

FINDINGS OF FACT & DECISION

Case No.:	191605
Student's Name:	REDACTED (hereinafter referred to as "Student")
Date of Birth:	REDACTED
District:	15
Hearing Request by:	PARENT (herein after referred to as "Parent")
School:	REDACTED (hereinafter referred to "Private School")
Hearing Dates:	June 25, 2020
Actual Record Close:	June 29, 2020
Hearing Officer:	

NAMES AND TITLES OF PERSONS WHO APPEARED ON JUNE 25, 2020

For the Student:

REDACTED, Attorney
REDACTED, Parent
REDACTED, Social Worker

For the Department of Education:

Non-appearing

ISSUES

This matter comes before the undersigned Impartial Hearing Officer (“IHO”) through the Parents’ Due Process Complaint (“DPC”) filed on or about December 13, 2019 regarding the 2019/20 school year (P-Ex. A)¹. The DPC alleged that the District denied the Student a Free Appropriate Public Education (“FAPE”) as required by the Individuals with Disabilities Education Act (“IDEA”) by not evaluating Student at parent’s request and not providing an appropriate IEP, program, and placement for the 2019/20 school year (P-Ex. A). The Parent has requested tuition reimbursement / direct payment for their unilateral placement of the Student at the Private School and reimbursement for the independent evaluation Parent obtained (P-Ex. A).

PROCEDURAL HISTORY

The undersigned Hearing Officer was appointed to the above matter on June 1, 2020. A hearing was held on June 25, 2020 for the District to present their case. On that date, the District failed to appear, even after acknowledging Parent’s disclosed exhibits and email to the District representatives after the scheduled start time. (See, T. p.13-14).² The Parent presented exhibits, which were also entered into evidence ³ and presented one live witness and three witnesses by affidavit. The record closed on June 29, 2020.

FINDINGS OF FACT

The Student is a REDACTED who attended the Private School during the 2019/20 school year (P-Ex. A; J; L; and M). The Student is diagnosed with a social (pragmatic) communication

¹ Exhibits shall be referred to as follows: “P” for Parent Exhibit; “D” for the District’s or Department’s Exhibits; and “IHO” for the Impartial Hearing Officer’s exhibits.

² Reference to the Transcript shall be referred to as “T”.

³ A more detailed list of exhibits is attached.

disorder and Attention Deficit Hyperactivity Disorder Attention (“ADHD”) (P-Ex. A; C). On June 25, 2019 Parent requested the District conduct a special education evaluation and review. Although the District confirmed receipt of the request, no such evaluation was ever conducted. (P-Ex.M. p. 2-3). Parent obtained an IEE Psychological Evaluation dated August 7, 2019 (P-Ex.C) that diagnosed Student with a social (pragmatic) communication disorder and ADHD. As a result of the District’s failure to evaluate Student and Student’s deteriorating condition in public school, Parent served a Notice of Unilateral Placement (P-Ex.B) on the District dated August 21, 2019.

As set forth in the Affidavit of Student’s Mother Student’s issues were first documented in the third grade. (P-Ex.M). Student attended public school and had some minor below-grade issues in paying attention and revising written work. (P-Ex.M, para.4). Her third grade teacher identified that Student was having a hard time focusing in class, keeping on task, and was falling behind. (P-Ex.M, para.4). Teacher suggested a psychoeducational evaluation be conducted. As a result of the evaluation, Student was diagnosed with ADHD-Inattentive Type and recommended 504 accommodations including increased wait times for Student, checking in with Student on tasks, breaking down tasks, and using proximity cues to keep her focused. (P-Ex.M, para.4). The third, fourth, and fifth grade teachers reported they could not follow those recommendations because there were too many children in the classes. (P-Ex.M, para.4).

