must be sustained and as such, will strike from the record the hearsay statements of S.D.'s 1:1 aide, as well as those of her physical education teacher, Adam Preciado, set forth in paragraphs 78-80. N.G. also testified in these proceedings that one of her biggest concerns for S.D. being placed in the Step Program at Old Tappan High School was that she would get lost in the shuffle of a bigger facility and be bullied with no existing peer or staff relationships to fall back on. Her transition difficulties of the past would be magnified with this change in placement.

N.G. continued to describe many of her concerns with the proposed placement of S.D. at Old Tappan High School. In addition to the large size of the student body

and facility, N.G. commented that kids from her town would normally go to the Northern Valley Regional High School at Demarest so there was even less likelihood that D.S. would know any of her new peers. She felt the lunch cafeteria would be overwhelming and force S.D. to eat in her self-contained classroom whereas at Cresskill she does eat with normally developing peers. She was also upset at the idea that the 1:1 aide was being removed as a support for S.D. Just the prospect of this change in placement caused her long-time aide, according to N.G., to take a new job, creating new transition issues for S.D. during this stay-put year at Cresskill High School. N.G. summarized her feelings about the subject IEP thusly:

In all my meetings with representatives from Northern Valley, they have always focused on describing the Step program. They have never offered services S.D. isn't already getting in Cresskill and do not acknowledge the resulting loss of supportive peers.

[Cert. of N.G. at ¶ 107, P-16]

Because N.G. did not tell S.D. why she was visiting the Step Program in March 2014, S.D. likely assumed it was just a field trip. With respect to any conclusions to be drawn from S.D.'s experiences that day, the mother discounted them immediately. She described S.D. as a nice, sweet girl who even her teachers recognize as a "people pleaser." As she has been taught good manners and to be polite, it was absolutely typical that S.D. would say that she had a "good day" when a stranger asked her. N.G. felt that nothing could be drawn from that situation that would dispel the anxiety and stress she would ultimately experience if the girl knew that she was going to be removed from Cresskill and was going to lose the peer relationships and supportive teacher relationships she has worked so hard to develop during her many years in Cresskill, as well as the support of her personal aide. N.G. considers the 1:1 aide as essential to promoting S.D.'s independence and not in handicapping her ability in that respect.

N.G. used the remainder of her testimony to refute many of the statements made by respondent's witnesses, including the discussions during the IEP meeting to the effect that Cresskill was an appropriate placement, that S.D. needed the 1:1 aide



throughout her day and the additional speech language therapy, and that Cresskill did provide an appropriate level of services. She also disagreed with the statements of Beatty and Battaglia that the Neal Moles Program along with transportation for S.D. were offered by Northern Valley as an ESY program for the summer of 2014 or 2015, having been left vague and without firm commitment. In sum, it is her firm desire to see S.D. continue to attend the appropriate placement at Cresskill and not to disrupt S.D.'s education with another, ill-advised transition. N.G. asserted that Cresskill is willing and able to provide for the special educational needs of her daughter.

On cross-examination, N.G. acknowledged that S.D. did not suffer a rough transition between the Valley pre-school program and the Haworth kindergarten mainstream classroom. Nor did she experience a tough transition when she moved to the self-contained class for first grade. The mother's concerns during this period were focused on the piano incident and her daughter's night terrors. The unsuccessful medication trials also colored those early years. It seemed that S.D.'s academic experience for the two years at the Forum were more problematic than any earlier placements. N.G. concurred with others' observations that the transition to the Cresskill Middle School was difficult and at first, did not seem to be working. This was the period of new night terrors and anxiety for S.D. She did calm down after the first half of the school year with the support and input of her Merritt Elementary School teachers and the behavioral plan. N.G. never did discuss with S.D.'s doctor whether the medications she was on at the time could have contributed to the difficulty of the transition.

With respect to her experiences with the CSTs of the several districts, N.G. noted that Haworth CST originally proposed to send S.D. back to Valley instead of the middle school. She noted that they agreed to change that placement recommendation because of her objections. With respect to the allegations of predetermination by respondent, N.G. was aware that the draft eligibility document was prepared by Haworth CST and not respondent's CST. She also acknowledged that Northern Valley did include in the July 18, 2014, IEP meeting measures to assist S.D. with the transition to its high school. In addition, the different lunch options and classroom aide support were discussed. She was not sure if there was also a mention of a thirty-day review

meeting for the fall in the IEP document. N.G. did not believe that transportation assistance for Neal Moles was mentioned by respondent.

On further re-direct and my own questioning, N.G. described S.D.'s social life or circle of friends as limited to two or three typically-developing peers with whom she texts after school but with whom she does not otherwise socialize. Any friends she had at Merritt did not move up with her to middle school as they were younger. Some of her peers have moved from Cresskill Middle School to Cresskill High School. There is one mainstream peer with whom she likes to have lunch. Lunch is an important part of S.D.'s day and she looks forward to it and to the opportunity to buy and select from the menu. Once again, N.G. emphasized that it has taken S.D. (and herself) five years to find the right program and the right place. She is extremely concerned about another rough transition to another program and facility.

Geraldine Beatty is CST Coordinator for the District, a position she has held since 2007. She holds a Master of Arts degree in Special Education from William Paterson College and a Teacher of the Handicapped certification from the State of New Jersey. She is also certified as a Learning Disabilities Teacher - Consultant (LDT-C) and has served the District in that capacity for seventeen years. Prior thereto, Beatty worked for a private school for children with disabilities for twenty-one years. I qualified Beatty as an expert in Special Education and as an LDT-C. Beatty first became involved with S.D.'s educational needs during the child's eighth grade IEP Meeting. It is customary for the District to become familiar with students transitioning from the K-8 districts that feed the high school during the middle school years. At that time, Beatty explained to N.G. that the District looks to transition children to the high school if there is an appropriate in-district program.

Haworth developed the ninth grade IEP with input from Beatty. She assisted in the development of the goals and objectives and provided input concerning the Step Program. She was also present at the meeting along with the parent, Haworth CST representatives, Northern Regional CST representatives, and attorneys. At the hearing, Beatty described the program at Northern Valley's high school located in Old Tappan

that the CST considered the right placement for S.D. The Step Program is based upon a language-infused, self-contained model with mainstreaming for electives. The program provides an intensive and individualized classroom setting with a low student-to-teacher ratio that uses a multisensory approach for instruction. The program has a 2:1 student-to-teacher ratio with approximately twelve students in the class. S.D. would be provided with an individual aide during mainstream elective classes, but not during her special education classes due to the small student-to-teacher ratio.

The Step Program is a structured, supportive learning environment that Beatty testified would provide S.D. with an appropriate academic, behavioral, social, and language-based program in the least restrictive environment. S.D. would also be provided with an individual iPad and access to a MacBook as part of the Step Program. Academically, S.D. requires a modified program in a small setting that can provide her with a high level of support. Socially, S.D. needs opportunities for social engagement. The program developed by Haworth and the District addresses these needs by placing S.D. in a smaller setting with modified expectations, an individualized pace of instruction, and a 2:1 student-to-teacher ratio. Additionally, social skills are infused throughout the program.

The IEP also set forth related services of small group speech language therapy, monthly consults from a behaviorist, weekly small group counseling, and weekly social skills. Individualized speech therapy sessions were not included as a related service under the IEP because S.D.'s then-current therapist recommended that the child no longer requires them. An individual aide was not initially recommended for S.D. for the Step Program because of the small student-to-teacher ratio. Additionally, S.D. demonstrated during her visit of the program that she does not require individual aide support in the Step Program. Cresskill staff explained that S.D. relied on her aide and that the aide was valuable to S.D. in the classroom and for navigating the hallways. Beatty thought that the individual aide has hindered S.D.'s ability to gain independence and independently be able to complete tasks. In order to support the transition process, the IEP set forth an aide for transition purposes that would be phased out as appropriate. The proposed program for S.D. sought to elevate S.D.'s independence.

