The University of the State of New York

The State Education Department
State Review Officer
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No. 13-071

Application of a STUDENT WITH A DISABILITY, by his parent, for review of a determination of a hearing officer relating to the provision of educational services by the New York City Department of Education

Appearances:
Cuddy Law Firm, PC, attorneys for petitioner, Michael J. Cuddy, Jr., Esq., of counsel

Courtenaye Jackson-Chase, Special Assistant Corporation Counsel, attorneys for respondent, Gail M. Eckstein, Esq., of counsel

DECISION

I. Introduction

This proceeding arises under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400-1482) and Article 89 of the New York State Education Law. Petitioner (the parent) appeals from the decision of an impartial hearing officer (IHO) which denied her request to be reimbursed for her son's tuition costs at the Manhattan Children's Center (MCC) for the 2012-13 school year. The appeal must be sustained in part.

II. Overview—Administrative Procedures

The decision of the IHO is binding upon both parties unless appealed (Educ. Law § 4404[1]). A party aggrieved by the decision of an IHO appeal to a State Review Officer (SRO) (Educ. Law § 4404[2]; see 20 U.S.C. § 1415[g][1]; 34 CFR 300.514[b][1]; 8 NYCRR 200.5[k]). The appealing party or parties must identify the findings, conclusions, and orders of the IHO with which they disagree and indicate the relief that they would like the SRO to grant (8 NYCRR 279.4). The opposing party is entitled to respond to an appeal or cross-appeal in an answer (8 NYCRR 279.5). The SRO conducts an impartial review of the IHO's findings, conclusions, and decision and is required to examine the entire hearing record; ensure that the procedures at the hearing were consistent with the requirements of due process; seek additional evidence if necessary; and render

an independent decision based upon the hearing record (34 CFR 300.514[b][2]; 8 NYCRR 279.12[a]).

III. Facts and Procedural History

The parties' familiarity with the detailed facts and procedural history of the case and the IHO's decision is presumed and will not be recited here. The CSE convened on May 23, 2012, to formulate the student's IEP for the 2012-13 school year (see generally Dist. Ex. 3; Parent Ex. D).[1] The parent disagreed with the recommendations contained in the May 2013 IEP, as well as with the particular public school site to which the district assigned the student to attend for the 2012-13 school year and, as a result, notified the district of her intent to unilaterally place the student at MCC (see Dist. Ex. 4 at p. 1; Parent Exs. H; I). In a due process complaint notice, dated September 4, 2012, the parent alleged that the district failed to offer the student a free appropriate public education (FAPE) for the 2012-13 school year and requested among other things, that the student receive funding for MCC at public expense for the 2012-13 school year, in addition to reimbursement for payments already made, and prospective funding for payments owed in the future (see Dist. Ex. 1; Parent Ex. B).[2]

An impartial hearing convened on January 16, 2013 and concluded on February 25, 2013 after three days of proceedings (Tr. pp. 1-404). On the first day of the impartial hearing, the IHO issued an order addressing pendency (stay put) whereby during the course of the proceedings the student would attend MCC and the parent would receive reimbursement for payments already made to the private school, as well as additional payments, if any, to MCC (IHO Interim Decision at p. 4). In a decision dated March 26, 2013, the IHO determined that the district offered the student a FAPE for the 2012-13 school year and denied the parent's request for payment of tuition to MCC (IHO Decision at pp. 13, 15).

IV. Appeal for State-Level Review

The parent presents the following issues are on appeal in this case:

1. whether the IHO erred in finding that the annual goals and short-term objectives included in the May 2012 IEP were discussed during the May 2013 CSE meeting;

[1] Two exhibits reflecting the May 23, 2012 IEP are the same for the specific pages noted, except that District Exhibit 3 at pages 1-24 is printed in portrait orientation and Parent Exhibit D at pages 1-30 is printed in a landscape orientation (compare Dist. Ex. 3 at pp. 1-25, with Parent Ex. D at pp. 1-30). District Ex. 3 also contains a functional behavior assessment (FBA) and a behavior intervention plan (BIP), both dated May 23, 2012 (Dist. Ex. 3 at pp. 26-27). For purposes of the discussion herein, I will cite to District Exhibit 3 when referencing the May 23, 2012 IEP.