Parent concerns about Student “falling through the cracks” led to them enrolling Student in private school for middle school. (P-Ex. M, para. 4-5). Parent stated that Student received what amounted to special education services while in the private school setting. In 9th grade, Student attended public school again. (P-Ex. M, para. 4-5). Student began to experience difficulties with schoolwork and emotional issues:

Her mood deteriorated. She performed poorly socially. She became disengaged in serious school work. In October she made an attempt on her life. She was subsequently hospitalized twice over her freshman year. By Spring of her 9th grade, it was completely obvious she needed more intense support. (P-Ex. M, para. 4-5).

By 9th grade high school, the Mother testified that Student's school experience was more difficult, and possibly even traumatic, as she struggled to learn the material, stay engaged, perform socially, and meet expectations without additional supports. She was unable to academically and socially engage in school. (P-Ex. M, para.5).

On June 25, 2019, Parent referred Student to the Committee on Special Education for evaluation and review. (P-Ex. M, para.9). The District acknowledged receipt on June 28, 2019 and referred to a summer team that would handle the referral. Parent received a voicemail on July 19, 2019 confirming an evaluation that had not been scheduled. The District did not schedule or conduct the requested evaluation of Student for special education services. (P-Ex. M, para.10).

Parent obtained an Independent Psychological Evaluation dated 8/7/19. (P-Ex. C). The Psychological Evaluation determined that Student struggles most with executive functioning and slow processing speed that affects academic and classroom performance. (P-Ex.C, pg.24).

The results of the evaluation also indicate Student likely becomes overwhelmed by too much information at once; demonstrates a pattern of inattention and hyperactivity that interferes with her functioning. (P-Ex.C, pg.24). The evaluation states that these symptoms have been present and persisted for most of Student's life, and these symptoms are not solely a manifestation of oppositional behavior, defiance, hostility, or a failure to understand tasks of instructions. (P-Ex.C, pg.25). The Report states:

The results of this evaluation indicate that [Student] meets criteria for attention deficit hyperactivity disorder, combined presentation. It is likely that her symptoms of ADHD have impacted her in a variety settings both academically and

interpersonally (socially) as she struggles to attend, track, manage her impulses, anticipate consequences, and tolerate frustrations effectively. (P-Ex.C, pg.25).

The Evaluation made recommendations, including:

1. it is strongly recommended that Student attend a program that will be able to address her therapeutic needs in a supportive environment. **Student will require a program that has a strong therapeutic community model with therapeutic interventions aimed at promoting good emotional health, social skills, and self-esteem.** She will also require a program where she can receive hands-on coaching support for applying skills to manage her emotions effectively on a day-to-day basis. It is critical that Student continues to have ongoing positive peer exposure, group and individual therapy, as well as integrative family therapy. Additionally, Student will require accommodations for executive function and ADHD. **Outside of a structured environment, Student is at high risk for emotional problems, behavior problems, and interpersonal related problems.**

5. **It is likely Student will be successful in school if she is receiving regular mental health, executive functioning, and emotional support.** As such, it is imperative that she be in an **academic environment that can support and challenge her appropriately**, so that she can begin experiencing educational success again, and so that she begins to reinvest in her academic progress and educational goals. Given her ADHD and executive function weaknesses, Student will require academic accommodations, and IEP, and would benefit from the following:
(P-Ex.C, pg.28) (emphasis added).

In the absence of a special education evaluation or plan, and after the 8/7/19 Psychological Evaluation, Parent enrolled Student at Private School in a residential therapeutic setting. Parent sent a Notice of Unilateral Placement to the District on August 21, 2019 (P-Ex.B), noting the District failed to evaluate Student despite Parent's request; failed to convene a CSE meeting and develop an IEP; and failed to make any placement recommendation. The District failed to respond to the letter and has not rebutted any of the allegations.

The Parent testified:

It's hard for me to create an accurate picture of just how bad things were for [Student] last year during her 9th grade school year. While I'm sure her teachers and [High School] were well intentioned, [Student] did not just struggle, she was falling off a cliff. She tried to kill herself twice. We needed to do something to help

[Student]. Her initial transition to [Private Placement] was challenging, but the School responded thoughtfully and effectively, and [Student] then settled in and has developed herself as a young woman who takes herself seriously as a student and manages her emotions and mood with tools and skill we admire. (P-Ex. M, para.20).