At the IEP meeting, Beatty also discussed placing S.D. in an adaptive physical education class, which is supported by an adaptive physical education teacher, Eva Barrata. Adaptive physical education is a mainstreamed physical education class where Barrata assists the students with special needs to ensure they are able to participate in the activities with typically developing peers. Barrata determines which sports are appropriate for each student to play, which aide should support the student at that time, and where the student should be positioned on the field or court in order to maximize the student's inclusion and ability to participate.

Beatty was aware of N.G.'s concerns about her daughter's ability to transition to a new school. In addition to the Neal Moles Summer Program and the Hand-in-Hand Club, Beatty proposed additional visits for S.D. to get acquainted with the physical facility, a student mentor, and weekly counseling meetings. The CST also was agreeable to maintaining the 1:1 aide for a transitional period prior to such adult being phased out. A review meeting approximately thirty days after the start of school was incorporated into the proposed IEP in order to allow all the stakeholders to meet and adjust the IEP if S.D. was experiencing a difficult transition.

Beatty further testified to the fact that a continued Cresskill placement was considered for S.D. for high school but that the District's proposed program was not just being considered because it was in-district but also because it was the more appropriate program for her. The proposed Old Tappan Step Program includes a small group self-contained classroom for Math, English, Science, and History. Cresskill only has pull-out replacement classes for Math and English and does not have this type of special education program for Science or History for ninth grade. S.D. received an individualized aide because Cresskill could not provide her with the pull-out individualized instruction that she required for all core subject areas and used the aide to provide additional support in those classes. Beatty stated that the Cresskill staff were themselves supportive of the more extensive program supports that Northern Regional could provide S.D.

Beatty observed S.D. at her out-of-district placement in Cresskill Middle School on January 27, 2014, with Dr. Stephen Kuwent, the District's school psychologist. They observed one full period of science class. There were four students in the class, including S.D. Three of the students sat in a row side by side while S.D. sat separately with her aide at a distance from the other students. No instructional lesson took place because one of the students was taking a test. Beatty explained that N.G. had the opportunity to observe Northern Valley's Step Program on February 10, 2014. Beatty showed N.G. two levels of the Step Program. N.G. had the opportunity to speak with the teachers in the Step Program during her visit. Beatty also answered N.G.'s questions about resource room and in-class instructional support classes available at Northern Valley. They also discussed S.D.'s possible summer program for 2014 in the District and Beatty introduced the Neal Moles Program.

Beatty testified that the Neal Moles Program provides academic remediation reinforcement in language arts and mathematics. Social skills are embedded throughout the program. Additionally, the program facilitates social activities outside of the program, for example, going to the mall or going to get pizza as a group. The program also includes a work component where the students are paid to perform work in the high school, such as office work. Beatty was recommending that S.D. attend the Neal Moles Program because the students who participate become comfortable with the high school building and staff and meet other students who will be their classmates in the Step Program in the fall. While transportation is not ordinarily provided for that summer program, Beatty told N.G. that she would inquire to see if that could be made available to S.D. Additionally, as part of the program students are provided with an iPad to become acquainted with the technology used in the Step Program before the school year begins. Due to this due process challenge to the IEP in question, S.D. attended Cresskill's ESY summer program in 2014 rather than the Neal Moles Program.

Beatty also suggested during N.G.'s visit that S.D. participate in the Hand-in-Hand Club. The Hand-in-Hand Club is an activity at the high school where sixth through eighth graders and out-of-district high school special education students participate in an extra-curricular activity with typical peers. She explained to N.G. that

participation in the Hand-in-Hand Club helps students make a smooth transition to the high school. This club had been previously suggested at S.D.'s seventh grade IEP meeting and re-evaluation planning meeting. At that time, transportation also was an issue for the parent and S.D. did not end up participating in this activity.

Beatty was present at the beginning and end of a day when S.D. visited the Step Program on March 20, 2014. She accompanied S.D. and her Cresskill aide to the classroom. Beatty observed that S.D. appeared comfortable and transitioned well into the classroom. She also spoke with S.D.'s aide at the end of the visit. The aide remarked that she was impressed with how S.D. did in the program and how S.D. did not rely on her during the day. The aide also commented about the number of girls in the class and that it would provide S.D. with the opportunity for social interaction with girls.<sup>2</sup> As part of her visit, S.D. participated in a health class taught by Eva Baratta. Baratta had worked with S.D. when she was younger and remarked to Beatty that she was impressed with the progress that S.D. had made over the years. S.D. also remembered Baratta. Baratta observed that S.D. "contributed to the class discussion in a positive way. [S.D.] asked relevant questions and waited appropriately for a response. She also took notes independently during the class presentations. She was able to follow along in the class packet all independently. She was a pleasure to have in class for the period." (Exhibit R-6)

On cross-examination, Beatty expressed some doubt as to when she first became involved in S.D.'s IEP meetings. She did not make any observation of the child in seventh grade. There was a January 2013 progress meeting that she might have been at but she definitely was at the one in May 2013. When Beatty did observe S.D. in eighth grade, she was accompanied by Dr. Kuwant. They did not review any of the lessons or work being undertaken, nor did she talk with the teacher or aide. On closer questioning, Beatty could not recall if the Neal Moles program was formally proposed but N.G. was definitely invited to utilize it. It is uncertain whether the fact that related services could be included in that ESY program was mentioned. The same teachers

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<sup>2</sup> N.G. testified that the aide told her that she did not recall making any positive statement about S.D.'s visit to Beatty that day. [¶ 118] As the aide was not presented by either party to testify, I cannot judge the credibility of any of her statements and, therefore, do not give weight to either version.

participate in Neal Moles as instructed by the Step Program but there is no data on the success of the students who pass through the summer program. The Hand-in-Hand Program is estimated to include about 150 high school students who get transported to the program, although parents are expected to provide pickup.

Beatty was questioned further about S.D.'s visit to the Step Program on March 20, 2014. She repeated that it is a self-contained program, except for an elective such as art, with ten students, one teacher and two teacher's aides. There are two to three levels in the program depending on the number of students. Not all the Step students stick to the same level for each subject. S.D. would probably be in the lower level based on a number of factors, including her full scale IQ, social skills and communication needs. During lunch and then at the end of the visit, Beatty spoke with the Step teacher and S.D.'s aide. The aide confirmed that S.D. had participated and did not seem upset or anxious from the day. Beatty admitted that most of the Step students do not eat in the cafeteria but in their classroom. The size of the cafeteria could be overwhelming with 1300 high school students and no phasing of lunch periods.

Beatty stated that Gadino, Ehrhardt and she were the parties who collaborated on the draft IEP ahead of the IEP meeting. They reviewed Cresskill progress reports and the recommendations but no teachers were directly involved in the process. It was these three persons who considered but rejected an out-of-district Cresskill placement for high school. They were prepared to recommend this as the placement but it would never become final until the IEP meeting. Beatty insisted that the computer – not a human – pulled the placement language out of that draft document into the eligibility redetermination that was presented at the June 12, 2014, meeting and which caused the objections of N.G. Beatty was adamant that the team would never have made that mistake.

Beatty stated that there were no additional meetings between Haworth and Northern Valley between the eligibility meeting and the July IEP meetings. She acknowledged that the Cresskill members of the IEP team did not reject placement for

S.D. at Cresskill but they also did not oppose a placement at Northern Valley. While perhaps not using the word “appropriate,” Cresskill representatives did recognize that the size of their school limited their potential special education offerings compared to that of Northern Valley. For her part, she acknowledged that it was not proposed that S.D. would have a dedicated 1:1 aide for herself but classroom aides are part of the program and go with the Step students to electives. In that sense, S.D. would have an aide that might or might not be shared with one or two other students. Social skills are infused in the Step Program but there is also a gender-specific pull-out social skills small group once per week. Those skills are also worked on during lunch.