[2] Although the IHO partially met her obligation to exclude from the hearing record a number of exhibits she "determines to be irrelevant, immaterial, unreliable or unduly repetitious (8 NYCRR 200.5[j][3][xii][c]), there are a number of duplicative exhibits in the hearing record. The parties are encouraged to confer beforehand and submit joint exhibits to the extent practicable (8 NYCRR 200.5[j][3][xii][b]). Unless otherwise specified, where exhibits are duplicated, I have cited to the corresponding district exhibit.

2. whether the IHO erred in determining that a IEP that did not specify the student required applied behavior analysis (ABA) methodology was appropriate for the student;

3. whether the IHO erred in determining that the recommended 6:1+1 special class placement on the IEP was appropriate for the student;

4. whether the IHO erred in determining that the FBA and BIP were appropriate to address student's behaviors;

5. whether the IHO erred in determining that the absence of transitional supports in the recommended 6:1+1 special class setting did not render the May 2012 IEP inappropriate;

6. whether the IHO erred by not addressing the absence of parent counseling and training in the May 2012 IEP; and

7. whether the IHO erred in determining MCC was a more restrictive environment than the recommended 6:1+1 special class placement.

In addition, the parent alleges on appeal, that the IHO erred in refusing to revise her pendency order to include physical therapy (PT) services (Tr. pp. 147-57, 394-402; Pet. ¶51).

V. Applicable Standards

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 Sch. Dist. v. T.A., 557 U.S. 230, 239 [2009]; Bd. of Educ. v. Rowley, 458 U.S. 176, 206-07 [1982]).

A FAPE is offered to a student when (a) the board of education complies with the procedural requirements set forth in the IDEA, and (b) the IEP developed by its CSE through the IDEA's procedures is reasonably calculated to enable the student to receive educational benefits (Rowley, 458 U.S. at 206-07; R.E. v. New York City Dep't of Educ., 694 F.3d 167, 189-90 [2d Cir. 2012]; M.H. v. New York City Dep't of Educ., 685 F.3d 217, 245 [2d Cir. 2012]; Cerra v. Pawling Cent. Sch. Dist., 427 F.3d 186, 192 [2d Cir. 2005]). "'[A]dequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP'" (Walczak v. Florida Union Free Sch. Dist., 142 F.3d 119, 129 [2d Cir. 1998], quoting Rowley, 458 U.S. at 206; see T.P. v. Mamaroneck Union Free Sch. Dist., 554 F.3d 247, 253 [2d Cir. 2009]). While the Second Circuit has emphasized that school districts must comply with the checklist of procedures for developing a student's IEP and indicated that "[m]ultiple procedural violations may cumulatively result in the denial of a FAPE even if the violations considered individually do not" (R.E., 694 F.3d at 190-91), the Court has also explained that not all procedural errors render an IEP legally inadequate under the IDEA (M.H., 685 F.3d at 245; A.C. v. Bd. of Educ., 553 F.3d 165, 172 [2d Cir. 2009]; Grim v. Rhinebeck Cent. Sch. Dist., 346 F.3d 377, 381 [2d Cir. 2003]; Perricelli v. Carmel Cent. Sch. Dist., 2007 WL 465211, at *10

[S.D.N.Y. Feb. 9, 2007]). Under the IDEA, if procedural violations are alleged, an administrative officer may find that a student did not receive a FAPE only if the procedural inadequacies (a) impeded the student's right to a FAPE, (b) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE to the student, or (c) caused a deprivation of educational benefits (20 U.S.C. § 1415[f][3][E][ii]; 34 CFR 300.513[a][2]; 8 NYCRR 200.5[j][4][ii]; Winkelman v. Parma City Sch. Dist., 550 U.S. 516, 525-26 [2007]; R.E., 694 F.3d at 190; M.H., 685 F.3d at 245; A.H. v. Dep't of Educ., 394 Fed. App'x 718, 720, 2010 WL 3242234 [2d Cir. Aug. 16, 2010]; E.H. v. Bd. of Educ., 2008 WL 3930028, at *7 [N.D.N.Y. Aug. 21, 2008], aff'd, 361 Fed. App'x 156, 2009 WL 3326627 [2d Cir. Oct. 16, 2009]; Matrejek v. Brewster Cent. Sch. Dist., 471 F. Supp. 2d 415, 419 [S.D.N.Y. 2007], aff'd, 293 Fed. App'x 20, 2008 WL 3852180 [2d Cir. Aug. 19, 2008]).