The Academic Director for the Private School testified by affidavit. According to her testimony, (P-Ex. N) Private School is a specialized residential school that teaches in a therapeutic setting. It provides small class size and a customized educational approach. Faculty is certified in specific content areas with expertise working in a therapeutic setting and includes certified special education teachers. Upon admission, Student records are reviewed to develop an individualized academic plan. Classes are small with no more than 12 students per class and average class size of 6 students per class. The academic program operates year-round and is fully integrated with the therapeutic clinical program. Teachers and therapists work hand in hand to ensure that each student addresses both their therapeutic and academic goals. (P-Ex. N, para. 1-10)

Student entered Private School on September 20, 2019 in 10th grade. The Private School conducted an evaluation and developed an individualized Academic Plan that included small class size accommodations, small teacher to student ratio, auditory and visual aides and cuing, extended time on assignments when advocated for in advance, graphic organizers, guided notes, visual schedules, assistance with strategies to self-monitor comprehension, checklists, fidgets, chunking assignments, ensuring that assignments are written down, a separate test setting, the ability to take breaks as needed, teacher led study hall and preferential seating. The Private School conducted its own Psychiatric Evaluation dated 10/3/19. (P-Ex. D; T.p.29). Annual goals were developed to address classroom behavior, understanding assignments, organization, and relationships with peers and staff. (P-Ex. N, para. 13-15). The Private School created a Master Treatment Plan to address Student's academic, behavioral, and emotional needs. (P-Ex. G;

T.p.29). The Private School also created an Individual Academic Plan for Student dated 3/11/20 that addressed Student's academic issues and measurable goals (P-Ex. E).

The clinical social worker at Private School testified that Student receives treatment in a team setting 1x/week and individual therapy 1x/week for 1-1.5 hours. They also engage family therapy 1x/week with Student's parents by teleconference. Group therapy is 1x/week for 1.5 hours, sometimes with an additional 1-1.5 hours. (T.27-28)

Private School social worker testified that at first, Student had a difficult time adjusting to the Private School. After three months, Student began to engage, participate, and become compliant with the program. She testified that as a result of trauma, Student exhibited disassociation that impeded Student's ability to process information. (T. p.31, 33-34).

Parent testified Student's progress at Private School was a "stark contrast from last year where [Student] was performing poorly and did not engage in classwork or homework. She failed her Regents exam, her academic and social issues were not only not addressed but were exacerbated by school, and she was not held to high standards." (P-Ex. M, para.17)

Private School social worker testified that the progress made in Student's behavior has led to academic progress and benefits. (T. p.30-31, 33-34). The Private School's Academic Director (P-Ex. N, para.19) and Parent (P-Ex. M, para. 17-19) also confirmed the academic progress and benefits made by Student in the Private School.

CONCLUSIONS OF LAW

The Individuals with Disability Education Act ("IDEA") is a comprehensive statutory framework established by Congress to ensure that students with disabilities are afforded FAPE. *See*, 20 U.S.C. §1400(d)(1)(A); Schaffer v. Weast, 546 US 49 (2005). A "free appropriate public education consists of educational instruction that is 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.” Bd. of Ed. Hendrick Hudson CSD v. Rowley, 458 U.S. 176, 188 (1982). In order to demonstrate that FAPE is being provided, the school district must show “that it complied with the procedural requirements set forth in the IDEA, and that the IEP developed by its CSE through the IDEA's procedures is reasonably calculated to enable the student to receive educational benefits.” *See, Application of Child with a Disability*, Appeal No. 05-061, *quoting, Rowley* at 206. The student's recommended program must also be provided in the least restrictive environment with non-disabled peers. *See, Walczak v. Florida Union Free Sch. Dt.*, 142 F.3rd 119 (2nd Cir. 1998).