Beatty could not point to language in the IEP that spoke to the transitional services to which she testified but insisted that the CST would definitely be implementing a transition for S.D. Beatty would have preferred if N.G. had allowed S.D. to attend the summer social picnic but she believed that decision was made so that the mother would not have to discuss the possible new placement with her daughter. Beatty further reiterated that a review within the first thirty days is standard in that program and was a part of the proposed IEP even though written into a different spot in the IEP document than was customary. No changes are promised at that point but the intent is to allow for flexibility. Beatty also did not dispute that S.D. seemed to be doing satisfactory with the mix of self-contained and resource room classes at Cresskill but only with a great deal of support.

On re-direct examination, Beatty elaborated on her observations of S.D. on the day of her visit to the Step Program. She commented that she looked in on the girl a bit of every class period that day and always observed her doing fine with her 1:1 aide faded to the back of the room. That aide did remark that the ratio of girls was better in the Step Program than at Cresskill. During lunch, S.D. was able to comfortably join the more social group in the room. In general, the philosophy of the Northern Valley CST is to try to transition special education students away from the 1:1 aide model in their freshman year because the adult world does not provide a similar support. Beatty also noted that S.D. seemed to do fine in the Art class at Cresskill where every marking



period peers would rotate in but she would remain, indicating some tolerance for changes that might undermine the parent's present concerns.

Finally, as the testimony was completed with a final cross-examination, Beatty stated that the visit is what convinced the CST that S.D. did not need a 1:1 aide. She also acknowledged that Demarest would be the normal regional placement for a Haworth high school student but she still insisted that Old Tappan constitutes the least restrictive choice.

Bonni Ehrhardt is the Supervisor of Special Education for Haworth and has been in that position for the last two years. She has been employed by Haworth for a total of thirty-two years. Prior to her current position, she was the head of the Haworth CST. Ehrhardt is an LDT-C. Ehrhardt conducted an educational evaluation of S.D. on March 6, 2014. On the Woodcock Johnson III Tests of Achievement, S.D. demonstrated functioning in the low range or 5<sup>th</sup> percentile on overall academic proficiency. S.D.'s scores in broad reading (5<sup>th</sup> percentile) and broad math (8<sup>th</sup> percentile) were reflective of her significant difficulties performing tasks requiring sustained attention and the processing of the multi-step language based tasks required for accurate and efficient comprehension and problem solving. S.D. scored in the 1<sup>st</sup> percentile on the oral language cluster and 16<sup>th</sup> percentile on the broad written language cluster.

Ehrhardt described the classes, supports and services provided to S.D. while she was in eighth grade. The child was placed in an LLD class for English and Math, resource replacement Science and resource replacement Study Skills, and general education for Contemporary Issues History and Art/Physical Education. She also received speech therapy, transportation services, social skills, an individual aide, and a behaviorist as needed. Haworth provided S.D. with an individual aide at Cresskill because she required additional support in classrooms with a large student-to-teacher ratio. The aide would refocus and redirect S.D. and reteach concepts presented by the teacher.

As S.D. would become the responsibility of Northern Valley after eighth grade, Ehrhardt explained that the Haworth CST worked collaboratively with the Northern Valley CST to develop S.D.'s program and placement for the 2014-2015 school year. She stated that the collaborative approach resulted in the recommendation that S.D. attend the Step Program for her freshman year of high school. S.D. requires intensive, individualized, language-based instruction with descriptive teaching and direct instruction. Ehrhardt testified that S.D. needs overlearning, re-teaching, and pre-teaching. S.D. also requires social skills instruction as she has difficulty following directions, speaking out of turn, and talking about inappropriate topics. Ehrhardt set forth that the Step Program would provide a classroom focused on her individualized needs with intensive teacher support, assistive technology, a small class setting, and with teachers who are familiar with the needs of students with similar profiles.<sup>3</sup> The IEP proposed for S.D. did not provide for a 1:1 aide because of the low teacher-student ratio already in place in the program.

Ehrhardt also explained that the Step Program was considered to be the least restrictive environment for S.D. It was recommended in part because it would provide her with the opportunity to establish and maintain social relationships with her peers in her regional high school placement. Moreover, there is a larger continuum of services at Northern Valley available for S.D., including the three levels of the Step Program, as well as resource replacements and general education placements available to S.D. as appropriate to meet her needs. Ehrhardt also expressed the opinion of both CSTs that Cresskill High School would only provide S.D. with a disjointed program where she would vacillate between resource replacements, LLD, and mainstream settings. This is in large part due to the much smaller size of the student community being serviced by Cresskill.

On cross-examination, Ehrhardt clarified that she was not S.D.'s case manager but that she was involved in her placement at Cresskill by Haworth in 2009. She also

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<sup>3</sup> Ehrhardt described the Step Program in her pre-filed testimony and its appropriateness for S.D. Petitioner objected to these statements as beyond the scope of her factual knowledge but I **FIND** that Ehrhardt has had the personal experience over her many years as the Supervisor and Chair of the Haworth CST to come to know the dynamics of the teaching approach of the Step Program. Petitioner had opportunity to probe these on cross-examination and I will let them stay in the record.

shared case management responsibility with Deborah Gadino who handled the day-to-day tasks. Ehrhardt was also not responsible for ensuring that progress reports were being completed. Ehrhardt further clarified that the course listings in the eighth grade IEP for S.D. were supplied by Cresskill which later admitted that the general education label for her history class was an input error in the IEP.

Ehrhardt was also questioned on the proposed IEP document that was seen at the June 12, 2014, reevaluation meeting and in which the proposed Step Program placement was already delineated. Ehrhardt admitted that bringing the document was an error but insisted that the placement had not been predetermined even though it was the direction the Northern Valley CST was heading in. Transition for special education students from the regional area commences in seventh grade and both CSTs are involved in the ongoing group review of the appropriate form that transition should take place.

Barbara Battaglia also testified for the District at this hearing. She has been the Director of Special Education for the Northern Valley since July 1, 2012. Battaglia holds certifications as an Elementary School Teacher, LDT-C, Principal, School Psychologist, Supervisor, and Teacher of the Handicapped. She is also a nationally certified Educational Diagnostician. I qualified Battaglia as an expert in Special Education, School Psychology and as an LDT-C. Battaglia was in attendance at the July 18, 2014 IEP meeting, concerning S.D.'s placement for her freshman year of high school.

Battaglia was of the opinion that the Cresskill out-of-district placement had not been properly implemented S.D.'s May 31, 2013, IEP during eighth grade as the information provided by Cresskill staff in the Present Levels of Academic Achievement and Functional Performance reviewed in July 2014 did not align with that prior programming. For example, Battaglia pointed out that Cresskill did not comply with S.D.'s IEP when she was placed in a more restrictive resource replacement class for social studies as compared to a general education class in that subject area. Battaglia had additional concerns that S.D. had not been provided with behavioral consultations at Cresskill and that her mother had not received progress reports. As such, Battaglia

stated that Northern Valley was the more appropriate placement for S.D. for high school.

On cross-examination, Battaglia admitted that her conclusion that Cresskill had not implemented S.D.'s educational course plan properly might have been based on just a simple error in the IEP document relative to the type of History classroom. She maintained, however, that Cresskill had failed to provide appropriate progress reports or data on S.D.'s behavior issues, adaption to middle school, and transitions. Battaglia based this information on the communications at the IEP meetings. Insofar as she was not the case manager, she did not personally request the behaviorist's data or reports. She similarly did not follow up on any concerns that there were no regular progress reports submitted by Cresskill to Haworth or N.G. Without regard to those problematic areas, Battaglia was of the opinion that the Step Program was superior to S.D. remaining at Cresskill High School because of its school-within-a-school approach and greater course offerings.

The District next presented the testimony of Katherine Doherty who is the special education teacher of the self-contained Step Program at Northern Valley. Doherty has worked in that capacity for seven years, with one year's experience previously in another district. She explained that Step is an acronym for Student Transition Education Program. On March 20, 2014, S.D. visited Northern Valley's Step Program for a full school day. As soon as S.D. entered the room, she introduced herself to every student in the class and shook their hands without any prompting. She was assigned to shadow one student, but ended up spending more of the day with another student who she connected with socially. Doherty noted that S.D. did her best to complete the worksheets the students were doing, raised her hand to ask questions, and wanted to participate in the class. Doherty noted that because S.D.'s aide was in the back of the room, she was able to observe how S.D. worked independently and S.D. was provided the opportunity to get a feel for the flow of the classroom. S.D.'s aide accompanied S.D. on the walk to buy lunch. Doherty noticed some self-talk being engaged in by S.D. but she could not make it out and it did not seem troublesome. Doherty felt that the Step Program was an appropriate fit for S.D.