The IDEA directs that, in general, an IHO's decision must be made on substantive grounds based on a determination of whether the student received a FAPE (20 U.S.C. § 1415[f][3][E][i]). A school district offers a FAPE "by providing personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction" (Rowley, 458 U.S. at 203). However, the "IDEA does not itself articulate any specific level of educational benefits that must be provided through an IEP" (Walczak, 142 F.3d at 130; see Rowley, 458 U.S. at 189). The statute ensures an "appropriate" education, "not one that provides everything that might be thought desirable by loving parents" (Walczak, 142 F.3d at 132, quoting Tucker v. Bay Shore Union Free Sch. Dist., 873 F.2d 563, 567 [2d Cir. 1989] [citations omitted]; see Grim, 346 F.3d at 379). Additionally, school districts are not required to "maximize" the potential of students with disabilities (Rowley, 458 U.S. at 189, 199; Grim, 346 F.3d at 379; Walczak, 142 F.3d at 132). Nonetheless, a school district must provide "an IEP that is 'likely to produce progress, not regression,' and . . . affords the student with an opportunity greater than mere 'trivial advancement'" (Cerra, 427 F.3d at 195, quoting Walczak, 142 F.3d at 130 [citations omitted]; see T.P., 554 F.3d at 254; P. v. Newington Bd. of Educ., 546 F.3d 111, 118-19 [2d Cir. 2008]; Perricelli, 2007 WL 465211, at *15). The IEP must be "reasonably calculated to provide some 'meaningful' benefit" (Mrs. B. v. Milford Bd. of Educ., 103 F.3d 1114, 1120 [2d Cir. 1997]; see Rowley, 458 U.S. at 192). The student's recommended program must also be provided in the least restrictive environment (LRE) (20 U.S.C. § 1412[a][5][A]; 34 CFR 300.114[a][2][i], 300.116[a][2]; 8 NYCRR 200.1[cc], 200.6[a][1]; see Newington, 546 F.3d at 114; Gagliardo v. Arlington Cent. Sch. Dist., 489 F.3d 105, 108 [2d Cir. 2007]; Walczak, 142 F.3d at 132; G.B. v. Tuxedo Union Free Sch. Dist., 751 F. Supp. 2d 552, 573-80 [S.D.N.Y. 2010], aff'd, 486 Fed. App'x 954, 2012 WL 4946429 [2d Cir. Oct. 18, 2012]; E.G. v. City Sch. Dist. of New Rochelle, 606 F. Supp. 2d 384, 388 [S.D.N.Y. 2009]; Patskin v. Bd. of Educ., 583 F. Supp. 2d 422, 428 [W.D.N.Y. 2008]).

An appropriate educational program begins with an IEP that includes a statement of the student's present levels of academic achievement and functional performance (see 34 CFR 300.320[a][1]; 8 NYCRR 200.4[d][2][i]; Tarlowe v. New York City Bd. of Educ., 2008 WL 2736027, at *6 [S.D.N.Y. July 3, 2008] [noting that a CSE must consider, among other things, the "results of the initial evaluation or most recent evaluation" of the student, as well as the "'academic, developmental, and functional needs'" of the student]), establishes annual goals designed to meet the student's needs resulting from the student's disability and enable him or her to make progress in the general education curriculum (see 34 CFR 300.320[a][2][i], [2][i][A]; 8 NYCRR 200.4[d][2][iii]), and provides for the use of appropriate special education services (see 34 CFR 300.320[a][4]; 8 NYCRR 200.4[d][2][v]; see also Application of the Dep't of Educ., Appeal No.

07-018; Application of a Child with a Disability, Appeal No. 06-059; Application of the Dep't of Educ., Appeal No. 06-029; Application of a Child with a Disability, Appeal No. 04-046; Application of a Child with a Disability, Appeal No. 02-014; Application of a Child with a Disability, Appeal No. 01-095; Application of a Child Suspected of Having a Disability, Appeal No. 93-9).