Two purposes of the IDEA (20 U.S.C. §§ 1400-1482) are (1) to ensure that students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and (2) to ensure that the rights of students with disabilities and parents of such students are protected (20 U.S.C. § 1400[d][1][A]-[B]; see generally, Forest Grove v. T.A., 129 S. Ct. 2484, 2491 [2009]; Rowley, at 206-07).

Parent seeks tuition reimbursement for the unilateral placement of Student in a Private School for the 2019-2020 school year. As set forth in Florence County Sch. Dist. Four v. Carter, 510 U.S. 7 (1993); Sch. Comm. Of Burlington v. Dep’t of Educ., 471 U.S. 359 (1985) it is well established that a District may be required to reimburse parents for tuition payment to a private school if the services offered by the District were inadequate or inappropriate, the services selected by the parents were appropriate under the IDEA, and equitable considerations support the parent’s claim for reimbursement. Thus, consideration of such a claim has been expressed by a three prong test: (1) was student denied FAPE; (2) the appropriateness of the Parent’s unilateral placement; and (3) a balancing of the equities.

The burden of persuasion and proof is by the preponderance of the evidence standard,

which requires a finding that the existence of a fact is more probable than not. When the evidence is evenly balanced, the party with the burden loses. The burden of production and persuasion is on the District for the first and third prongs. The Parent bears the burden of production and persuasion on the second prong.

An appropriate program begins with an IEP which accurately reflects the results of the 1) student's present levels of performance; 2) provides for the use of appropriate special education services to address the child's special education needs; 3) establishes annual goals which are related to the child's educational deficits; 4) identifies transitions services; 5) provides a start and end date to the recommended program and services; and 6) criteria and evaluation procedures for the measurement of goals. *See, Walczak, supra; Id.*, Appeal No. 00-005. "The initial procedural inquiry is no mere formality." *Walczak*, at 129. "Adequate compliance with the procedures prescribed [by IDEA] would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP." *Rowley* at 206. For an IEP to be reasonably calculated to enable the child to receive educational benefits, it must be likely to produce progress, not regression. This progress, must be meaningful; i.e., more than mere trivial advancement. *Walczak, supra*.

In *Endrew F. v. Douglas County School District*, 580 U.S. ___, 14 (2017), the Court held that, "[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances, as a focus on the particular child is at the core of the IDEA. The instruction offered must be "specially designed" to meet a child's "unique needs" through an "individualized education program." §§1401(29), (14) (emphasis added), to reflect the fact that a contemplated IEP must be focused on the "particular child that is at the core of the IDEA". In such case, the school is still required to ensure the student is given an IEP that requires not just academic but also functional

progress and, although the goals may differ for students, each child must have an IEP that includes goals and services to enable a child to make both academic and functional progress. The court further stated that an IEP “is not a form document. It is constructed only after careful consideration of the child’s present levels of achievement, disability, and potential for growth” §§1414(d)(1)(A)(i)(I)–(IV), (d)(3)(A)(i)–(iv), and that “a student offered an educational program providing “merely more than de minimis progress” from year to year can hardly be said to have been offered an education at all.”

The Court in Endrew further stated that, “[t]he IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” Although the Supreme Court declined to elaborate on the definition of “appropriate progress” from case to case, it stated that, “the adequacy of a given IEP turns on the unique circumstances of the child for whom it was created.” Finally, The Supreme Court in Endrew declined to hold, as it declined to hold in Rowley, that “every handicapped child who is advancing from grade to grade . . . is automatically receiving a [FAPE].” Board of Ed. of Hendrick Hudson Central School Dist., Westchester Cty v. Rowley, 458 U. S. 176, 203, n. 25 (1982). A Student’s “IEP need not aim for grade-level advancement. But his educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives.” Endrew F. v. Douglas 580 U.S. ____ (2017). “It cannot be the case that the Act typically aims for grade-level advancement for children with disabilities who can be educated in the regular classroom, but is satisfied with barely more than *de minimis* progress for those who cannot.” Id.