On cross-examination, Doherty was questioned as to how she could form the opinion that the Step Program was appropriate for S.D. on the basis of only a one-day observation. Doherty stated that S.D. was getting graded during the class and was able to work on the material that the class was engaged in.

Janelle Amato was allowed to be presented by the District without the benefit of pre-filed direct testimony because she is not under the direction and control of the District. Rather, she is the Supervisor of Special Services and the School Psychologist for the Cresskill Public Schools. Amato has been the School Psychologist for eight years and is in her fourth year as the Supervisor. She is a Certified School Psychologist and also holds a Supervision Certification from the State. She also has an educational background inclusive of a Ph.D. She was not S.D.'s case manager but she had familiarity with her from class observations, everyday contacts, such as in the hallways, and from some CST meetings that she attended.

Amato recalled that S.D. had transition issues when she first arrived at the Middle School from Merritt Elementary. It was not at all clear whether this was the right setting for her so additional supports were put in place. S.D. has tendencies to exercise in self-talk, to dart from places, to panic, and has a constant need for assurances – “Am I doing okay?” Amato described the additional efforts that were made at the beginning of sixth grade. They simplified S.D.'s scheduling chart so she could follow it better, gave her a planner and guidance on how to use it, and implemented a behavioral plan. Amato saw some improvements from these supports but the implementation of “cougar cash” as a reward system in the BIP made a real difference with calming S.D.'s behaviors. By the end of the first half of sixth grade, S.D. was learning and participating with much less disruptive behavior.

With respect to S.D.'s educational program at the Middle School, Amato stated that in sixth grade Cresskill only had resource rooms available for the major subject areas. For seventh grade, S.D. was placed in general education classes if there were no LLD or resource room sections available but then she would have a 1:1 aide. In

eighth grade, Amato stated that S.D. had English and Math in LLD rooms, Science and Social Studies or History in resource rooms, Physical Education with a mainstream class, and she was allowed the repeat Art throughout the year rather than have to rotate through electives of which she had little interest. Amato acknowledged that it was a simple error that History was listed in that year's IEP as a general education class. S.D. also was given Study Skills instead of Academic Support in order that she could be with other eighth graders.

Amato acknowledged that Northern Valley is a larger district and is able to offer a lot of programs and flexibility in their program offerings, for example, its Technology and Careers course. She indicated that Northern Valley has more offerings to meet individual needs, as compared to Cresskill, which is smaller and cannot offer a self-contained class in every subject because there are not enough students to fill the class. Amato was not concerned about the appropriateness of the proposed IEP at stake herein. She recognized that Cresskill could not offer support programs such as the peer-to-peer outreach. In fact, at Cresskill there were only a total of five students at the same level as S.D. in special needs – two freshman girls and three upperclass boys. During the period when S.D. was visiting Northern Regional, Amato had an opportunity to obtain some feedback from her 1:1 aide who commented that S.D. appeared comfortable, interacted with peers, and in general did very well.

On cross-examination, Amato agreed that S.D.'s 1:1 aide has not hindered her ability to gain independence because, for example, she has helped S.D. to learn social clues and softened hallway interactions. The aide does step back when asked to although she is clearly more academically helpful in some areas (writing, reading) than in others (math). Amato could not answer the question as to whether the 1:1 aide was necessary mostly because the resource replacement classes were difficult for S.D. Certainly in P.E. class the aide was necessary. Amato agreed that no one in Cresskill stated during IEP or other meetings that S.D. did not need a 1:1 aide.

On re-direct, Amato described the aide as needed in Art because it was a larger class in which S.D. can feel overwhelmed. The aide also would remind her not to ask

her reassurance type questions in order to earn cougar cash. Amato also reflected on the fact that S.D. handled the change of aides without much difficulty during the stay-put year at Cresskill High School. Lastly, she noted that S.D. was encouraged to participate in an after-school chorus group which included an on-stage performance with seventy other students. While Northern Valley supplied an aide for the after-school activity, Amato remarked that S.D. did great with the entire experience and did not seem overwhelmed.

In addition to her own testimony, summarized above, N.G. presented two expert witnesses – Joseph Plasner and Lois Mishkin. Joseph Plasner is a licensed psychologist who also holds a Teacher of the Handicapped Certificate and a Professional Diploma in School Psychology from the New Jersey Department of Education. He is engaged in private counseling practice to children with special needs and in private consultation to schools, organizations and parents. In his background, he has twenty-eight years experience working in a public school district as case manager and counselor. I qualified Plasner as an expert in School Psychology, Counseling, and as a Licensed Psychologist of children and adolescents with special needs. Plasner was retained by N.G. in the fall of 2013 in order to conduct a private psychological evaluation of S.D. He also observed S.D. in Cresskill High School and spoke with her case manager Revital Sholomon as well as her 1:1 aide. Plasner met privately with S.D. and spoke telephonically with N.G.

With respect to his observation of S.D. in Cresskill High School on December 7, 2014, Plasner described the facility as a single-level complex with the middle and high schools housed on parallel hallways with 425 and 529 students respectively. He first met with Sholomon, S.D.'s case manager since her entry into the facility in the sixth grade. Sholomon described S.D.'s difficulty with the transition from Merritt Elementary and how the implementation of the BIP helped and provided a meaningful educational

benefit. Plasner provided an overview of the BIP and the fact that Sholomon noted its success at decreasing S.D.'s off-task behaviors.<sup>4</sup> Plasner included in his observations the comments of Sholomon and S.D.'s aide that she has a wonderful group of peers and has developed friendships, which comments I **FIND** are inadmissible hearsay herein. While observing S.D. in her various subject classes and some electives, Plasner was able to observe her demeanor and focus. She did not appear to be agitated or overwhelmed, even in an unstructured P.E. class, due to teacher's absence, that resulted in the seventy-five students having a free period hanging out on the bleachers under substitute supervision.

Plasner prepared his report for this hearing under cover of December 2014. He described S.D. as a Communication Impaired classified student who also demonstrates various features consistent with an Attention-Deficit Disorder as well as Autistic Spectrum Disorder. She has had a history of early intervention services, and several placement changes since starting school. Throughout her education, she has demonstrated difficulty with behavioral and emotional regulation, distractibility, anxiety and fearfulness, executive functioning and social skills deficits, and social-emotional immaturity. As the record already indicates, S.D. was placed in Cresskill Middle School in fourth grade in September 2009. He stated that the evaluations and IEPs indicate that she has shown progress since that time. He referred to her current class selections and noted that she has a 1:1 aide and that there is a Behavioral Intervention Plan (BIP) in place. S.D. also receives social skills and speech-language therapy as related services.

Previous evaluations Plasner reviewed show that S.D. was found to have a significant language disorder with respect to pragmatic, expressive, and receptive functioning in association with various cognitive deficits relative to verbal comprehension, nonverbal fluid reasoning, working memory, and processing speed. However, there were unusually large differences within cognitive areas and subtests.

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<sup>4</sup> I note that neither Sholomon nor Melanie Arnold, BCBA, who drafted the Functional Behavior Assessment under date of March 2014, was called to testify at the hearing. The latter's assessment is made part of the joint exhibits and there is no controversy or dispute over the methods being utilized to reduce S.D.'s off-task behaviors. I note also that the exhibit contains (generic) recommendations for her transition to (generic) high school as well as fading her aide to encourage independence. [J-18.]



Interestingly, measures of S.D.'s verbal and nonverbal associative abilities, as well as spatial reasoning were average. On the TONI-3, a language-free test of nonverbal intellect that measures abstract problem-solving completed by the school, S.D. achieved an I.Q. of 83 (13th percentile).