A board of education may be required to reimburse parents for their expenditures for private educational services obtained for a student by his or her parents, if the services offered by the board of education were inadequate or inappropriate, the services selected by the parents were appropriate, and equitable considerations support the parents' claim (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, 369-70 [1985]; R.E., 694 F.3d at 184-85; T.P., 554 F.3d at 252). In Burlington, the Court found that Congress intended retroactive reimbursement to parents by school officials as an available remedy in a proper case under the IDEA (471 U.S. at 370-71; see Gagliardo, 489 F.3d at 111; Cerra, 427 F.3d at 192). "Reimbursement merely requires [a district] to belatedly pay expenses that it should have paid all along and would have borne in the first instance" had it offered the student a FAPE (Burlington, 471 U.S. at 370-71; see 20 U.S.C. § 1412[a][10][C][ii]; 34 CFR 300.148).

The burden of proof is on the school district during an impartial hearing, except that a parent seeking tuition reimbursement for a unilateral placement has the burden of proof regarding the appropriateness of such placement (Educ. Law § 4404[1][c]; see R.E., 694 F.3d at 184-85; M.P.G. v. New York City Dep't of Educ., 2010 WL 3398256, at *7 [S.D.N.Y. Aug. 27, 2010]).

VI. Discussion

A. FAPE

Upon careful review, the hearing record reflects that the IHO correctly reached the conclusion that the district offered the student a FAPE for the 2012-13 school year (see IHO Decision at pp. 12, 14). The IHO accurately recounted the facts of the case, addressed all but one of the core issues that were identified in the parent's due process complaint notice, set forth the proper legal standard to determine whether the district offered the student a FAPE for the 2012-13

school year, and applied that standard to the facts at hand (id. at pp. 3-14).[3] The decision shows that the IHO considered the testimonial and documentary evidence presented by both parties, and further, that she weighed the evidence and supported her conclusions (id. at pp. 1-19). Furthermore, an independent review of the entire hearing record reveals that the impartial hearing was conducted in a manner consistent with the requirements of due process and that there is no reason appearing in the hearing record to modify the determinations of the IHO specific to her FAPE analysis (see 20 U.S.C. § 1415[g][2]; 34 CFR 300.514[b][2]). Thus, the conclusions of the IHO specific and limited to the district's provision of FAPE for the student for the 2012-13 school year are hereby adopted. However, this finding will have at most a partial effect upon the outcome of this case as the district which must meet the requirement of maintaining the student's placement at MCC for the duration of the impartial hearing and this appeal under the principle of pendency (see generally Interim IHO Decision).

I also note that the May 2012 CSE had available to it ample information in the form of a March 2010 bilingual psychoeducational evaluation report conducted by the district, a May 2010 psychological evaluation report submitted by the parent, an October 2011 FBA and BIP from MCC, the March 2012 speech-language therapy, occupational therapy (OT), and educational progress reports all written by the student's teacher or related service providers from MCC, an April 2012 assistive technology evaluation report, a May 2012 feeding and behavior plan from MCC, a May 2012 PT progress report from the student's physical therapist, and the student's cumulative folder, from which to determine the student's present levels of performance, and that, based on his needs, the CSE created measurable annual goals to assess the student's progress, and recommended 12-month programming in a 6:1+1 special class placement in a special school, numerous related services (including PT), an assistive technology device (iPad), a BIP, participation in the alternate assessment, and special education transportation (Tr. pp. 33-37, 44-48; Dist. Exs. 3-11). A review of the evidence in the hearing record demonstrates that the student exhibited significantly impaired communication, social functioning, and behavior skills, as well as delayed language, cognitive, and adaptive living skills, all consistent with autism spectrum disorder, and the May 2012 IEP reflected information about the student consistent with the aforementioned documentary evidence (Dist. Exs. 3-11). In addition to the district school psychologist (who also served as the district representative), attendees at the May 2012 CSE