Here, the District did not present a case and therefore did not meet its burden in

demonstrating that the District provided the Student with FAPE during the 2019/20 school year. There was no evidence that an evaluation for special education services was performed after the Parent's request on June 25, 2019. There was no evidence that the District convened a CSE meeting or completed an IEP for the 2019-20 school year. Based on all of the above, I find that the District did not provide the Student with FAPE for the 2019/20 school year.

PARENT'S BURDEN: APPROPRIATENESS OF UNILATERAL PLACEMENT

The Parent bears the burden of proof to prove by a preponderance of evidence that the placement provides educational instruction specifically designed to meet the unique needs of the student with services necessary to permit the child to benefit from instruction. C.B. v. Garden Grove Unified School Dist., 635 F.3d 1155, 1159 (9th Cir. 2011) *quoting* Frank G. v Bd. of Educ., 459 F.3d 356, 365 (2d Cir. 2006).

Parents need not show that the placement provides every special service necessary to maximize the student's potential (Frank G., 459 F.3d at 364-65). When determining whether the parents' unilateral placement is appropriate, ultimately, the issue turns on whether that placement is "reasonably calculated to enable the child to receive educational benefits" (Frank G., 459 F.3d at 364; see Gagliardo, 489 F.3d at 115. A private placement is only appropriate if it provides education instruction specially designed to meet the unique needs of a student (20 U.S.C. § 1401[29]; 34 CFR 300.39[a][1]; Educ. Law § 4401[1]; 8 NYCRR 200.1[ww]; Rowley, 458 U.S. at 188-89.

A private school placement must be "proper under the Act" (Carter, 510 U.S. at 12, 15; Burlington, 471 U.S. at 370), i.e., the private school must provide an educational program which meets the student's special education needs. *See*, Gagliardo, 489 F.3d at 112, 115; Walczak, 142 F.3d at 129. A parent's failure to select a program approved by the State in favor of an unapproved option is not itself a bar to reimbursement (Carter, 510 U.S. at 14). The private

school need not employ certified special education teachers or have its own IEP for the student (id. at 14). The Second Circuit has set forth the standard for determining whether parents have carried their burden of demonstrating the appropriateness of their unilateral placement.

“Grades, test scores, and regular advancement may constitute evidence that a child is receiving educational benefit, but courts assessing the propriety of a unilateral placement consider the totality of the circumstances in determining whether that placement reasonably serves a child’s individual needs. To qualify for reimbursement under the IDEA, parents need not show that a private placement furnishes every special service necessary to maximize their child’s potential. They need only demonstrate that the placement provides educational instruction specially designed to meet the unique needs of a handicapped child, supported by such services as are necessary to permit the child to benefit from instruction.” (Gagliardo, 489 F.3d at 112, quoting Frank G., 459 F.3d at 364-65).

In this case, the Parent submitted an Independent Psychological Evaluation that concluded Student needs a placement in a full time therapeutic special education program with specially trained staff for Student to meet her potential.

Parents have placed Student in Private School, an out of state residential school serving students with emotional and learning disabilities. The Private School reviewed Student’s medical and academic records, performed its own Psychiatric Evaluation, developed an Individual Academic Plan for Student with goals and measurable objectives, and developed a Master Treatment Plan. In addition to the structured setting and academic supports, the Private School provides therapeutic counseling ranging from individual, to group, and family settings.

Student has been diagnosed with Social (Pragmatic) Communication Disorder and ADHD, combined presentation, which affects her ability to obtain an education in a traditional public school environment. Given that the Private School is specifically geared to provide specialized educational services to students with social disorders and learning disabilities, the placement provides instruction that is specifically designed to meet the unique needs of the Student with services necessary to permit the child to benefit. (T. p. 32-33). The placement is

consistent with the psychologist's evaluation that Student be placed in a "a program that will be able to address her therapeutic needs in a supportive environment." (P-Ex.C, pg.27).

In addition, lack of progress in the current program is a consideration for the appropriateness of the private placement. As set forth above, Student performed poorly in her 9th grade year. She did not engage in classwork or homework and failed her Regents exam. (P-Ex.M, para.17). Student's 9th grade year was marred by multiple suicide attempts and hospitalizations. Student cannot progress academically if she is either hospitalized or deceased as a result of the inappropriate placement in a public school setting.