During his own evaluation of S.D. in January 2014, Plasner administered the Stanford-Binet (5th Ed.), a standardized individual I.Q. test. The results on the Stanford-Binet indicated that S.D.'s Full Scale IQ was 71. He testified that it was not unexpected given her language impairment that S.D. performed better on some of the nonverbal cognitive subtests administered. For example, the subtest measuring her nonverbal fluid/inductive reasoning was average, as were measures of her spatial reasoning and verbal and nonverbal working memory. These results were consistent with the results of the earlier TONI-3. In addition to her history, intake information, and review of records, he obtained information from S.D.'s Cresskill teachers, her mother and S.D. herself through the administration of various standardized scales: the Vineland-II Adaptive Behavior Scales, Revised Children's Manifest Anxiety Scale-2, Attention-Deficit Disorders Evaluation Scale-3, Behavior Rating Inventory of Executive Functioning (BRIEF), and the Personality Inventory for Children-2. The Vineland-II is completed through an interview with her mother and looks at S.D.'s functioning in three areas: Communication, Daily Living and Socialization. The composite of all three of these areas gave her an Adaptive Behavior Composite of 74, which is at the 4<sup>th</sup> percentile and fell within the Moderately Low range. There was some variation between the domains with Communication, Daily Living, and Socialization Domains at the 16<sup>th</sup>, 2<sup>nd</sup>, and 5<sup>th</sup> percentile ranks, respectively. The results on the Vineland's Maladaptive Behavior Index showed that behaviors consistent with internalization (those behaviors that signify over-control and are expressed internally) reached clinical significance while externalizing behaviors (those behaviors that represent more external or outward acting) were considered to be elevated.

Plasner's use of these tests resulted in his noting that S.D. usually has sleep difficulty, is overly anxious, and has poor eye contact. In addition, she sometimes is overly dependent, avoids social interaction, avoids others and prefers to be alone. S.D.

was also said to usually act overly familiar with strangers and yet sometimes ignore and not pay attention to others around her. Plasner opined that these behaviors would likely be exacerbated within a large, overwhelming school environment in which she does not feel secure, accepted, or supported. Executive functioning consists of behavioral regulation and metacognitive functioning. The former involves emotional control, ability to shift ones cognitive set and/or the capacity to move freely from one situation or aspect of a problem to another, as well as the ability to regulate one's internal states/emotions. Metacognitive functioning relates to working memory, initiating responses, generating ideas, self-monitoring, planning, and organizational skills. According to the BRIEF completed by S.D.'s English teacher, she demonstrated frequent problems relative to emotional control, shifting set, initiating, and working memory. Difficulty remaining on task, having to be closely supervised, not being able to get disappointments or scolding off her mind, and not understanding her strengths and weaknesses were also noted as frequently occurring by at least two of her other teachers. Three of S.D.'s teachers indicated that she needed adult help to stay on task. Results of the Personality Inventory for Children-2 (PIC-2) supported the presence of social skills deficits as well as unusual behaviors, emotions, and/or thoughts. Plasner considered these results to be consistent with S.D.'s history and the signs that had previously pointed toward possible autism spectrum symptoms.

On November 30, 2014, Plasner updated his assessment of S.D.'s current emotional status in an interview with her and by administering the Children's Depression Inventory-2 (CDI-2). During the interview, S.D. told him that going to ninth grade was not scary for her because she knew everyone. At the same time, S.D. indicated that she still has nightmares (this was corroborated by her mother) and worries about having a bad day at school, even though she had not had one. She also talked about getting nervous when meeting strangers, being scared at the level of "10" (on a scale from 1-10) during a thunderstorm, being sad at a level of "7" when sick or she has a headache or stomachache. Relative to being happy, S.D. indicated that she is mostly a "9." Plasner observed that the results of the CDI-2 supported her statements.

On cross-examination, Plasner acknowledged that he had never observed the Northern Valley Step Program or spoken with anyone associated with it. Further, he had no familiarity with the Neal Moles or Hand-in-Hand supplemental programs. Plasner did set forth that the first concern mentioned to him by N.G. as he prepared to evaluate S.D. was the move to a larger high school. He concurred that there are measures and steps that can be taken to ease transitions and familiarize a student with his or her new facilities, peers and teachers, even with a similar profile to that of S.D. In response to my questioning as to whether, as a school psychologist, he should be setting forth as a goal for S.D. not the avoidance of transitions but the skills needed to adapt to transitions, Plasner agreed but stated that S.D. was not yet ready with the appropriately prepared executive functioning skills.

Plasner continued that he considers S.D. to be at risk of an adjustment disorder. Although she does not meet the DSM criteria right now, she certainly has had difficulty transitioning, taking between six months and a year to overcome the stress of those changes. He was of the opinion that the Step Program did not have a sufficient presence of aides to help with her transition anxiety although he also recognized that its small classes, favorable teacher-student ratios, and available counseling would help. Plasner had to admit that the Cresskill resource replacement classes in Science and History were above S.D.'s ability levels.

Additional elaboration was provided by Plasner on his direct testimony but he also admitted that his testimonial statement to the effect that Northern Valley placement exposes S.D. to greater vulnerability of bullying was not based on any facts in the record. On further re-direct examination, it was clear that Plasner largely relied upon and repeated the concerns of N.G. and the preference for not removing S.D. from the safety and security of Cresskill with its known peers, teachers and aide. Because S.D. is socially accepted and integrated, she is likely to develop an adjustment disorder when she loses all of that, notwithstanding that she has never been so diagnosed.

Lois Mishkin was also presented as an expert for the petitioner. She is licensed by the State of New Jersey as a Speech/Language Pathologist and holds State of New

Jersey certifications as a Learning Disability Teacher-Consultant, Teacher of the Handicapped, and Speech/Language Specialist. Mishkin also holds a national certificate in Clinical Competence (CCC-Speech) by the American Speech, Hearing and Language Association and is a Professionally Recognized Special Educator by the Council for Exceptional Children. Mishkin provided direct services to approximately 300 students with articulation and language disorders and wrote speech goals and plans during her tenure in New York public schools for four years prior to eleven years of services to Mountainside and Scotch Plains school districts wherein she completed approximately 400 speech and language evaluations, provided speech language services to approximately 500 students, completed approximately 225 Educational Evaluations, as well as serving as case manager, preparing IEPs and attending IEP meetings.

During some of this same period, she was employed by the Center for Cognitive Rehabilitation at Robert Wood Johnson Medical School. The Center provided services primarily to students through the age of twenty-one years old who had suffered brain injuries and were being prepared to return to their public school district. Starting in 1986 and continuing through the present, Mishkin also had a private practice in which she provided cognitive, educational and/or speech/language consultations to school districts and families. While her specialty seems to have focused on cognitive adaptive therapy for brain-injured children, I qualified her as an expert in these proceedings in the areas of an LDT-C, a Speech-Language Pathologist, and the responsibilities of a CST.

Mishkin was retained by N.G. to conduct a speech language evaluation of S.D. as part of the triennial cycle and to provide recommendations for the 2014-2015 school year program and placement. Mishkin tested S.D. over two days and observed her at the Cresskill Middle School during three classes. She also reviewed prior records and evaluations, and observed the proposed Step Program at Northern Valley Old Tappan High School. Mishkin acknowledged that S.D. has a severe Language Disorder exacerbated by a high degree of anxiety and ADHD. She has been seen by numerous medical and other professionals whose diagnoses also included Pervasive

Developmental Disorder and Autistic Spectrum Disorder although she is classified as Communication Impaired.

S.D. suffers from anxiety that affects her communication and learning. Even making the change from Cresskill's elementary school to its middle school exacerbated her anxiety such that Cresskill was unsure initially whether she could remain there. Nevertheless, Mishkin found that S.D. has strengths that are often overlooked because of her severe language deficits. She is a very pleasant, cooperative, respectful, and polite young lady who is highly motivated to work and follows rules well as long as she understands them. Mishkin noted that S.D. engaged in a lot of self-talk and frequently checked for confirmation that her responses were right during her evaluation. Her ongoing language deficit continually reinforces this lack of confidence and anxiety as she attempts to understand complex and lengthy language utterances. S.D. is constantly wrestling with whether she correctly "got it" or if she is able to figure out what she is reading or hearing despite not knowing the meanings of some of the words. These are just some of the daily challenges she faces, not to mention the social barriers due to not getting jokes, idioms and other social language that her peers use.