[3] With regard to petitioner's allegation that the IHO erred by not addressing the absence of parent counseling and training on the May 2012 IEP, I find that, although the May 2012 CSE should have included parent training and counseling on IEP, in this case, this did not rise to the level of a denial of FAPE. Review of the IHO's decision reveals that the IHO cited to testimony by the district school psychologist in attendance at the May 2012 CSE that indicated, "it was explained to the parent at the outset" that parent counseling and training was one of the "defining characteristics" of the recommended 6:1+1 special class placement (Tr. pp. 37, 59-60; Dist. Ex. 3 at p. 25). Furthermore additional testimony by the same school psychologist indicated he specifically mentioned the availability of parent counseling and training during the May 2012 CSE meeting since it would not be specified on the IEP (Tr. pp. 125-26). The minutes of the May 2012 CSE meeting indicate the "recommended placement was explained to parent" (Dist. Ex. 4 at p. 1). Although parent counseling and training was not noted on the May 2012 IEP, the hearing record reflects the matter was discussed during the CSE meeting in order to make the parent aware said service would be available. As noted by the Second Circuit Court of Appeals, the presence or absence of parent training and counseling in an IEP does not necessarily have a direct effect on the substantive adequacy of the plan (see R.E., 694 F.3d at 191). Moreover, districts are required to provide parent counseling and training pursuant to State regulations and, therefore, "remain accountable for their failure to do so no matter the contents of the IEP" (id.; see also R.B. v. New York City Dept. of Educ., 2014 WL 1618383, at *7-*8 [S.D.N.Y. Mar. 26, 2014]; A.D. v. New York City Dept. of Educ., 2013 WL 1155570, at *11-*12 [S.D.N.Y. Mar. 19, 2013]).

meeting included: a district special education teacher, who was also a fully licensed and practicing speech-language pathologist; the parent; an additional parent member; and, by telephone from MCC, the assistant educational coordinator and the student's special education teacher, occupational therapist, and speech-language pathologist (Tr. pp. 37, 40-41, 43; Dist. Ex. 3 at p. 25). According to the school psychologist, all attendees at the May 2012 CSE participated for the entire meeting, which lasted approximately 90 minutes (Tr. pp. 42-43; Dist. Ex. 4 at p. 1). The school psychologist testified that the May 2012 CSE created goals and objectives, and an FBA and BIP for the student "in collaboration with documents that were sent to us in draft form from [MCC]," as well as through discussion during the CSE meeting that included the parent and ensured her understanding of all of the goals (Tr. pp. 49-59, 65, 67-70, 109-111). The school psychologist noted there was no objection to goals, related service ratios, or to the FBA or BIP at the time of the May 2012 CSE meeting (Tr. pp. 49, 51-59). He indicated the parent never asked for explanation about MCC draft goals that the May 2012 CSE discussed (Tr. p. 134).

Consistent with the May 2012 IEP and the minutes of the May 2012 CSE meeting, the school psychologist indicated the parent and CSE participants from MCC disagreed with the recommended 6:1+1 special class placement because they felt the recommended placement would not adequately address the student's needs (Tr. p. 62; Dist. Exs. 3 at p. 24; 4 at p. 1). According to the school psychologist, the CSE listened to the parent's and MCC participants' objections to the recommended placement and asked them for specific areas they felt would not be addressed with the IEP in question (Tr. p. 62). The school psychologist indicated the "thrust" of the parent's and MCC participants' response at the CSE meeting was that the student "could only make progress towards [his] goals with an all-inclusive ABA program using discrete trial learning with 1:1 instruction throughout the day" (Tr. p. 62).[4]

Generally, a CSE is not required to specify methodology on an IEP, and the precise teaching methodology to be used by a student's teacher is usually a matter to be left to the teacher (Rowley, 458 U.S. at 204; M.M. v. Sch. Bd. of Miami-Dade County, 437 F.3d 1085, 1102 [11th Cir. 2006]; Lachman v. Illinois State Bd. of Educ., 852 F.2d 290, 297 [7th Cir. 1988]; A.S. v New York City Dep't of Educ., 10-cv-00009 [E.D.N.Y. May 26, 2011] [noting the "broad methodological latitude" conferred by the IDEA]; Application of a Student with a Disability, Appeal No. 12-045; see also K.L. v New York City Dep't of Educ., 2012 WL 4017822 at *12 [S.D.N.Y. Aug. 23, 2012], aff'd, 2013 WL 3814669 [2d Cir. July 24, 2013]). The school psychologist testified that, although the May 2012 CSE did not recommend ABA, it also did not disapprove of the methodology or say ABA should not be used with the student (Tr. p. 121). The school psychologist indicated the May 2012 CSE recommendations incorporated behavioral methodologies, and the 6:1+1 special class recommendation was not contrary to ABA (Tr. p. 122). He testified the 6:1+1 special class itself was an "intense behavioral intervention," in that it was a full time class with no inclusion component, had a small ratio, and dealt with a number behavioral concerns similar to those of the student that were addressed through a variety of methodologies by professionally trained individuals (Tr. p. 123). The school psychologist testified he believed the student could make meaningful progress had the May 2012 IEP been implemented as written