After reviewing the testimony and evidence provided, I find that Parent has met their burden.

Courts look to distinguish between residential placement that is necessary for educational purposes or is a response to problems segregable from the learning process. Kruelle v. New Castle County Sch. Dist., 642 F.2d 687 (3d Cir. 1981). The emotional, medical and educational problems may be "so intimately intertwined that realistically it is not possible for the Court to perform the Solomon-like task of separating them." North v. Dist. of Columbia Bd. of Educ., 471 F.Supp. 136 (D.D.C. 1979). In such case, "the unseverability of such needs is the very basis for holding that the services are an essential prerequisite for learning." Kruelle v. New Castle County Sch. Dist., 642 F.2d 687 (3d Cir. 1981).

If a residential program is, therefore, required due to a child's emotional problems, and the child's emotional problems prevent the child from making meaningful education progress, the IDEA requires the State to pay for the costs of the placement. *See* M.H. v. Monroe-Woodbury Cent. Sch. Dist., 296 F.App'x 126 (2d Cir. 2008); Mrs. B v. Milford Bd. of Educ., 103 F.3d 1114 (2d Cir. 1997).

Although the Student demonstrated behavioral issues outside of school, it is undisputed that Student's emotional problems outside of school were tied to her struggles to learn the academic material, stay engaged, perform socially, and meet expectations without additional supports. (P-Ex.M, para.5). The disability and behavioral issues continue to have a substantial impact on Student's education, as demonstrated by the failed Regents exam and attempts to take her life and hospitalizations. Thus, the residential placement is necessary for educational purposes and is not a response to problems segregable from the learning process.

With respect to the student's progress at the Private School, a finding of progress is not required for a determination that a student's unilateral placement is adequate, but it is a relevant factor to be considered (Gagliardo, 489 F.3d at 115, citing Rafferty v. Cranston Pub. Sch. Comm., 315 F.3d 21, 26-27 [1st Cir. 2002]). However, here the Student has made both academic and social emotional progress. Based on all of the above, I find that the Private School was an appropriate placement for the Student for the 2019/20 school year.

EQUITABLE CONSIDERATIONS

Equitable considerations are relevant in determining relief "because the authority to grant reimbursement [under the IDEA] is discretionary." Frank G., 459 F.3d at 363-64 (*quoting*, Burlington, 471 U.S. at 374). The balancing of the equities examines the actions of the parents and District, including:

1. Whether the Parents provided timely notice of the unilateral placement, either at the last IEP meeting or at least 10 business days prior to the removal of the student from the public school. Parent served a Notice of Unilateral Placement (P-Ex.B) on August 21, 2019, more than 10 business days before Student began attending Private School on September 20, 2019. Thus, Parents provided timely notice.

2. Although Parent requested Student be evaluated by the District on June 25, 2019, District failed to perform the evaluation and took no steps to do so, even after the Notice of Unilateral Placement was filed.

3. The Parent's actions were reasonable. Student deteriorated throughout her 9th grade school year and Parent requested an evaluation to develop a specialized program to address Student's serious emotional and academic issues. The District failed to perform the requested evaluation or develop an IEP for Student at any time between June 25, 2019 and the date of this hearing, June 25, 2020. The Parents set forth the reasons for their request for private placement and the District failed to respond.

An IHO is not limited to consideration of the statutory equitable factors. *See J.T. v. Dep't of Educ., State of Hawaii*, 72 IDELR 95 (D. Haw. 2018). Thus, I also consider the District's conduct in failing to conduct an evaluation or proposing an IEP for the 2019-20 school year. The District had an opportunity to develop an appropriate program that did not require private placement and failed to do so.

In balancing the equities, I find in favor of the Parent. To the extent possible, the Parent has participated in all aspects of the special education process. The District failed to evaluate Student after Parent's request and failed to develop an IEP that addressed Student's educational and emotional needs.