On specific tests given by Mishkin during the evaluation, S.D.'s deficits were quantified as best as these tests allow. On the Peabody Picture Vocabulary Test-4, S.D. was asked to select which of four large colorful pictures best represented the word spoken. This test was used to measure S.D.'s receptive vocabulary and the results showed her receptive vocabulary was at the .2 percentile or an age equivalent of 6 years 9 months for receptive vocabulary. Mishkin explained that this is probably an underestimation of her receptive vocabulary as S.D. likely selected some pictures she found interesting rather than focusing on what was required of her as a function of her attentional problem. On the Expressive Vocabulary Test-2, which measures her expressive vocabulary knowledge, S.D. was at the 6 percentile or an age equivalent of 8 years 1 month. This reflects a relative strength in expressive versus receptive vocabulary without a reading or writing requirement. Expressive vocabulary, on this test, demonstrates S.D.'s ability to provide synonyms and to identify words in isolation on a structured task. S.D.'s deficits in receptive and expressive vocabularies affect

reading comprehension, interpreting class lessons, processing social communication, using age-appropriate vocabulary, and understanding content vocabulary as needed in science, math, social studies, and other classes.

On the Oral and Written Language Scales II (OWLS II), S.D.'s overall language was within the deficient range relative to others her age. Although still below average, her scores were significantly better in oral language comprehension tasks than in written expression and reading comprehension tasks. S.D. is more successful if she has visual or nonverbal stimuli to accompany listening comprehension as on the OWLS-2. On the oral expression test, S.D. was unable to generate appropriate responses to higher-level information including "why" questions, sentence structures with "if", and responding with reasons for and against a given situation. Reading comprehension deficits are due largely to limited higher level vocabulary, syntactic structures (complex sentences), and critical thinking. In contrast, S.D.'s reading comprehension is good for concrete information where the sentence structures are simple and short, and she has some familiarity with the topic. Therefore, her ability to succeed depends on many variables including use of nonverbal information, a preview of the topic and content vocabulary, and the comfort level she feels with her environment.

Other tests were administered by Mishkin in order to gauge S.D.'s social language abilities or non-verbal pragmatic skills. N.G. also completed an Observational Rating Scale in which she indicated her greatest concerns for S.D. were trouble paying attention, understanding the meaning of words, expressing her thoughts, staying on the subject when talking, having a conversation, remembering details and expanding an answer or providing details when writing. N.G. and other family members described similar deficiencies with S.D. including her inability to introduce appropriate topics of conversation, maintaining topics using typical responses such as a nod, participating/interacting in unstructured group activities, avoiding repetitive/redundant information. Mishkin also found that S.D. had improved on some of the aspects of language skills since her prior evaluation in 2011. S.D. has improved when following

spoken directions, in recalling sentences, and to a lesser degree understanding short stories she heard.

In summary of her findings, Mishkin stated that the results of her testing were consistent with a Communication Impairment and a Pragmatic Disorder and showed that S.D. continues to exhibit a severe communication disorder in both using and understanding language. Although most of her performance placed her in the very low range when compared to her grade and age, some of the standardized measures showed relative strengths as Semantic Relationships (16%) and Following Directions (16%) on the CELF-5, and her Average or Above Average scores on Spelling, Punctuation, Logical Sentences and Sentence Combining in the TOWL-4. These results show that S.D. successfully learns and retains rule-based concrete information. With repetitions and visual stimuli, S.D. is capable of new learning that is structured, concrete and presented using syntax and vocabulary within her scope of ability. This shows that once S.D. learns a concrete skill, she retains it.

Mishkin had the opportunity to observe several classes within the Step Program on April 9, 2014. In her opinion, it would not be appropriate to place S.D. in a class with students who have low intelligence or whose social skills are significantly impaired. She needs to be in an environment with sufficient and appropriate language stimulation and where she has the opportunity to model the behavior of higher functioning students. S.D. can learn and retain at higher levels than those within a low intelligence group if learning is targeted to her abilities using nonverbal/visual information, is concrete and repetitive, is made relevant to S.D.'s life, and can be associated with prior learning. Nevertheless, S.D. did seem to have difficulty with the math and biology classes where the vocabulary was more difficult, the classes larger and more advanced.

In her opinion, S.D. is receiving an appropriate education in Cresskill High School and it would be detrimental to her socially, emotionally and academically to move her to Old Tappan High School in the program Northern Valley proposes. She is extremely comfortable and well-adjusted in the Cresskill High School environment where she acknowledges students and staff in the lunchroom and in the halls during

change of classes. S.D. now communicates with the students in her LLD class and with typical developing peers who she sits with at lunch and who have accepted and included her. In sum, Mishkin recommended that S.D. should remain in Cresskill for the 2014-2015 school year. Among other reasons, she considered that Cresskill High School offered a structured supportive environment where she was comfortable, had been making progress, had made friends, knew the students and teachers, knew the building, and had an aide that understood her and helped reduce her anxiety.

Mishkin also recommended that her placement should focus on language disorders and social communication issues and recommended an increase in her individual speech therapy. The only reason given in S.D.'s July 18, 2014, IEP for eliminating the individual speech session was that she was making progress. According to Mishkin, all making progress shows is that S.D. is benefitting from the speech language services, not that the individual session should be discontinued. In her opinion, S.D. needs two small group sessions that focus on pragmatics and at least one individual session focused on content vocabulary and reading comprehension using her curriculum and, including in this session, a preview of topics before the teacher presents them in class.

On cross-examination, Mishkin admitted that she is not qualified to diagnose anxiety but she felt that she knew it when she saw it in S.D. as a consequence of her communication difficulties. In expressing her opinion that "moving S.D. to yet another school as Northern Valley has proposed will likely cause severe anxiety that will have a negative effect on her learning and continued progress," I agree that Mishkin overstepped her area of expertise and became result-driven on behalf of petitioner. I will also strike her comment that she considered the students at Cresskill to be more compassionate in general and less likely to bully S.D.

Mishkin was also questioned with respect to her initial involvement with S.D. which came when N.G. wanted a speech language update during the triennial evaluation in the latter part of 2013. Mishkin conducted observations of both Cresskill and Northern Valley in February and April 2014, respectively. The CELF examination



she administered showed that S.D. had made some small improvements since the same test in 2011. Yet, Mishkin's pragmatic surveys were based solely on family members with no input from S.D.'s teachers.

Mishkin admitted on cross-examination that issues of anxiety and transitions can be and often are successfully addressed by schools; however, she maintained her position that such is only appropriate for S.D. when presented in a small environment. Mishkin also had concerns that the Step Program would not have students at the same level of cognitive competency as S.D., therefore making it less likely that she will have other students to model good language communication skills. Mishkin maintained that S.D. also still needs an individual speech therapy component in her IEP. She felt that it was inappropriate for S.D. not to have a dedicated 1:1 aide as she had observed S.D.'s anxiety increase when her aide was not with her in a class setting. Then again, Mishkin also noticed S.D.'s increased anxiety even when the aide was present but the non-self-contained subject area (science) had difficult content and specialized vocabulary.

On re-direct examination, Mishkin restated her opinion that Cresskill was the appropriate and least restrictive placement for S.D. Other possible supports at Northern Valley, such as a study buddy, Hand-in-Hand Club, or Neal Moles, will nevertheless not compensate adequately for S.D.'s severe pragmatic semantic disorder.

### **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 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.

Here, the issues in dispute are clear even if their resolution is in dispute:

1. Did the District offer FAPE when it proposed a change in placement at the end of S.D.'s career at Cresskill Junior High School back to an in-district self-contained classroom for the 2014-2015 school year rather than leaving her to transition (in same facility) to the Cresskill Senior High School?