[4] Testimony by the parent indicates she rejected the district's recommended 6:1+1 special class because "they don't have ABA" and would not be able to provide the student with the instructional support he needed (Tr. pp. 361-62).

because the student's special education services needed to be delivered within some social context to allow for modeling and shared instruction (Tr. pp. 62-63). The psychologist indicated that many of the student's needs involved developing reciprocity, developing an awareness of peers, and maneuvering himself within the context of other children within a classroom setting (Tr. p. 63).

Based on all of the foregoing, the hearing record supports the IHO's conclusion that the district offered the student a FAPE for the 2012-13 school year.

B. Pendency

As a final matter, the parent also appeals the IHO's Interim Order to the extent that it did not specify that the student's pendency placement included PT services (Tr. pp. 147-57, 394-402; Pet. ¶51). The IHO determined that the student's pendency was based on an unappealed IHO decision in a prior proceeding, which, as relevant here, ordered the district to reimburse the parent for the costs of the student's tuition at MCC and "develop and implement at public expense an IEP placing the child in the private school" for the remainder of the 2011-12 school year with extended school year services, if warranted (see IHO Interim Order at p. 4; Parent Ex. A at p. 12). Testimony by the parent indicated that, pursuant to the previous January 2012 IHO decision, the CSE reconvened on February 8, 2012 to add MCC as the student's placement to the student's IEP (Tr. p. 362; Parent Exs. A; E). Review of the February 2012 IEP revealed the CSE maintained its earlier recommendations for related services, including PT services (Parent Ex. E at pp. 12-13, 15, 20). The IHO's unappealed final order and resulting IEP constituted the operative placement at the time the due process complaint was filed and thus PT was included in the student's then current educational placement (20 U.S.C. § 1415[j]; Educ. Law §§ 4404[4], 4410[7][c]; 34 CFR 300.518[a]; 8 NYCRR 200.5[m]; see also Murphy v. Bd. of Educ., 86 F. Supp. 2d 354, 359 [S.D.N.Y. 2000], aff'd, 297 F.3d 195 [2002]; Letter to Baugh, 211 IDELR 481 [OSEP 1987] [opining that a student's then current placement would "generally be taken to mean current special education and related services provided in accordance with a child's most recent [IEP]"]). Therefore, I find that the PT services on the February 2012 IEP were part of the student's pendency placement (see Parent Exs. A; E; see also IHO Interim Order at p. 4).[5]

VII. Conclusion

Having determined that the evidence in the hearing record supports the IHO's determination that the district offered the student a FAPE for the 2012-13 school year, the necessary inquiry is at an end and there is no need to reach the issues of whether MCC was an appropriate unilateral placement or whether equitable considerations weighed in favor of the parent's request for relief.

THE APPEAL IS SUSTAINED TO THE EXTENT INDICATED.

IT IS ORDERED that the IHO's Interim Order dated January 23, 2013, is modified to include PT services as described in the February 2012 IEP; and

[5] The hearing record reflects that while MCC offered speech-language therapy and OT as part of its program, it did not offer PT (Tr. pp. 186-87, 225; Parent Ex. JJJJ at pp. 3-4).

IT IS FURTHER ORDERED that, to the extent it has not already done so, the district shall pay for the cost of the student's pendency services, including the costs of PT services, through the date of this decision.

Dated: **Albany, New York**
November 14, 2014

JUSTYN P. BATES
STATE REVIEW OFFICER