DECISION

Based on a review of the record and the facts mentioned above, I find that the District failed to provide the Student FAPE during the 2019/20 school year. I further find that the Parent's unilateral placement at the Private School was appropriate and Parent is entitled to tuition reimbursement / direct payment for the 2019/20 school year.

I find that Parent should be reimbursed for the cost of the IEE Psychological Evaluation

Report dated 8/7/2019 Parent obtained as a result of the District's failure to conduct a timely evaluation.

In addition, I find that pursuant to 8 NYCRR 200.12 and as a result of Student's deterioration throughout her 9th grade school year that resulted in two hospitalizations, Parent is entitled to reimbursement for the cost to transport Student to Private School in the amount of \$3,807.60. (P-Ex.M; para.15).

I also find that pursuant to 8 NYCRR 200.12, and as a result of Parent's involvement in training and therapy as part of the IAP program developed by Private School, Parent is entitled to reimbursement of the travel and hotel to and from Private School in the amount of \$3,442.69. (P-Ex.M; para.13, 15).

ORDER

Based upon the Findings of Fact and Conclusions of Law, it is hereby ordered:

1. ORDER THAT, the District shall reimburse the Parent and/or directly pay the Private School for all tuition and fees for the Student's unilateral placement at the Private School for the 2019/20 school year;
2. ORDER THAT, the District shall reimburse the Parent for the market rate cost of the IEE Psychological Evaluation Report dated August 7, 2019 performed by Dr. REDACTED;
3. ORDER THAT, the District shall reimburse Parent for the cost to transport Student to Private School in the amount of \$3,807.60 for the 2019/20 school year;
4. ORDER THAT, the District shall reimburse Parent for the cost of travel and hotel to and from Private School in the amount of \$3,442,69 for the 2019/20 school year.

SO ORDERED

DATED: June 29, 2020

Impartial Hearing Officer

NOTICE OF RIGHT TO APPEAL L
SEP

Within 40 days of the date of this decision, the parent and/or the **Public School District** has a right to appeal the decision to a State Review Officer (SRO) of the New York State Education Department under section 4404 of the Education Law and the Individuals with Disabilities Education Act.

If either party plans to appeal the decision, a notice of intention to seek review shall be personally served upon the opposing party no later than 25 days after the date of the decision sought to be reviewed.

An appealing party's request for review shall be personally served upon the opposing party within 40 days from the date of the decision sought to be reviewed. An appealing party shall file the notice of intention to seek review, notice of request for review, request for review, and proof of service with the Office of State Review of the State Education Department within two days after service of the request for review is complete. The rules of procedure for appeals before an SRO are found in Part 279 of the Regulations of the Commissioner of Education. A copy of the rules in Part 279 and model forms are available at <http://www.sro.nysed.gov>.

DISTRICT EVIDENCE

<u>Ex.</u>	<u>Description</u>	<u>Date</u>	<u>Pages</u>
NONE			

PARENT EVIDENCE

<u>Ex.</u>	<u>Description</u>	<u>Date</u>	<u>Pages</u>
A.	Request for Impartial Hearing	12/17/2019	5 pages
B.	Notice of Unilateral Placement	8/21/2019	2 pages
C.	Psychological Evaluation Report	8/7/2019	29 pages
D.	Initial Psychiatric Evaluation	10/3/2019	3 pages
E.	REDACTED Academy IAP	3/11/2020	8 pages
F.	REDACTED Schedule 2020	-undated-	1 page
G.	Master Treatment Plan	9/27/2019	9 pages
H.	REDACTED School Profile	-undated-	1 page
I.	Letter from REDACTED re: COVID-19	-undated-	1 page
J.	Letter from REDACTED re: attendance	6/17/2020	1 page
K.	Admissions Agreement	9/20/2019	9 pages
L.	Affidavit of Payments	6/18/2020	1 page
M.	Affidavit of REDACTED	6/24/2020	5 pages
N.	Affidavit of REDACTED	6/25/2020	2 pages