2. If the District failed to offer S.D. FAPE, is Cresskill Senior High School an appropriate placement?

3. Did the District pre-determine her placement without proper input from the parent and entire CST in violation of the IDEA?

I **CONCLUDE** that I need only reach the first and third questions. In determining where to deliver instruction, the district must be guided by the strong statutory preference for educating children in the "least restrictive environment." 20 U.S.C.A. § 1412(a)(5) mandates that:

[t]o the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The law describes a continuum of placement options, ranging from mainstreaming in a regular public school as least restrictive to enrollment in a non-approved residential private school as most restrictive. 34 C.F.R. § 300.115 (2009); N.J.A.C. 6A:14-4.3. Federal regulations further require that placement must be "as close as possible to the child's home." 34 C.F.R. § 300.116(b)(3) (2009); see also N.J.A.C. 6A:14-4.2. In New Jersey's complex of over 600 public school districts within its small boundaries, proximity to home is a relative concept and one that in pure miles cannot take priority. While S.D. would ordinarily attend Northern Valley - Demarest due to the location of her

home, petitioner has no entitlement to be educated in a specific school building within Northern Valley's school district. Students in the Step Program come from all of the elementary school districts that feed into Northern Valley, including Haworth.

In Oberti v. Board of Education, 995 F.2d 1204 (3d Cir. 1993), the Third Circuit established a two-pronged test for determining whether a school district has complied with the IDEA's mainstreaming mandate: first, whether education in the regular classroom, with use of supplementary aids and services, can be achieved satisfactorily; and second, if placement outside of the regular classroom is necessary for the child's educational benefit, whether the district has included the child in school programs with non-disabled children to the maximum extent appropriate. Id. at 1215. Before placing a child outside the district, "the school must consider the whole range of supplemental aids and services, including resource room and itinerant instruction, speech and language therapy, special education training for the regular teacher, behavior modification programs, or any other available aids or services appropriate to the child's particular disabilities." Id. at 1216; N.J.A.C. 6A:14-4.2. As the Oberti court astutely noted:

In passing the Act, Congress recognized "the importance of teaching skills that would foster personal independence . . . [and] dignity for handicapped children" . . . Learning to associate, communicate and cooperate with nondisabled persons is essential to the personal independence of children with disabilities. The Act's mainstreaming directive stems from Congress's concern that the states, through public education, work to develop such independence for disabled children.

[Oberti, supra, 995 F.2d at 1217.]

Petitioner's only real challenge to the proposed IEP for S.D. is that it is located in Northern Valley and not in Cresskill. Neither Plasner nor Mishkin have pointed to any substantive aspect of the proposed self-contained program or IEP modifications and accommodations that are inappropriate to meet S.D.'s academic, social, emotional, or behavioral needs. They both had to admit that the proposed Step Program would be delivering education to S.D. in a small and supported classroom setting. While S.D.

would not have a 1:1 aide dedicated to just herself, there would be classroom aides with a low aide to student ratio and one that could be focused solely on S.D. if that became necessary. Rather, both Plasner and Mishkin focused their concerns on reiterating the parental concerns that the high school in general was bigger and more intimidating. Neither could support an opinion, especially within the limits of their respective expertise, that a properly planned and implemented transition plan would not work in the same manner as S.D. has been successfully transitioned in the past. S.D. does not have an anxiety disorder classification and I **CONCLUDE** that both of these witnesses were stretching to arrive at one implicitly so that the IEP would have to expressly address it.

While I recognize, as did both parties, that S.D. had trouble with transitions in the past, she did ultimately transition successfully with adequate supports from Cresskill. Northern Valley has more than adequate supportive programs in place with its Neal Moles summer program, the freshman summer picnic, and the Hand-in-Hand club. While the Cresskill and Northern Valley programs are not to be judged in tandem under the IDEA standards, I do also note that Cresskill has admittedly fewer special education subject classes and continuums to offer because it has a smaller student body. I **CONCLUDE** from the preponderance of the credible evidence that S.D. had more need of a 1:1 aide during the educational portions of her day at Cresskill because she was placed in resource room subject classes for some of her coursework which would preferably have been in self-contained classrooms.

Potential concerns with S.D.'s lack of familiarity with the hallways, lockers, etc. are adequately addressed in the proposed IEP and through the transitional supports Northern Valley already offers. While Northern Valley's high school population is larger than that of Cresskill, S.D. would be part of the Step Program, which is a community of less than fifty students. Mishkin's and Plasner's conjecture that the larger school population at Northern Valley would lead to bullying and intimidating behavior in the mainstream setting is not premised on any facts or empirical evidence and is subjective, almost insulting, of the Northern Valley High School. Further, it is undisputed that S.D. would be provided with aide support in the classroom as needed and when participating

in electives, physical education, or lunch in the mainstream setting, thus these concerns are moot.

N.G.'s almost singular focus on the number of buildings or programs in which S.D. has been placed over her entire educational career since preschool is not a critical factor here. Every child will go through a number of facility changes as they progress from preschool to elementary to middle and then to high school. With respect to a child with special transitional needs, a district fails to provide FAPE when it fails to address those special transitional needs, not when it fails to leave the child in place just for the sake of not introducing a new facility and population to a child. Nevertheless, I **CONCLUDE** that respondent must be prepared to offer transportation services in order to allow petitioner's daughter to avail herself of the transition services that the District itself recognizes is key to her success and to the offer of FAPE.

With regard to petitioner's challenge to the adequacy of the proposed IEP with respect to its speech therapy related service offering, the proposed IEP set forth one small group pull-out speech/language therapy one time per four-day cycle, one in-class speech/language therapy one time per four-day cycle in the natural setting, and a weekly small group social skills in the classroom setting. In providing input for the proposed IEP, the Cresskill speech therapist Brcvak recommended that S.D. no longer receive individual therapy session but would continue to benefit from one pullout group and one integrated group within the classroom, to focus on the application of speech in social and classroom settings. While petitioner argues that S.D.'s progress in individual therapy is sufficient proof that it should continue, there is ample support in the record for finding that she would benefit from an emphasis on the group and social setting of language. Moreover, because the Step Program classes will be geared towards students of S.D.'s cognitive level and she will be provided instruction that addresses her individual needs, she will not require the same intensity of pre-teaching content and vocabulary that she apparently required at Cresskill where she was placed in resource and in-class support settings with students of higher cognitive ability. Significantly, the proposed IEP sets forth sufficient supplementary aids which would address any of her

needs for additional support in learning new vocabulary in more complex subject classes such as science and social studies.

Lastly, petitioner has raised the legal issue that respondent violated the IDEA by predetermining S.D.'s placement without parental input. I respectfully disagree with petitioner and **CONCLUDE** that Northern Valley did not predetermine the placement. As stated above, the law requires that a school district place a student in the least restrictive environment. 20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2). To that end, if a school district has an in-district program that is appropriate to meet a student's needs, the district need not send the student to an out-of-district program. As a Haworth resident, S.D. would become a Northern Valley student for ninth grade, and the least restrictive environment for S.D. would be a program within Northern Valley. It is natural and legal for the District to have engaged in a rebuttable presumption while S.D. was in middle school that she would become its CST's responsibility and would likely fit into a program within its district, so long as an appropriate one was available. In spite of this rebuttable presumption, I **CONCLUDE** that the District did listen to the parent's concerns, as well as the opinions of the Haworth and Cresskill CST and teaching staff members. It simply did not find the counter-arguments to be persuasive or the objective evidence of S.D.'s special educational needs to be indicative of the need for a different placement.

In sum, New Jersey is well-known as a state with a complex and large (especially relative to its size) system of multiple school districts but that fact has derivative consequences for both parties. Yes, Cresskill High School might be slightly closer geographically to N.G.'s home than Northern Valley – Old Tappan, but S.D. would never have normally attended Cresskill High School unless N.G. moved her residence. By living in Haworth, N.G. must be deemed to have acknowledged that her children would attend a new school district upon aging out of the K-8 district.

I **CONCLUDE** that the District's plan to place S.D. in the self-contained Step Program is consistent with the requirements of the IDEA as interpreted by the Oberti Court and will provide her with FAPE. It is well-established that the appropriateness of

an IEP is not determined by a comparison of the petitioner's desired placement and the program proposed by the district. S.H. v. State-Operated Sch. Dist. of Newark, 336 F.3d 260, 271 (3d Cir. 2003). Rather, the pertinent inquiry is whether the district's IEP offered FAPE and the opportunity for meaningful educational benefit within the least-restrictive environment. Having concluded that Northern Valley offered FAPE to S.D., it is unnecessary to examine whether the program at Cresskill is equally or legally appropriate.

Yet, I do consider it important to also elaborate that the petitioner's and respondent's experts did not largely disagree as to the nature and complexity of S.D.'s communication deficits. Having articulated, for example by Mishkin, how difficult it is for S.D. to have confidence that she is "getting" the material and for her to understand the specialized vocabulary of major subject areas, it is clear to me that the Step Program is superior to the hodge-podge of non-self-contained subject classes that Cresskill is offering. Taking the entirety of the record into consideration, this dispute came down to the building and the people with whom S.D. is presently familiar, notwithstanding that she does not have genuine friends outside of the school day from within her school day. I can appreciate the anxiety of both mother and daughter about the transition to Old Tappan but the preponderance of the credible testimony proves that S.D. is capable of making the switch to the Step Program, with the proper supports laid out in the proposed IEP. The law does not allow me to measure two programs against each other and pick the best based on a balancing all the factors. This is not a determination as to whether Cresskill or Northern Valley is a better fit for S.D. As stated, this case came down to petitioner's feeling that "if it ain't broke, don't fix it," while the IDEA requirements pose a very different analysis as to whether the home District has offered FAPE.<sup>5</sup>

Accordingly, I **CONCLUDE** that the IEP proposed by the District for the 2014-2015 school year was reasonably designed to confer a meaningful educational benefit on S.D. I further **CONCLUDE** that the District program constituted the least-restrictive

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<sup>5</sup> In much the same manner as the comparison of a home owner to a tenant, if you are a guest in some other person's home, you do not have the same rights to insist on structural aspects as you would if you were the owner.



environment appropriate to S.D.'s needs. For her forthcoming sophomore year when the stay-put fades away, it will require, of course, a carefully designed transition between Cresskill High School and Northern Valley Regional High School, which hopefully will take place this summer.

**ORDER**

For the reasons set forth above, it is **ORDERED** that the relief sought in petitioner's 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 (2012) 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 (2012). 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.

May 14, 2015

\_\_\_\_\_

DATE

\_\_\_\_\_

**GAIL M. COOKSON, ALJ**

5/14/15

Date Received at Agency

\_\_\_\_\_

Date Mailed to Parties:

5/14/15

id

**APPENDIX**

**LIST OF WITNESSES**

**For Petitioners:**

N.G.  
Lois Mishkin  
Joseph Plasner

**For Respondent:**

Geraldine Beatty  
Katie Doherty  
Bonni F. Ehrhardt  
Barbara Battaglia  
Janelle Amato

**LIST OF EXHIBITS IN EVIDENCE**

**Joint**

- J-1 Neuropsychological Evaluation and Addendum by Stacey R. Tuchin, dated December 2006
- J-2 Individualized Education Program, dated June 17, 2009
- J-3 Individualized Education Program, dated April 28, 2010
- J-4 Educational Evaluation, Bonni F. Ehrhardt, dated January 2011
- J-5 Speech/Language Evaluation, Adele P. Kallet, dated January 11, 2011
- J-6 Psychological Evaluation, Lori Small, dated January 14, 2011
- J-7 Social Assessment, Martha Kuhnert, dated January 17, 2011
- J-8 Individualized Education Program, dated February 3, 2011
- J-9 Individualized Education Program, revised, stamped June 16, 2011
- J-10 Positive Behavioral Support Plan, dated September 24, 2011
- J-11 Individualized Education Program, dated May 23, 2012
- J-12 Conference Participant Signature Sheet, dated January 11, 2013

- J-13 Progress Notes, Speech and Language Therapy, Indira Brcvak, dated January 11, 2013
- J-14 PLEPS Progress Meeting, dated January 11, 2013
- J-15 Individualized Education Program, dated May 31, 2013
- J-16 Psychological Evaluation, Joseph Plasner, dated January 15, 2014
- J-17 Educational Evaluation, Bonni F. Ehrhardt, dated March 6, 2014
- J-18 Functional Behavioral Assessment, Melanie Arnold, dated March 2014
- J-19 Speech and Language Evaluation, Lois W. Mishkin, dated April 2014
- J-20 Confidential Social Assessment, Debra M. Gadina, dated May 13, 2014
- J-21 E-mail from Geraldine Beatty to Debra Gadino, dated May 22, 2014
- J-22 Eligibility Conference Report Re-Evaluation, dated June 12, 2014
- J-23 Cresskill Middle School, Report Card, dated June 23, 2014
- J-24 Individualized Education Program Re-Evaluation, Proposed, dated July 15, 2014
- J-25 IEP Sign-In Sheet, dated July 15, 2014
- J-26 Individualized Education Program Re-Evaluation, Proposed, dated July 18, 2014
- J-27 Individualized Education Program Re-Evaluation, dated July 18, 2014

For Petitioner:

- P-1 Email from Bonnie Ehrhardt to N.G. & attached document re proposed 6<sup>th</sup> grade program at Cresskill Junior-Senior High School, dated March 25, 2011
- P-2 Email from Indira Brcvak to Patty-Simone, dated December 20, 2012
- P-3 Email from Indira Brcvak to N.G., dated January 31, 2014
- P-4 Progress Report for IEP Goals and Objectives, dated June 3, 2014
- P-5 Email from Indira Longarzo to N.G., dated October 10, 2014
- P-6 Behavior Intervention Plan, dated September 13, 2013 and December 4, 2014
- P-7 Email from Indira Longarzo to Lois Mishkin, dated December 4, 2014
- P-8 Emails between Revital Sholomon and Lois Mishkin re course outlines, dated December 5, 2014
- P-9 Resume of Lois Mishkin, M.A. CCC/LDTC
- P-10 Lois Mishkin, Class Observation Report, dated November 12, 2014
- P-11 Resume of Joseph Plasner, Ph.D.
- P-12 Joseph Plasner, Class Observation Report, dated December 2014

- P-13 Joseph Plasner, Interview Notes with N.G., dated November 19, 2014
- P-14 Joseph Plasner, Interview Notes with S.D. & CDI Self Report Profile, dated November 30, 2014
- P-15 S.D. Cresskill High School Report Card, November 11, 2014
- P-16 N.G., Pre-Filed Direct Testimony
- P-17 Joseph Plasner, Pre-Filed Direct Testimony
- P-18 Lois Mishkin, Pre-Filed Direct Testimony

For Respondent:

- R-1 Observation Notes of Geraldine Beatty, dated January 27, 2014
- R-2 Observation Notes of Stephen Kuwent, dated January 27, 2014
- R-3 E-mails Scheduling N.G.'s Visit with Geraldine Beatty, January 2014
- R-4 E-mails Scheduling S.D.'s Visit and Signed Permission Slip, various dates
- R-5 Katie Doherty's Observation Notes, dated March 20, 2014
- R-6 E-mail from Eva Baratta to Geraldine Beatty, dated March 26, 2014
- R-7 Haworth Public School, Eligibility Conference Report, dated June 12, 2014
- R-8 Region III, Neal Moles Summer Program 2014 Brochure
- R-9 Northern Valley Regional High School, S.T.E.P. Program Brochure
- R-10 Resume and Certificates of Barbara Battaglia
- R-11 Resume and Certificates of Geraldine Beatty
- R-12 Pre-Filed Direct Testimony of Bonni F. Ehrhardt
- R-13 Notes of December 12, 2013, of Joseph Plasner